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federal register

TUESDAY, MARCH 9, 1976



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Rules Going Into Effect Today

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

List of Public Laws

NOTE: No acts approved by the President were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

Ten agencies have agreed to a six-month trial period based on the assignment of two days a week beginning February 9 and ending August 6 (See 41 FR 5453). The participating agencies and the days assigned are as follows:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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	CSC			CSC
	LABOR			LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this trial program are invited and will be received through May 7, 1976. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Federal Energy Administration

Section 213.3388 is amended to show that one position of Confidential Assistant (Secretary) to the Assistant Administrator for Policy and Analysis is excepted under Schedule C.

Effective March 9, 1976 § 213.3388(k) (2) is added as set out below:

§ 213.3388 Federal Energy Administration.

* * * * *

(k) *Office of the Assistant Administrator for Policy and Analysis.* * * *

(2) One Confidential Assistant (Secretary) to the Assistant Administrator.

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

UNITED STATES CIVIL SERVICE COMMISSION.

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-6733 Filed 3-8-76;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Areas Quarantined

This amendment quarantines portions of Kern County, California, because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the areas quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies is hereby amended in the following respects:

In § 73.1a, a new paragraph (d) relating to the State of California is added to read:

§ 73.1a Notice of quarantine.

* * * * *

(d) Notice is hereby given that cattle in certain portions of the State of California are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following areas in such State are hereby quarantined because of said disease:

(1) That portion of *Kern County* comprised of Sections 23, 24, 25, 26, 35, and 36, Township 28 South, Range 24 East.

(2) That portion of *Kern County* comprised of Sections 19, 20, 29, 30, 31, and 32, Township 28 South, Range 25 East.

(3) That portion of *Kern County* comprised of Sections 1, 2, 11, and 12, Township 29 South, Range 24 East.

(4) That portion of *Kern County* comprised of Sections 5, 6, 7, and 8, Township 29 South, Range 25 East.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

Effective date. The foregoing amendment shall become effective March 3, 1976.

The amendment imposes certain further restrictions necessary to prevent must be made effective immediately to the interstate spread of cattle scabies and accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 3rd day of March, 1976.

G. V. PEACOCK,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.76-6621 Filed 3-8-76;8:45 am]

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Noncertified Areas in § 78.22 because it has been determined that they no longer come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Barry County in Missouri; Calhoun, Chambers, Culberson, Houston, and Victoria Counties in Texas.

The amendments delete the following areas from the list of Noncertified Areas in § 78.22 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they again come within the definition of a Modified Certified Brucellosis Area in § 78.1(m):

Blount, Chambers, and Montgomery Counties in Alabama; Adair and Le Flore Counties in Oklahoma; Anderson, Angelina, Bee, Brazoria, Brooks, Callahan, Cherokee, Foard, Fort Bend, Frio, Galveston, Gonzales, Hardeman, Harris, Haskell, Jasper, Jones, Kleberg, Liberty, Matagorda, Montgomery, Nacogdoches, Panola, Rusk, San Patricio, Shelby, Starr, Taylor, Titus, Trinity, Van Zandt, Wharton, Wilbarger, and Zapata Counties in Texas.

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Noncertified Areas in § 78.22 because it has been determined that they no longer come within the definition of a Certified Brucellosis-Free Area in § 78.1(l):

Terrell and Winkler Counties in Texas.

The amendments delete the following areas from the list of Noncertified Areas in § 78.22 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they again come within the definition of a Certified Brucellosis-Free Area in § 78.1(l):

Brewster, Newton, Reagan, Reeves, and Ward Counties in Texas.

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m):

Houston County in Alabama; Craighead and Cleburne Counties in Arkansas; Madison and Rockdale Counties in Georgia; Beadle County in South Dakota.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(l):

Colfax, Hidalgo, Rio Arriba, and Torrance Counties in New Mexico.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-

Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.*

Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Barbour, Cherokee, Clay, Cleburne, Dale, Etowah, Geneva, Henry, Lee, Russell.

Arkansas. Ashley, Baxter, Benton, Boone, Bradley, Calhoun, Carroll, Clay, Cleveland, Columbia, Conway, Dallas, Drew, Fulton, Garland, Grant, Greene, Jackson, Johnson, Lafayette, Madison, Marion, Monroe, Montgomery, Newton, Ouachita, Perry, Pike, Polk, Pope, Prairie, Searcy, Sharp, Stone, Union, Woodruff, Yell.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crawley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mesa, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld.

Florida. Baker, Bay, Brevard, Calhoun, Dade, Dixie, Escambia, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Pasco, Santa Rosa, Seminole, Sumter, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Barrow, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, Dawson, De Kalb, Echols, Effingham, Evans, Fanning Franklin, Glascock, Glynn, Greene, Habersham, Henry, Jeff Davis, Johnson, Jones, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Schley, Screven, Stephens, Taylor, Telfair, Toombs, Towns, Treutlen, Twiggs, Upson, Ware, Washington, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Butte, Camas, Canyon, Caribou, Cassia, Clearwater, Custer, Elmore, Fremont, Gem, Gooding, Idaho, Jefferson, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Madison, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Power, Shoshone, Teton, Twin Falls, Valley, Washington, Yellowstone National Park.

Illinois. Adams, Alexander, Boone, Bond, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Massac, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, White, Whiteside, Will, Winnebago, Woodford.

Iowa. Adair, Adams, Audobon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Dallas, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Plymouth, Pocahontas, Polk, Sac, Scott, Shelby, Etory, Tama, Taylor, Union, Van Buren, Wapello, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Comanche, Doniphan, Ford, Grove, Haskell, Hodgeman, Johnson, Lane, Marshall, Pawnee, Phillips, Riley, Scott, Trego, Washington.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Jackson, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Adair, Audrain, Carter, Dallas, Douglas, Dunklin, Franklin, Gasconade, Hickory, Iron, Jackson, Laclede, Lewis, Marion, Miller, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

Montana. Beaverhead, Big Horn, Blaine, Broadwater, Carbon, Carter, Cascade, Chouteau, Custer, Daniels, Dawson, Deer Lodge, Fallon, Fergus, Flathead, Gallatin, Garfield, Glacier, Golden Valley, Granite, Hill, Jefferson, Judith Basin, Lake, Lewis and Clark, Liberty, Lincoln, Madison, McCone, Meagher, Mineral, Missoula, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Powell, Prairie, Ravalli, Richland, Roosevelt, Rosebud, Sanders, Sheridan, Silver Bow, Stillwater, Sweet Grass, Teton, Toole, Treasure, Valley, Wheatland, Wibaux, Yellowstone.

New Mexico. Bernalillo, Catron, Colfax, Dona Ana, Hidalgo, Grant, Harding, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Taos, Torrance.

South Dakota. Aurora, Bennett, Bon Homme, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Bledsoe, Blount, Campbell, Carter, Cheatham, Claiborne, Davidson, Decatur, Dickson, Fentress, Grainger, Greene, Grundy, Hamblen, Hancock, Hardin, Houston, Jackson, Jefferson, Johnson, Knox, Lake, Lincoln, Meigs, Monroe, Morgan, Polk, Roane, Robertson, Rutherford, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, White.

Texas. Brewster, Childress, Comal, Crane, Ector, El Paso, Gray, Hansford, Hartley, Hemphill, Irion, Jeff Davis, Kerr, Kimble, Lipscomb, Llano, Loving, Newton, Pecos, Reagan, Reeves, Roberts, Sterling, Val Verde, Ward.

Utah. Beaver, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Camuy, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coama, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guayanilla, Gurabo, Hormigueros, Humacao, Isabela, Jayuya, Juana Diaz, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Quebradillas, Rincon, Rio Grande, Rio Pieddras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, San Sebastian, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.*

Alaska, Nebraska, Oklahoma.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Chilton, Choctaw, Clarke, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Escambia, Fayette, Franklin, Greene, Hale, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Chicot, Clark, Cleburne, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Hempstead, Hot Spring, Howard, Independence, Izard, Jefferson, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, Nevada, Phillips, Poinsett, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White.

Colorado. Kiowa, Pueblo, Yuma.

Florida. Alachua, Bradford, Broward, Charlotte, Citrus, Clay, Collier, Columbia, De Soto, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Okeechobee, Osceola, Palm Beach, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Decatur, Dodge, Dooly, Doughterty Douglas, Early Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Houston, Irwin, Jackson Jasper, Jefferson, Jenkins, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Seminole, Spalding, Stewart, Sumter, Talbot,

Taliaferro, Tattnall, Terrell, Thomas, Tift, Troup, Turner, Union, Walker, Walton, Warren, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bingham, Bonneville, Clark, Franklin.

Illinois. Brown, Effingham, Hardin, Mason, Pike, Pope, Wayne, Williamson.

Iowa. Allamakee, Appanoose, Crawford, Davis, Decatur, Guthrie, Jackson, Pottawattamie, Poweshiek, Ringgold, Sioux, Warren, Wayne.

Kansas. Allen, Anderson, Atchison, Barber, Barton, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Cowley, Crawford, Decatur, Dickinson, Douglas, Edwards, Elk, Ellis, Ellsworth, Finney, Franklin, Geary, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Harvey, Jackson, Jefferson, Jewell, Kearny, Kingman, Kiowa, Labette, Leavenworth, Lincoln, Linn, Logan, Lyon, Marion, McPherson, Meade, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osage, Osborne, Ottawa, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Rooks, Rush, Russell, Saline, Sedgwick, Seward, Shawnee, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Wabaunsee, Wallace, Wichita, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckenridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Louisiana. Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, Concordia, De Soto, East Baton Rouge, East Carrol, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson, Jefferson Davis, Lafayette, Lafourche, La Salle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Orleans, Ouachita, Plaquemines, Pointe Coupee, Rapides, Red River, Richland, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Tensas, Terrebonne, Union, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Felicianna, Winn.

Mississippi. Adams, Amite Attala, Benton, Bolivar, Calhoun, Carroll, Choctaw, Chickasaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Andrew, Atchison, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Daviess, De Kalb, Dent, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Jasper, Jefferson, Johnson, Knox, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, McDonald, Mercer, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

New Mexico. Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Socorro, Union, Valencia.

South Dakota. Beadle, Brookings, Edmunds, Jones, Marshall, Stanley.

Tennessee. Bedford, Benton, Bradley, Cannon, Carroll, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, DeKalb, Dyer, Fayette, Franklin, Gibson, Giles, Hamilton, Hardeman, Hawkins, Haywood, Henderson, Henry, Hickman, Humphreys, Lauderdale, Lawrence, Lewis, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Montgomery, Moore, Obion, Overton, Perry, Pickett, Putnam, Rhea, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Wayne, Weakley, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Brisco, Brooks, Brown, Burleson, Burnet, Caldwell, Callahan, Camp, Carson, Cass, Castro, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Eastland, Edwards, Ellis, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glassock, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Hill, Hockley, Hopkins, Hood, Howard, Hudspeth, Hunt, Hutchinson, Jacks, Jackson, Jasper, Jefferson, Jim Hogg, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Mason, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Presidio, Rains, Randall, Real, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Sherman, Shelby, Somervell, Starr, Stephens, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Van Zandt, Walker, Waller, Washington, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Yoakum, Young, Zapata.

Utah. Box Elder, Cache.

Wyoming Lincoln.

Puerto Rico. Arecibo, Carolina, Guaynabo, Hatillo, Juncos, Las Piedras, Naguabo.

Texas. Calhoun, Cameron, Chambers, Culberson, Duval, Henderson, Hidalgo, Houston, Jim Wells, Live Oak, Reagan, Smith, Terrell, Uvalde, Victoria, Webb, Winkler, Zavala.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.16.)

Effective date. The foregoing amendments shall become effective March 9, 1976.

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 2nd day of March, 1976.

J. M. HEJL,
Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.76-6782 Filed 3-3-76;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. H]

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

Loans by State Member Banks in Flood-Prone Areas

The Board of Governors of the Federal Reserve System is amending Part 208 by revising § 208.8(e)(5) in order to implement the grace period provided in Pub. L. No. 94–198 (Dec. 31, 1975), concerning certain real estate loans made by State member banks in identified flood hazard areas of communities that are not participating in the National Flood Insurance Program.

Pub. L. No. 94–198 amends section 202(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 2001 et. seq.) to permit until March 1, 1976 (or one year from the date of a community's notification that it has flood-prone areas, whichever is later), the making of certain mortgage loans and similar loans by federally chartered, supervised, or insured lending institutions for the pur-

chase of previously occupied residential dwellings located in the identified flood hazard areas of communities that are not participating in the National Flood Insurance Program. The deadline contained in section 202(b) applicable to such loans was previously extended from July 1, 1975, until January 1, 1976 (section 303 of the Emergency Housing Act of 1975, Pub. L. No. 94-50). The following amendment is intended to conform the provisions of existing Board regulations, which reflect the January 1, 1976 deadline, to the additional extension contained in Pub. L. No. 94-198.

Effective immediately the last sentence of § 208.8(e)(5) shall be amended by deleting the date, January 1, 1976, and adding the date, March 1, 1976, as follows:

§ 208.8 Banking Practices.

* * * * *

(e) Loans by State member banks in identified flood hazard areas.

(5) * * * *Provided*, That the prohibition contained in this section shall not apply to any loan made prior to March 1, 1976, if the loan is made to finance the acquisition of a previously occupied residential dwelling.

* * * * *

The provisions of section 553 of Title V, United States Code, relating to notice, public participation and deferred effective date were not followed in connection with this amendment because this amendment merely clarifies Regulation H by implementing a statutory provision of Pub. L. No. 94-198 (December 31, 1975) without significant exercise of administrative discretion or interpretation.

By order of the Board of Governors, February 26, 1976.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-6613 Filed 3-8-76;8:45 am]

[Reg. Q]

PART 217—INTEREST ON DEPOSITS

Technical Amendments for Deposits Subject to Negotiable Orders of Withdrawal

The Board of Governors of the Federal Reserve System has amended Regulation Q (12 CFR 217) in light of recent legislation (Pub. L. 94-222) authorizing negotiable orders of withdrawal (NOW) accounts in the States of Maine, Connecticut, Rhode Island, and Vermont. The amendments are technical in nature and are intended only to extend the existing provisions of Regulation Q regarding the offering of NOW accounts to member banks in those States in which Federal law permits such accounts. The amendments also clarify the types of depositors that may be offered NOW accounts by member banks.

The first amendment adds a sentence to § 217.1(e)(3) to make clear the fact that NOW accounts may not be maintained where any beneficial interest is held by a corporation, partnership, association, or other organization operated for profit or not operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes. In addition, the provision relating to maintenance of NOW accounts established prior to May 16, 1975, by certain governmental units has been eliminated because all such accounts were required to have been terminated by December 31, 1975 (see 40 FR 17885).

The second amendment eliminates the reference to the States of Massachusetts and New Hampshire contained in § 217.5(c)(3) to provide that the restrictions relating to manner of payment of savings deposits do not apply to deposits subject to negotiable orders of withdrawal, the issuance of which is authorized by Federal law.

The final amendment modifies § 217.6(i) to limit NOW account advertising of member banks, to the extent practicable, to media directed toward residents of the States in which Federal law authorizes such accounts and eliminates references to Massachusetts and New Hampshire. The provision also restricts all other solicitations of NOW accounts, to the extent practicable, only to persons residing or employed in the States in which Federal law authorizes such accounts and to persons who are customers of member banks in those States on the effective date of this amendment.

This action was taken pursuant to the Board's authority under section 19 of the Federal Reserve Act (12 U.S.C. 371b) to prescribe rules governing the payment and advertisement of interest on deposits.

Because these amendments are technical in nature only and do not result in any substantive changes to the provisions of Regulation Q, the Board finds that good cause exists for dispensing with notice and public participation referred to in section 553(b) of Title 5 of the United States Code with respect to these amendments. The Board has determined that such procedures are unnecessary in view of the nature of the amendments. In addition, in view of the technical nature of the amendments and in order to enable member banks to offer NOW accounts to the public as soon as possible, the Board finds good cause to make the amendments effective immediately.

Pursuant to section 19 of the Federal Reserve Act (12 U.S.C. 371b) effective March 1, 1976, section 217.1(e)(3), is amended to read as follows:

§ 217.1 Definitions.

* * * * *

(e) *Savings deposits.*

* * * * *

(3) In those States where banks are permitted to offer deposits subject to negotiable orders of withdrawal, such deposits may be maintained if such deposits consist of funds deposited to the credit of or in which the entire beneficial interest is held by one or more individuals, or a corporation, association, or other organization operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes, and not operated for profit. Deposits in which any beneficial interest is held by a corporation, partnership, association or other organization operated for profit or not operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes may not be classified as deposits subject to negotiable orders or withdrawal.

* * * * *

Section 217.5(c)(3) is revised as follows:

§ 217.5 Withdrawal of savings deposits.

* * * * *

(c) *Manner of payment of savings deposits* * * *

* * * * *

(3) The provisions of this paragraph do not apply to deposits subject to negotiable orders of withdrawal that are authorized by Federal law.

Section 217.6(i) is revised as follows:

* * * * *

§ 217.6 Advertising of interest on deposits.

* * * * *

(i) *Negotiable orders of withdrawal.* In addition to compliance with the other paragraphs of this section, member banks offering accounts subject to negotiable orders of withdrawal, to the extent practicable, shall limit every advertisement, announcement or solicitation made in any newspaper, magazine, radio, television or other media to such facilities directed toward residents of the States in which Federal law authorizes the issuance of such accounts. All other advertisement, announcements and solicitations of such accounts, including direct mailing, circulars, and notices, whether written or oral, to the extent practicable, shall be directed only to persons residing or employed in the States in which Federal law authorizes the issuance of accounts subject to negotiable orders of withdrawal and to persons who are customers of member banks in those States on the effective date of this amendment.

By order of the Board of Governors, effective March 1, 1976.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-6612 Filed 3-8-76;8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1207—SAFETY STANDARDS FOR SWIMMING POOL SLIDES

Establishment of Standards

Correction

In FR Doc. 76-1183 appearing at page 2742 in the issue for Monday, January 19, 1976, make the following change:

On page 2758, in the second column, the third line from the top should read "shall be 10.0±0.1 feet (3.05 meters±".

Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

Sterile Ampicillin Trihydrate Suspension

The Food and Drug Administration is amending § 540.207a *Sterile ampicillin trihydrate suspension* (21 CFR 540.207a) to indicate pyrogen and concordance tests and to reference the proper media in the sterility test.

In the FEDERAL REGISTER of November 4, 1974 (39 FR 38897), § 540.207a(a)(3)(i)(*a*) did not specify the tests for pyrogens and concordance, as required for the bulk drug material; nor did it reference in paragraph (b)(2) the correct media used in the sterility test.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) and (n), 82 Stat. 347 (21 U.S.C. 360b(i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120) § 540.207a is amended by revising paragraphs (a)(3)(i)(*a*) and (b)(2) to read as follows:

§ 540.207a Sterile ampicillin trihydrate suspension.

(a) * * *

(3) * * *

(i) * * *

(*a*) The ampicillin trihydrate used in making the batch for potency, safety, pyrogens, loss on drying, pH, ampicillin content, concordance, crystallinity, and identity.

* * * * *

(b) * * *

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(2) of that section, except use medium C in lieu of medium A and medium F in lieu of medium E. During the period of incubation, shake the tubes at least once daily.

* * * * *

Effective date. This amendment shall be effective March 9, 1976.

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

Dated: March 2, 1976.

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

[FR Doc.76-6619 Filed 3-8-76;8:45 am]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Oxytetracycline

In a new animal drug regulation (21 CFR 558.450) published in the FEDERAL REGISTER of January 13, 1976 (41 FR 1892) the assay limits for finished feeds containing oxytetracycline were incorrect, and the special considerations for the waiver of the requirement on approval pursuant to section 512(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 260b(m)) for oxytetracycline when used alone in finished feeds failed to reflect this as a condition of waiver. This document amends the regulation to reflect the proper assay limits and the appropriate special considerations, effective March 9, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 558 is amended in § 558.450 by revising paragraphs (c) and (d) to read as follows:

§ 558.450 Oxytetracycline.

* * * * *

(c) *Assay limits.* Finished feed 65 to 135 percent of labeled amount of the drug.

(d) *Special considerations.* Finished feeds containing oxytetracycline only and conforming to the requirements of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

Effective date. This amendment shall be effective March 9, 1976.

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

Dated: March 2, 1976.

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

[FR Doc.76-6617 Filed 3-8-76;8:45 am]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

Miscellaneous Amendments

By Secretary's Order 14-75, the name of the Manpower Administration was changed to the Employment and Training Administration. As there are references to the Manpower Administration in 29 CFR Part 5, which should be changed to the Employment and Training Administration, Part 5 is amended to correct the obsolete reference.

Further, paragraph (d) of § 5.2 ends with a reference to § 5.4 which is now §1.7.

As these changes are to correct terminology and correct an obsolete reference, notice and comment, and also delay in the effective date are unnecessary. Accordingly, these amendments are effective March 9, 1976.

Part 5 of Title 29 is accordingly amended as follows:

1. Whenever the term "Manpower Administration" appears, it shall be deleted and the "Employment and Training Administration" shall be substituted.

2. Paragraph (d) of § 5.2 concludes with a reference to § 5.4. This is deleted and § 1.7 is substituted therefor.

Signed at Washington, D.C., on this 2nd day of March, 1976.

BERNARD E. DELURY,
Assistant Secretary for Employment Standards.

[FR Doc.76 6694 Filed 3-8-76;8:45 am]

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

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Indiana State Poster

1. *Background.* Part 1953 of Title 29, Code of Regulations, provides procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act), for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On March 6, 1974, a notice was published in the FEDERAL REGISTER (39 FR 8611) of the approval of the Indiana plan and the adoption of Subpart Z of Part 1952 containing the decision of approval. On April 23, 1975, the State of Indiana submitted a supplement to the plan involving a developmental change (see Subpart B of 29 Part CFR 1953).

2. *Description of the supplement.* The supplement concerns the Indiana State poster which is to be posted at all covered workplaces in the State. Among other things, the poster contains provisions notifying employees of their protections and obligations under the Indiana Occupational Safety and Health Act, their right to request workplace inspections and their right to remain anonymous as a result, their protection against discharge or discrimination under both Federal and State laws, and their right to file complaints with the Occupational Safety and Health Administration concerning the administration of the State program.

3. *Location of the plan and its supplement for inspection and copying.* A copy of the poster, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N3608, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 3259, 230 South Dearborn Street, Chicago, Illinois 60604; and the State of Indiana Division of Labor, Room 1013, State Office Building, Indianapolis, Indiana 46202.

4. *Public participation.* Under § 1953.2 of this chapter, the Assistant Secretary

of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Indiana poster incorporates all of the provisions required under 29 CFR 1952.10(a)(5) and 29 CFR 1903.2(a)(3) (39 FR 39306, November 5, 1974). Accordingly, it is determined that further public comment is unnecessary.

5. *Decision.* After careful consideration, the Indiana plan supplement outlined above is approved under Part 1953. Since the Indiana poster contains provisions informing employees of their rights under the Federal Act, as well as under Indiana law, it may be used under the plan until the Indiana occupational safety and health program has received determination under section 18(e) of the Act that Federal enforcement and standards no longer apply respecting issues covered by the plan. Should that occur, a new poster must be developed which will reflect the ensuing change in Federal enforcement. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In accordance with this decision, Subpart Z of 29 CFR Part 1952 is amended as set forth below and a new § 1952.324 is added to Subpart Z to read as follows:

§ 1952.324 Completed developmental steps.

In accordance with the requirements of § 1952.10, the Indiana poster was approved for use until Federal enforcement authority and standards become inapplicable to issues covered under the plan, by the Assistant Secretary on March 2, 1976.

(Secs. 8(g)(2), 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g)(3), 667))

Signed at Washington, D.C., this 2d day of March 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-6691 Filed 3-8-76;8:45 am]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Utah Plan—Approval of Utah Regulations

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On January 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 1178) of the approval of the Utah plan and of the adoption of Subpart E of Part 1952 containing the decision of approval. On December 29, 1975, the State of Utah submitted a supplement to the plan involving developmental changes. The supplement consists of various rules and regulations promulgated by the Utah Occupational Safety and Health Commission.

The decision approving the Utah plan incorporated several assurances from the State concerning the promulgation or adoption of administrative regulations (See 38 FR 1178). In response to that commitment, the State has adopted procedural regulations, Chapter A of the rules and regulations for the Utah Occupational Safety and Health Division, effective September 24, 1974, for the following areas of its occupational safety and health program: Part 05, Tolerances, Exemptions and Limitations; Part 04, Recording and Reporting Occupational Injuries and Illnesses; and Part 03, Inspections, Citations, and Proposed Penalties.

On May 14, 1974, the enabling legislation for the Utah State plan was submitted to the Assistant Secretary for approval. This legislation did not differ in any substantive manner from the proposed legislation submitted with the approved plan, and notice of its approval was published on August 5, 1974 (39 FR 28154).

2. *Location of the plan and its supplements for inspection and copying.* A copy of the supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Room N-3112, New Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 15010, Federal Building, 1961 Stout Street, Denver, Colorado 80202; Utah Industrial Commission Occupational Safety and Health Division, 448 South 400 East, Salt Lake City, Utah 84111.

3. *Public participation.* Under § 1953.2 of this chapter, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that Utah Occupational Safety and Health Rules and Regulations Parts 03, 04, and 05 are substantially identical to the comparable Federal rules and regulations and were adopted in accordance with State procedures. Therefore, further public notice and comment on their approvability would be unnecessary.

4. *Decision.* After careful consideration, the Utah supplement submitted on December 29, 1975, is hereby approved under Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In accordance with the above, § 1952.114 in Subpart E of Part 1952 is amended as follows:

Paragraphs (c) and (d) are added to § 1952.114 as set forth below:

§ 1952.114 Completed developmental steps.

* * * * *

(c) In accordance with the requirements of 29 CFR 1952.110(b), the Utah Occupational Safety and Health Act, (Chapter 9 of title 35 of the Utah State Code) effective July 1, 1973, was approved July 30, 1974.

(d) In accordance with the requirements of 29 CFR 1952.113(e), State regulations substantially identical to 29 CFR Parts 1903, 1904, and 1905, have been adopted by the State and approved by the Assistant Secretary on March 3, 1976.

(Secs. 8(g)(2), 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g)(2), 667))

Signed at Washington, D.C. this 3d day of March 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-6692 Filed 3-8-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 499-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

South Carolina: Legal Authority

On May 31, 1972 (37 FR 10842), the Administrator approved most of the South Carolina plan to attain and maintain the national ambient air quality standards in that State. Specifically disapproved at that time was the plan's provision for the public availability of emission data. On October 28, 1972 (37 FR 23085), the Administrator, at the request of the Governor of South Carolina, delegated to the State the legal authority needed to determine and make public the compliance status of air pollution sources, including the authority to require owners or operators of stationary sources to install, maintain, and operate emission monitoring devices, to keep records of and report the information thus obtained, and to release to the public such emission data correlated with any applicable emission standards or regulations. On October 15, 1975, Governor James B. Edwards submitted to the Agency as a plan revision the Pollution Control Act of South Carolina as amended, most recently by Act Number 395 of the 1975 General Assembly; at the same time, he transmitted an opinion of the State's Attorney General that the Pollution Control Act of South Carolina as now amended satisfies the requirements of 40 CFR 51.10(e), 51.11(a)(5), and 51.11(a)(6); Governor Edwards also requested that the Agency withdraw its delegation of legal authority as set forth at 40 CFR 51.2124(c).

In a notice of proposed rulemaking published in the FEDERAL REGISTER of December 18, 1975 (40 FR 58663), public comment was solicited with regard to

South Carolina's revised legal authority to carry out the provisions of the Clean Air Act and the Agency's implementing regulations. Copies of the materials submitted by the State were made available for public inspection at the Agency's Region IV office in Atlanta, Georgia, at EPA headquarters in Washington, D.C., and at the office of the South Carolina Bureau of Air Quality Control in Columbia. No comments were received in response to the Agency's notice of proposed rulemaking, however.

The Administrator has determined that the South Carolina revision satisfies the requirements of 40 CFR Part 51 pertaining to the installation of monitoring devices by sources, collection of emission data by sources, submittal of such data to the State air pollution control agency, and making such data available to the public. Accordingly, he hereby revokes the disapproval set forth at 40 CFR 52.-2124(a) and (b) as well as the delegation of authority made at paragraph (c) of the same section.

These actions are effective immediately. The Administrator finds that good cause exists for making the present actions effective immediately since they merely ratify legislative and administrative actions already taken by the State of South Carolina, and do not impose an added burden on any one.

(Sec. 110(a) Clean Air Act (42 U.S.C. 1857c-5(a)))

Dated: March 2, 1976.

JOHN QUARLES,
Acting Administrator.

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

Subpart PP—South Carolina

1. In § 52.2120, paragraph (c) is amended by adding subparagraph (8) as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

(8) Revised legal authority with respect to the public availability of emission data, submitted on October 15, 1975, by the Governor of South Carolina.

§ 52.2124 [Amended]

2. In § 52.2124, paragraphs (a), (b), and (c) are revoked.

[FR Doc. 76-6682 Filed 3-8-76;8:45 am]

[FRL 498-5]

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

Administrative Procedures; Unleaded Gasoline Regulations

On August 20, 1975, the Environmental Protection Agency promulgated regulations requiring persons subject to the unleaded gasoline regulations to provide, upon request, certain information regarding compliance with the lead regulations. (40 FR 36335). Sections 80.7 (a) and (b) require the regulated parties to provide items of information which are specified in the regulation itself. The authority to request other information not specifically described is provided in § 80.7(c), which reads as follows:

(c) Any refiner, distributor, or retailer shall provide such other information as the Administrator, the Regional Administrator, or their delegates may reasonably require to enable him to determine whether such refiner, distributor, and retailer has acted or is acting in compliance with section 211(c) of the Act and the regulations thereunder and shall, upon the request of the Administrator, the Regional Administrator, or their delegates, produce and allow reproduction of any relevant records at all reasonable times. Such information may include but is not limited to records of unleaded gasoline inventory at a retail outlet, unleaded pump meter readings at a retail outlet, and receipts providing the date of acquisition of signs, labels, and nozzles required by § 80.22. No person shall be required to furnish information requested under this paragraph if he can establish that such information is not maintained in the normal course of his business.

A petition for review of § 80.7(c) was filed in "Society of Independent Gasoline Marketers v. EPA", No. 75-1913 (D.C. Cir., Sept. 18, 1975). SIGMA's contention, set forth briefly in its comments and in detail in a letter from counsel dated September 25, 1975, is that § 80.7(c) is arbitrary because the unleaded gasoline regulations do not afford a party from whom information is requested an opportunity to contest the reasonableness or validity of the request in proceedings before the Agency without running the risk of penalties for violation of the regulation if the validity of the request is upheld.

In view of the fact that section 211(d) of the Clean Air Act contemplates accrual of daily penalties for continuing violations of the unleaded gasoline regulations, EPA agrees that good faith challenges to the validity of requests for information could be inhibited by the potential accumulation of substantial penalties during the period when the request is being contested. Although equitable relief may be available from the courts in this situation, see "United States v. Morton Salt Co.," 338 U.S. 632, 654 (1950), EPA's intention in providing formal administrative procedures for determining liability and penalties under the lead regulations (40 CFR 80.301 et seq., 40 FR 39962, August 29, 1975) is to afford a complete and fair opportunity for resolution of disputes under the unleaded gasoline regulations in proceedings before the Agency, where possible.

For these reasons, EPA is amending the administrative procedures for challenging liability and penalty assessment under the unleaded gasoline regulations to provide a procedure for contesting, in good faith, requests for information under § 80.7(c) which is not specifically described in the examples given in that section. Such a challenge could be made without the risk of penalties if the validity of the request is upheld and the respondent provides the information within 15 days. The amendment further provides that no additional penalties shall accrue for a period of 30 days from the issuance of a final order upholding the validity of the request, during which period the respondent may seek judicial review of the order. The amendment adds a new paragraph (d) to § 80.330 dealing with Final Orders in Subpart D, Rules for Assessment of Civil Penalties, and is set forth below.

Because this amendment has been adopted in settlement of litigation and expands the procedural protections of the regulated parties, the Agency finds that there is good cause for promulgating the amendment without notice and opportunity for comment and for making the amendment effective March 9, 1976.

(Secs. 211, 301, Clean Air Act, as amended, 42 U.S.C. 1857f-6c, 1857).

Dated: March 3, 1976.

RUSSELL E. TRAIN,
Administrator.

A new paragraph (d) is added to § 80.330 of Subpart D, 40 CFR Part 80, as follows:

§ 80.330 Final order.

* * * * *

(d) Notwithstanding any other provision of this subpart, where the complaint asserts that the respondent has violated § 80.7(c) of this Part by failing to comply with a request for production of information made pursuant to that subsection and not specifically described in the examples given in that section, if the respondent in good faith and not for purposes of delay defends on the ground that the request for production in question was unreasonable or the material sought was irrelevant, within the meaning of § 80.7(c), then any Final Order as to such violation shall by further order be set aside if the respondent shall make the information specified in the Final Order available to the Administrator or his delegate within 15 days of service of the Final Order on the respondent. Where respondent seeks judicial review of such Final Order, no additional penalties shall accrue for a period of 30 days from the issuance of the Final Order.

[FR Doc.76-6633 Filed 3-8-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

[Docket No. 19528; 39594]

Interstate and Foreign Message Toll Telephone Service and Wide Area Telephone Service; Corrected

In the matter of proposals for new or revised classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS).

In the Order in the above-entitled matter, FCC 76-134, released February 13, 1976, and published in the FEDERAL

REGISTER February 24, 1976 at 41 F.R. 8048, the instruction in the Appendix where it reads: "A new Subpart L of Part 2 is added to read as follows:", is corrected to read: "A new Subpart L of Part 2 is added to read as follows, and Subpart K designated [Reserved].

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.76-6642 Filed 3-8-76,8:45 am]

[Docket No. 20532; RM-2495]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments

In the matter of amendment of § 73.-202(b), Table of Assignments, FM Broadcast Stations. (Mineola, Gilmer and Canton, Texas)

By the Chief, Broadcast Bureau: 1. The Commission here considers the *Notice of Proposed Rule Making*, adopted June 24, 1975, 40 Fed. Reg. 28008, proposing amendment of the FM Table of Assignments (Section 73.202(b) of the Commission's Rules and Regulations) by assigning Channel 244A to Mineola, Texas, Channel 237A to Gilmer, Texas, and the deletion of Channel 244A from Canton, Texas. The rule making proceeding was instituted on a petition filed by A–C Corporation ("A–C"), licensee of AM Station KMOO, Mineola, Texas, for the assignment of Channel 237A to Mineola as its first FM assignment, and a counter proposal filed by J. R. McClure ("McClure"), tr/as KHYM Broadcasting Company, licensee of AM Station KHYM, Gilmer, Texas, for the assignment of either Channel 237A or 249A to Gilmer as its first FM channel.[1] McClure also suggested that Channel 244A could be assigned to Mineola provided that channel were deleted from Canton, Texas, where it is unoccupied and unapplied for. However, the transmitter site for a station operating on this channel at Mineola must be located approximately 2.75 miles west of the community. Channel 237A could be assigned to either Mineola or Gilmer without affecting any existing FM assignments elsewhere and without restrictions to the location of an antenna site. Since they are only 32 miles apart, Channel 237A cannot be assigned to both communities (Section 73.207(a)).

2. As mentioned above, the *Notice* proposed the assignment of Channel 237A to Gilmer, Texas, and Channel 244A to Mineola, Texas, and the deletion of Channel 244A from Canton, Texas. Since no interest in the operation of the channel at Canton had been expressed, no replacement channel was suggested. Although it was also possible to assign Channel 249A to Gilmer, the restriction on the use of that channel there made its assignment less desirable.

3. In his comments, McClure endorses the proposal for assignment of Channel 237A to Gilmer and states that he will file an application for a new broadcast facility to operate thereon and, upon grant, will construct an FM station. No comments are filed by A–C Corporation.

4. With his comments, McClure has indicated this continuing interest in the proposed channel assignment to Gilmer, Texas. Since Gilmer is now served locally by a daytime-only AM station, the assignment of an FM channel there would provide for a local full-time aural broadcast facility, which would be in the public interest. However, the failure of A–C Corporation to file comments as directed in the *Notice* must be construed that it has no further interest in the proposed assignment. Since Mineola is now served by a local daytime-only AM station, it has a broadcast outlet for local expression. Although no interest has been shown for the retention of the Canton assignment, Canton does not have a local aural broadcast station. Thus, it would be preferable to retain the assignment of Channel 244A at Canton, Texas. In view of the foregoing, the petition for rule making filed by A–C Corporation will be denied.

5. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303, and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules and Regulations.

6. In view of the foregoing, IT IS ORDERED, That effective April 14, 1976, Section 73.202(b) of the Commission's Rules and Regulations, the FM Table of Assignments IS AMENDED to read as follows for the listed community:

City:	*Channel No.*
Gilmer, Tex	237A

7. IT IS FURTHER ORDERED, That the petition for rule making filed by A–C Corporation, Mineola, Texas, for assignment of FM Channel 237A to Mineola, Texas, IS DENIED.

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.)

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] WALLACE E. JOHNSON, *Chief, Broadcast Bureau.*

[FR Doc.76-6641 Filed 3-8-76;8:45 am]

PART 76—CABLE TELEVISION SERVICES

Cable Television

In the Matter of Amendment of Part 76 of the Commission's rules to relax certain cable television recordkeeping and measurement requirements.

By the Executive Director: 1. The Commission has now received the final report of the Cable Television Technical Advisory Committee (CTAC), constituted to provide the Commission technical information to serve as a sound engineering basis for possible regulatory standards of good engineering practice in the cable television industry.[1] A number of possible modifications of, additions to, and deletions from existing technical standards of the Commission have been postponed until this report of CTAC was completed.

2. This *Order* addresses two of the items which were discussed by CTAC and which do not require the full Rulemaking procedure under the Administrative Procedure Act. These are (1) elimination of the requirement for recording for each subscriber the minimum visual signal level expected to be maintained, and (2) clarification of the requirements for measurement of the isolation provided to each subscriber terminal.

3. § 76.601(b) states that a cable television system operator must keep records of the minimum visual signal level maintained *for each subscriber* on each Class I cable television channel under normal operating conditions. At the same time, § 76.605(a)(4) specifies a minimum signal level below which the visual signal level is not to fall in any case. The intent of § 76.601(b) is met by the signal level specification of § 76.605(a)(4), together with the testing and recordkeeping requirements of § 76.601(c). Therefore, the additional detailed recordkeeping asked for in § 76.601(b) is not necessary for the Commission's purposes. Therefore, the requirement for such recordkeeping is being deleted.

4. Section 76.605(a)(11) specifies a minimum of 18 decibels of isolation between any two subscriber terminals in the cable system. With the exception of § 76.-609(h), the measurement procedures outlined in § 76.609 are exemplary, not mandatory. Nonetheless, § 76.609(g) could be interpreted as a requirement that actual field measurements of subscriber isolation be made during each annual test program. A sentence is being added to § 76.609(g) to make it clear that either manufacturers' specifications for coupler directivity and attenuation of drop cables, or laboratory measurements of those properties, may be substituted for field measurements. Since these properties of couplers and cables are generally stable with time, it is not required that such measurements be repeated annually. The cable system operator is, of

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[1] In Docket No. 20139, McClure filed a "counterproposal" to a petition to assign Channel 221A to Tyler, Texas. McClure requested that either Channel 221A, 237A or 249A be assigned to Gilmer, Texas. The assignment of Channel 221A to Tyler precludes the use of that channel at Gilmer under the Commission's minimum mileage separation rules. The *Report and Order in Docket No. 20139*, 40 Fed. Reg. 21030 (released May 15, 1975), assigned Channel 221A to Tyler and deferred further consideration of McClure's proposal for the Mineola proceeding herein.

[1] The CTAC Report is published in two volumes. Volume I is the CTAC Steering Committee Summarization of the CTAC basic report. Volume II contains the detailed reports of the CTAC panels. Volume I and the three parts of Volume II of the CTAC Report to the FCC, FCC–CTB–75–01, May 1975, may be purchased from the National Technical Information Service (NTIS) in Springfield, VA 22151 under NTIS accession numbers PB24275/LK, PB247808/AS, PB247809/AS, and PB247810/AS, respectively. The costs are $2.25 each in microfiche or $7.25, $9.25, $10.00, and $9.25, respectively, in paper copy.

course, still responsible for meeting the requirements of § 76.605(a)(11) at all times.

5. Authority for the attached amendments is contained in 47 U.S.C. §§ 151, 152, 301, 303, and 307; and in § 0.231(d) of the Commission's Rules. Inasmuch as the amendments ordered are nonsubstantive editorial revisions of the Commission's Rules and Regulations, impose no new requirements, and are intended only to clarify existing requirements, compliance with the prior notice, procedural and effective date provisions of the Administrative Procedure Act, 5 U.S.C. § 553, would serve no useful purpose and is unnecessary.

6. Accordingly, it is ordered, that effective March 12, 1976, Part 76 of the Commission's Rules and Regulations is amended as set forth below:

(Secs. 1, 2, 301, 303, 307, 48 Stat., as amended, 1064, 1081, 1082, 1083; 47 U.S.C. 151, 152, 301, 303, 307)

Adopted: February 26, 1976.

Released: March 2, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] R. D. LICHTWARDT,
Executive Director.

Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 76.601, paragraph (b) is revised to read as follows:

§ 76.601 Performance tests.

(a) * * *

(b) The operator of each cable television system shall maintain at its local office a current listing of the cable television channels which that system delivers to its subscribers and the station or stations whose signals are delivered on each Class I cable television channel.

* * * * *

2. In § 76.609, paragraph (g) is amended by adding the following sentence:

§ 76.609 Measurements.

* * * * *

(g) * * *

Annual measurements of terminal isolation are not required when either (1) the manufacturer's specifications for coupler directivity or (2) laboratory measurements on a representative sample of the couplers, plus an allowance for the attenuation of drop cables, indicate that the requirements of § 76.605(a)(11) are met.

* * * * *

[FR Doc.76-6640 Filed 3-8-76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 240—REGULATED COMMERCIAL FISHERIES

Restriction to Demersal Fishing in Division 4X of Subarea 4 (Browns Bank)

The Canadian Government proposed on June 19, 1975, a size alteration and time closure reduction from March 1 to May 31, 1976 of an area in Division 4X of Subarea 4, known as closed area "C". This proposal was adopted by the International Commission for the Northwest Atlantic Fisheries (ICNAF) on June 20, 1975 and presented to member countries for their consideration. No reservations were made by member Governments concerning the proposed changes to closed area "C" and accordingly such changes would be in force January 16, 1976.

Therefore it is the purpose of this regulation to carry out the recommendations of the Commission by amending § 240.13(b)(2), Title 50, Code of Federal Regulations. This amendment provides changes in the time period and reduces the area in Division 4X of Subarea 4 for fishing vessels using fishing gear capable of catching demersal species.

This amendment lessens the time period under which restrictions are applicable and also decreases the size of the closed area. Because of the need for immediate guidance with respect to the provisions contained herein and the fact that this amendment relates to a foreign affairs function of the United States, it is unnecessary to issue a notice of proposed rulemaking under subsection in 5 U.S.C. 553(b) or subject this amendment to the effective date limitations of 5 U.S.C. 553(d). Therefore under the provisions of 5 U.S.C. 553(d)(3) and 553(b)(B), these regulations are effective immediately.

Therefore § 240.13(b)(2) is amended to read as follows:

§ 240.13 Closed seasons and areas.

* * * * *

(b) * * *

(2) It shall be unlawful for any person or fishing vessel subject to the jurisdiction of the United States to use during the period from 0001 hours March 1, 1976 through 2400 hours May 31, 1976, fishing gear capable of catching demersal species, to include any trawl gear or similar devices, gill net, or hook and line in Division 4X of Subarea 4, an area bounded by straight lines connecting the following coordinates in the order listed: 65°44′ W.—42°04′ N., 64°30′ W.—42°40′ N., 64°30′ W.–43°00′ N., 66°32′ W.–43°00′ N., 66°32′ W.—42°20′ N., 66°00′ W.—42°20′ N., such area being known as Closed Area "C".

Issued at Washington, D.C., March 5, 1976.

ROBERT W. SCHONING,
Director,
National Marine Fisheries Service.

[FR Doc.76-6732 Filed 3-8-76;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 DEFENSE

Corps of Engineers

[33 CFR Part 207]

INLAND ROUTE—LOCK IN CROOKED RIVER, ALANSON, MICHIGAN

Proposed Navigation Regulations

Notice is hereby given that pursuant to section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) the regulations set forth in tentative form below are proposed by the Secretary of the Army (acting through the Chief of Engineers) to govern the use, administration and navigation of The Inland Route—Lock in Crooked River, Alanson, Michigan. It is proposed to amend the present regulations with respect only to paragraph (c) (2) in 33 CFR 207.476 to change the hours of operation of the lock during the months of June, July and August.

Prior to adoption of the proposed regulations consideration will be given to any comments, suggestions or objections thereto which are submitted in writing to the Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attention: DAEN-CWO-N on or before April 8, 1976.

§ 207.476 The Inland Route—Lock in Crooked River, Alanson, Michigan, use, administration and navigation.

* * * * *

(c) *Schedule of seasonal operation.*
(1) * * *

(2) June 1 thru August 31—6 a.m., e.s.t., to 11 p.m., e.s.t., daily.

* * * * *

Dated: March 1, 1976.

MARVIN W. REES,
Colonel, Corps of Engineers,
Executive Director of Civil Works.

[FR Doc.76-6629 Filed 3-8-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 29]

TOBACCO INSPECTION

Proposed Fees and Charges for Permissive Inspection

Notice is hereby given that the U.S. Department of Agriculture has under consideration the amendment of Subparts B, E, and F, of 7 CFR Part 29, relating to fees and charges for permissive inspection under the regulations governing the inspection of tobacco pursuant to the authority contained in the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 et seq.).

Statement of Consideration. The Department proposes to amend "Subpart B—Regulations," relating to fees and charges for services performed other than under an agreement (21 F.R. 3669, May 30, 1956; 25 F.R. 4949, June 4, 1960; and 40 F.R. 44112, September 25, 1975).

The Tobacco Inspection Act authorizes official inspection and grading of tobacco. Such inspection and grading service is either mandatory or permissive. Mandatory inspection, as defined in 7 CFR 29.71, consists of inspecting and certifying tobacco, free of charge, on designated markets (as defined in 7 CFR 29.1(e), before it is offered for sale. Permissive inspection, as defined in 7 CFR 29.56, consists of inspecting, including sampling and weighing, and certificating, and is made available to interested parties on a fee basis. The Act requires such fees to be reasonable, and as nearly as possible, to cover the cost of performing the services.

On September 25, 1975, a notice was published at 40 F.R. 44112, adopting amendments to the regulations appearing at 7 CFR 29.123, relating to fees and charges for inspection and certification services performed other than under an agreement. As these fees and charges for permissive inspection also should be the fees and charges for inspection and certification services performed under an agreement, the Department proposes to revise the regulations to so reflect.

The Department also proposes to delete § 29.9001, of 7 CFR Part 29, appearing in Subpart E, "Application and Agreement for Permissive Inspection Service," since it has been necessary to revise the form prescribed therein which, in addition, may need to be further revised in the future.

Additionally, the Department proposes to amend § 29.9252 of 7 CFR Part 29, appearing in Subpart F, which establishes the fees and charges for the permissive inspection of nonquota Maryland tobacco, U.S. Type 32, produced and marketed in a quota area. The proposed amended section would provide that the fees charged for such inspection be the same as the fees provided for in 7 CFR 29.123, as proposed to be amended herein.

Therefore, it is proposed that the regulations be amended as follows:

§§ 29.121 and 29.122 [Removed]

1. Delete § 29.121, *Fees for inspection service performed under an agreement,* and § 29.122, *Fees and charges for inspection other than under an agreement.*

2. § 29.123 is revised to read as follows:

§ 29.123 Fees and charges.

The fees and charges for inspection under an agreement or other than under an agreement are as follows:

(a) Fees and charges for inspection at redrying plants and receiving points shall comprise the cost of salaries, travel, per-diem, and related expenses to cover the cost of performing the service. Fees shall be for actual time required to render the service calculated to the nearest 30-minutes period. The base hourly rate shall be $12.60. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be $15.00. The rate of $18.85 shall be charged for work performed on Sundays or holidays.

(b) The fees or charges for hogshead, bale or case inspection shall comprise the same costs as provided in paragraph (a) of this section.

(c) The fees or charges for sample inspection shall comprise the same costs as provided in paragraph (a) of this section.

3. Amend § 29.9251, *Fees for inspection and certification services performed under agreement,* to read: "§ 29.9251, *Fees and charges.*" Also, it is proposed that the first paragraph be amended to add the phrase, "other than under an agreement," thus the section is revised to read as follows:

§ 29.9251 Fees and charges.

Fees and charges for inspection and certification services performed under an agreement or other than under an agreement are as follows:

Fees and charges for inspection and certification services at receiving points shall comprise the cost of salaries, travel, per diem, and related expenses to cover the cost of performi g the service. Fees shall be for actual time required to render the service calculated to the nearest 30-minute period. The base hourly rate shall be $12.60. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be $15.00. The rate of $18.85 shall be charged for work performed on Sundays or holidays.

§ 29.9252 [Removed]

4. Delete § 29.9252, *Fees and charges for inspection and certification services other than under an agreement.*

Subpart E—[Removed]

5. Delete Subpart E—Forms, § 29.9001, *Application and agreement for permissive tobacco inspection service.*

All persons who desire to submit written data, views or arguments in connection with these proposed amendments should file the same, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112-A Administra-

tion Building, Washington, D.C. 20250, on or before April 8, 1976. All written submissions pursuant to the notice will be made available for public inspection at the Office of the Hearing Clerk during the official hours of business (7 CFR 1.27(b)).

Dated: March 4, 1976.

DONALD E. WILKINSON,
Administrator.

[FR Doc.76-6679 Filed 3-8-76;8:45 a.m.]

Agricultural Stabilization and Conservation Service

[7 CFR Part 728]

1977 NATIONAL ALLOTMENT FOR WHEAT

Proposed Determinations

Notice is hereby given that the Secretary of Agriculture proposes to make determinations and issue regulations relative to the 1977 national allotment for wheat. Section 379c(a)(1) of the Agricultural Adjustment Act of 1938, as amended by the Agriculture and Consumer Protection Act of 1973, requires that the Secretary proclaim a national wheat acreage allotment not later than April 15, 1976. The national allotment shall be the number of acres which the Secretary determines on the basis of the estimated national average yield will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the marketing year for the crop. If the Secretary determines that carryover stocks are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks.

Prior to determining the 1977 national allotment, consideration will be given to any data, views and recommendations relative to the estimated national yield, estimated domestic utilization of wheat, estimated exports, estimated carryover and other data pertinent to this determination which are submitted in writing to the Director, Grains, Oilseeds and Cotton Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than April 8, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

Signed at Washington, D.C., on March 2, 1976.

E. J. PERSON,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.76-6516 Filed 3-8-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 500-7]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS: WISCONSIN

Proposed Amendments to New Source Review Regulations

On September 30, 1975 (40 FR 44848), the Administrator proposed to disapprove the Wisconsin Air Implementation plan for deficiencies relating to 40 CFR 51.18 (New source review) requirements and pertinent legal authority. The reasons for disapproval are more fully set forth in the September 30, 1975 publication. At the same time, the Administrator proposed regulations to correct the noted deficiencies. No public comments were received on the proposals and the State has failed to submit any corrective revisions to the plan.

Accordingly, the Environmental Protection Agency will proceed to hold a public hearing on the proposed corrective regulations. These regulations have been slightly modified and are re-published below. The regulations proposed on September 30, 1975 are withdrawn and the disapproval notices (52.2574 (b) and 52.579(c)) remain proposed pending final action on this rulemaking proposal.

The proposed regulations require new or modified sources receiving "default" or otherwise invalid permits from the State of Wisconsin to secure a federal permit from the Environmental Protection Agency. They also provide procedures for the Secretary of the Department of Natural Resources to follow in issuing a NR 154.05(1) permit, to wit: To make preliminary determinations as to the approvability of a new/modified source permit and provide opportunity for public comment thereon. If the Secretary should issue a permit without following the prescribed procedures, the permit would be invalid for purposes of federal law and the source would be required to secure a federal permit as in the case of the "default" permit.

The Regional Administrator, Region V, has been delegated authority to carry out new source review regulations. Accordingly, all applications and other information required by this proposed regulation would be sent to the Region V office. Provision is made in the regulations for delegating implementation of the review and public comment procedures to the State or other authority.

In the event that the State acts to correct the noted deficiencies by submitting a revision to the plan, the proposed plan disapproval and substitute regulations will be withdrawn.

The public hearing will be held on April 22, 1976 at the Park Motor Inn, 22 S. Carroll Street, in Madison, Wisconsin 53703, beginning at 9:30 a.m. The proposed regulations are available for inspection at the Region V Environmental Protection Agency offices, 230 South Dearborn Street, Chicago, Illinois, or at the State Air Pollution Control Agency office in Madison, Wisconsin.

The public is encouraged to participate in this hearing by attending and, if desired, by making a statement. Persons wishing to do the latter should so notify Ms. Karen Vasquez, Compliance Section, Enforcement Division, Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604 at least 5 days prior to the hearings. Written comments may be submitted up to the time of the hearing. These, along with any inquiries both before and after the hearings may be addressed to Ms. Vasquez.

(42 U.S.C. 1857c-5)

Dated: March 1, 1976.

FRANCIS T. MAYO,
Regional Administrator, Region V.

It is proposed to amend Part 52 of Chapter I, Title 40, of the Code of Federal Regulations as follows:

Subpart YY—Wisconsin

Section 52.2579 is amended by adding paragraphs (d), (e) and (f) as follows:

§ 52.2579 Review of new sources and modifications.

* * * * *

(d) Regulation for review of new or modified sources which have received a "permit by default." (1) This requirement is applicable to any stationary source in the State of Wisconsin, the construction or modification of which is commenced after the effective date of this regulation except for any source which has affirmatively been issued a permit to construct, install or modify by the Wisconsin Department of Natural Resources pursuant to Wisconsin NR 154.05(1) in accordance with procedures set forth in paragraph (e) of this section.

(2) No owner or operator shall commence construction or modification of any stationary source subject to this paragraph after the effective date of this regulation without first obtaining approval from the Administrator of the location and design of such source.

(i) Application for approval to construct or modify shall be made on forms furnished by the Administrator, or by any other means prescribed by the Administrator.

(ii) A separate application is required for each source.

(iii) Each application shall be signed by the applicant.

(iv) Each application shall be accompanied by site information, the nature and amount of emissions, plans, description, specifications and drawings showing the design of the source, and the manner in which it will be operated and

controlled. Such information shall be sufficient to enable the Administrator to make any determination pursuant to paragraph (d)(3) of this section.

(v) Any additional information, plans, specification, evidence or documentation that the Administrator may require shall be furnished upon request.

(3) No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the Administrator that:

(i) The source will operate without causing a violation of any local, State or Federal regulation which is part of the applicable plan; and

(ii) The source will not prevent or interfere with attainment or maintenance of any national ambient air quality standard.

(4) (i) Within twenty (20) days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (d)(4)(ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within thirty (30) days after receipt of a complete application, the Administrator shall:

(*a*) Make preliminary determination on whether construction/modification of the source should be approved, conditionally approved, or disapproved.

(*b*) Make available in at least one location in the region in which the proposed construction/modification is to take place, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination, and a copy or summary of all other materials, if any, considered by the Administrator in making his determination.

(*c*) Notify the public, by prominent advertisement in a newspaper of general circulation in the region in which the proposed construction/modification is to take place, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the construction/modification.

(*d*) Send a copy of the notice required pursuant to this subparagraph to the applicant and to state and local air pollution Control agencies having cognizance over the location where the construction/modification is to take place.

(iii) Public comments submitted in writing within thirty (30) days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comment submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All public comments shall be made available for public inspection in at least one location in the region in which the construction/modification is to take place.

(iv) The Administrator shall take final action on an application within thirty (30) days after the close of the public comment period and will notify the applicant in writing of his approval, conditional approval, or denial of the application. The Administrator will set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the construction/modification is to take place.

(v) The Administrator may extend each of the time periods specified in paragraph (d)(4)(i) (ii) (iii) or (iv) of this section by no more than 30 days or such other period as agreed to by the applicant and the Administrator.

(5) The Administrator may impose any reasonable conditions upon an approval, including conditions requiring the source to be provided with:

(i) Sampling ports of a size, number, and location as the Administrator may require,

(ii) Safe access to each port,

(iii) Instrumentation to monitor and record emission data, and

(iv) Any other sampling and testing facilities.

(6) The Administrator may cancel an approval if the construction is not begun within 2 years from the date of issuance, or if, during the construction, work is suspended for one year.

(7) Any owner or operator subject to the provisions of this regulation shall furnish the Administrator written notification as follows:

(i) A notification of the anticipated date of initial startup of the source not more than 60 days or less than 30 days prior to such date.

(ii) A notification of the actual date of initial startup of a source within 15 days after such date.

(8) Within 60 days after achieving the maximum production rate at which the source will be operated, but not later than 180 days after initial startup of such source, the owner or operator of such source shall conduct a performance test(s) in accordance with methods and under operating conditions approved by the Administrator and furnish the Administrator a written report of the results of such performance test.

(i) Such test shall be at the expense of the owner or operator.

(ii) The Administrator may monitor such test and may also conduct performance tests.

(iii) The owner or operator of a source shall provide the Administrator 15 days prior notice of the performance test to afford the Administrator the opportunity to have an observant present.

(iv) The Administrator may waive the requirement for performance tests if the owner or operator of a source has demonstrated by other means to the Administrator's satisfaction that the source is being operated in compliance with all State and Federal regulations which are part of the applicable plan.

(9) Approval to construct shall not be required for:

(i) The installation or alteration of an air pollutant detector, air pollutants recorder, combustion controller, or combustion shutoff.

(ii) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment.

(iii) Fuel burning equipment, other than smokehouse generators, which has a heat input of not more than 250 MBtu/h (63.5 billion g-cal/h) and burns only gaseous fuel containing not more than 0.5 gr H_2S per 100 std. ft^3 (5.7 g/100 $stdm^3$); has a heat input of not more than 1MBtu/h (250 Mg-cal/h) and burns only distillate oil; or has a heat input of not more than 350,000 Btu/h (88.2 Mg-cal/h) and burns any other fuel.

(iv) Mobile internal combustion engines.

(v) Laboratory equipment used exclusively for chemical or physical analyses.

(vi) Other sources of minor significance specified by the Administrator.

(10) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, State, and Federal regulations which are part of the applicable plan.

(11) Any owner or operator who constructs, modifies or operates a stationary source subject to this paragraph not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Clean Air Act.

(e) Regulation providing procedures for public comment. (1) Prior to approval or disapproval by the Wisconsin Department of Natural Resources pursuant to NR 154.05(1) of the construction or modification of a stationary source, the Secretary of the Wisconsin Department of Natural Resources shall:

(i) Make a preliminary determination whether the construction/modification of the stationary source shall be approved, approved with conditions, or disapproved.

(ii) Make available in at least one location in the region in which the proposed construction/modification would take place a copy of all materials submitted by the owner or operator, a copy of the Secretary's preliminary determination, and a copy or summary of other materials, if any, considered by the Secretary in making his preliminary determination, and

(iii) Notify the public, by prominent advertisement in a newspaper of general circulation in the region in which the proposed construction/modification would take place, of the opportunity for public comment on the information submitted by the owner or operator and the

Secretary's preliminary determination on the approvability of the construction/modification.

(2) A copy of the notice required pursuant to this paragraph shall be sent to the Regional Administrator, Region V, the applicant, and to all other States and local air pollution control agencies having cognizance of the region where the construction/modification will take place.

(3) Public comments submitted in writing within 10 days of the date such information is made available shall be considered by the Secretary in making his final decision on the application.

(iv) Failure to obtain a permit issued in accordance wtih the public comment procedures set forth in this paragraph shall render the owner or operator of any source which commences construction after the effective date of this regulation subject to this paragraph (d) and he shall be required to obtain a federal permit in accordance with the provisions set forth in paragraph (d) of this section.

(f) *Delegations of authority.* (1) The Administrator may delegate responsibility for implementing the procedures set forth in paragraphs (d) and (e) of this section except that such delegation may not be made with respect to:

(i) New or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal Land Manager may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to new source review requirements which have been delegated to a state or local agency pursuant to this paragraph; and

(ii) New or modified sources which are located in Indian reservations except where the State has assumed jurisdiction over such land under other laws.

[FR Doc.76-6684 Filed 3-8-76;8:45 am]

[40 CFR Part 55]

ENERGY-RELATED AUTHORITY

[FRL 500-3]

New Hampshire: Proposed Compliance Date Extension

The Administrator of the United States Environmental Protection Agency proposes to amend 40 CFR Part 55 by adding new Subpart EE to provide for the issuance of a compliance date extension to Public Service Company of New Hampshire, Schiller Station, Units 4 and 5, Portsmouth, New Hampshire. This proposed rulemaking is based upon the authority granted the Administrator in sections 119 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), and is in accordance with the procedures provided in 40 CFR Part 55.

BACKGROUND

On June 22, 1974, Congress enacted the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (Pub. L. 93-319, 88 Stat. 246, 15 U.S.C. 791) "to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent to the fullest extent practicable, with existing national commitments to protect and improve the environment * * *"

ESECA authorizes and directs the Administrator of the Federal Energy Administration (FEA) under section 2(a) of ESECA (15 U.S.C. 792), as amended by the Energy Policy and Conservation Act (Pub. L. 94-163), to prohibit until January 1, 1985, the use of petroleum products or natural gas as the primary energy source at certain power plants and major fuel burning installations. Section 3 of ESECA, which was added to the Clean Air Act (42 U.S.C. 1857c-10) as a new section 119, provides that the Administrator of the Environmental Protection Agency (EPA) must take certain actions in response to the issuance of FEA prohibition orders.

Section 119 requires the Administrator of EPA to take specific steps intended to assure that national primary ambient air quality standards (NPAAQS) are not jeopardized by increased emissions resulting from conversions to coal necessitated by the issuance of FEA prohibition orders. Hereinafter, sources which have received prohibition orders from FEA will be referred to as "ordered" sources. To treat equitably those ordered sources which must convert to coal and whose primary energy source was, prior to September 15, 1975, oil or natural gas, section 119(c) provides for relief in the form of "compliance date extensions". A compliance date extension (CDE) is an extension of the time allowed a source for meeting specified air pollution requirements for a particular pollutant. In effect, during the period of a CDE, specified air pollution requirements are relaxed; however, NPAAQS must not be exceeded. Emission limitations and monitoring requirements which are imposed on the source by EPA to protect NPAAQS are referred to as "primary standard conditions". If certain conditions are met, an ordered source situated in an air quality control region (AQCR) in which the NPAAQS for a specific pollutant is being attained, may be issued a CDE. An AQCR in which the NPAAQS for a specified pollutant is not being attained is called a non-attainment area for that pollutant. An ordered source situated in a non-attainment area for a specified pollutant may be issued a CDE which provides for meeting currently applicable air pollution requirements for that pollutant as soon as practicable. However, such a CDE may not relax air pollution requirements applicable to any pollutant for which NPAAQS are not being attained. The limitation on the scope of CDE's which can be issued in non-attainment areas for specified pollutants is referred to as the "regional limitation". FEA cannot make its section 2 ESECA order effective before the date the source should be able to meet these requirements. Since section 119(c) of ESECA and the granting of compliance date extensions constitute new approaches to problems addressed elsewhere in the framework of the Clean Air Act, a brief explanation of that statute is appropriate.

THE CLEAN AIR ACT, AS AMENDED

Under the Clean Air Act, as amended, each state submitted a state implementation plan (SIP) for approval by the EPA Administrator. Each SIP is designed to provide for attainment and maintenance of national primary and secondary ambient air quality standards. The SIP for New Hampshire was approved with some exceptions by the Administrator on May 31, 1972 (37 FR 10842). That portion of the SIP concerning the attainment of the primary standard for sulfur dioxide (SO_2) in the Merrimack Valley and Southern New Hampshire Interstate and Central New Hampshire Intrastate Air Quality Control Regions was later revised upwards from 1 percent to 1.5 percent sulfur by weight for grades 5 and 6 fuel oil. Under section 110 of the Clean Air Act, all NPAAQS are to be met as expeditiously as practicable. The attainment date for NPAAQS for sulfur oxides and particulate matter, both of which are involved in this CDE proposal, was July 1, 1975.

National primary standards are established at levels calculated to protect the public from adverse health effects. National secondary standards represent the ambient air concentration levels necessary to protect the public welfare from such things as adverse effects on property and crops, and are generally more stringent than national primary standards. Pollutants for which standards have been promulgated including sulfur oxides, particulate matter, hydrocarbons, carbon monoxide, nitrogen oxides, and photochemical oxidants; these are called criteria pollutants. The criteria pollutants most related to increased coal burning are sulfur oxides and particulate matter.

The SIP's now in effect generally provide for meeting national ambient air quality standards by requiring sources of these pollutants not to exceed specified limits on the amounts of pollutants emitted into the ambient air. These emission limitations, the dates by which they must be met, and other applicable air pollution requirements may be the subjects of compliance date extensions under section 119(c).

THE RELATIONSHIP BETWEEN ESECA AND THE CLEAN AIR ACT

Under section 2 (a) and (b) of ESECA, the Administrator of the Federal Energy Administration must by order prohibit any power plant from burning natural gas or petroleum products as its primary energy source if he finds that (1) burning coal at that power plant is practicable and consistent with the purposes of ESECA, (2) coal and coal trans-

portation facilities will be available during the period the order is in effect, (3) such a prohibition will not impair the reliability of service at that power plant, and (4) the power plant, on June 22, 1974, had the capability and necessary plant equipment to burn coal. On June 30, 1975, the Administrator of FEA issued orders under section 2 of ESECA to 74 generating units at 32 power plants. FEA's authority to issue prohibition orders extends to June 30, 1977, and its authority to enforce these orders will expire on January 1, 1985.

Section 119 of the Clean Air Act additionally provides that, having received FEA prohibition orders, sources which convert to the use of coal as their primary energy source on or after September 15, 1973, are eligible for compliance date extensions for applicable air pollution requirements if the Administrator of EPA determines that certain other conditions, provided for in section 119 (c) and (d), are met. In particular, section 119(c) provides that a compliance date extension may be issued only if the EPA Administrator finds that (1) the source cannot burn coal which is available to it in compliance with all applicable air pollution requirements without an extension; (2) during the period of the extension the source will be able to comply with all applicable primary standard conditions (PSC) and any applicable regional limitations (RL) (PSC and RL described in more detail below); and (3) the source has submitted and EPA has approved a compliance plan with certain specified features. Upon the granting of a compliance date extension, in accordance with section 119(d)(i)(B), EPA will certify to the Administrator of FEA the earliest date the source can burn coal and comply with any applicable PSC or RL. This certification date represents the earliest date FEA can make its prohibition order effective against the source.

Effect of a Compliance Date Extension

Any compliance date extension will be specific to an individual source and will be issued on a unit-by-unit basis. The CDE may affect requirements for one pollutant only, or for more than one. Whether an RL will be imposed on a CDE will depend on whether the AQCR in which the source is located is attaining NPAAQS.

A. ATTAINMENT AREAS

If the NPAAQS for a particular pollutant is being attained in the AQCR in which the source is situated, a compliance date extension may permit the burning of coal for a specified period of time. Such burning of coal may result in emissions of that pollutant in excess of applicable air pollution requirements, including state implementation plan emission limitations for that pollutant so long as all NPAAQS are maintained. Sources granted such extensions must achieve compliance with state implementation plan requirements as soon as practicable, but no later than December 31, 1978. Meanwhile, the source must enter into an enforceable compliance schedule to assure compliance with air pollution requirements by the time the extension expires.

When a compliance date extension is issued to a source situated in an AQCR in which the NPAAQS is being attained for the pollutant for which the CDE is granted, primary standard conditions (PSC) must be imposed by EPA, in consultation with appropriate states. Primary standard conditions are enforceable measures for the control of emissions including emission limitations or other requirements related to the pollution characteristics of coal. The Administrator determines what PSC must be met by a converting source in order to assure, throughout the term of the extensions, that the burning of coal by that source will not cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard. Once the PSC is met, the source may begin coal burning so long as any applicable regional limitations (RL) are also met.

B. NON-ATTAINMENT AREAS

If a source is situated in an AQCR in which the NPAAQS is being exceeded for a specific pollutant, an additional condition, the regional limitation, is imposed in connection with the issuance of a CDE under section 119(c)(2)(D). FEA is precluded from making its prohibition order effective against a source to which an RL applies any earlier than the date the source should be able to comply with the RL. When the regional limitation is applicable for a given pollutant, the source may not violate any requirement concerning that pollutant, including emission limitations under the applicable SIP.

For example, a source located in an AQCR in which primary standards for sulfur oxides are being met but standards for particulate matter are not being met may receive a CDE and could exceed applicable SIP emission limitations for sulfur oxides so long as it complies with prescribed primary standard conditions for sulfur oxides. The source, however, would be required to meet the regional limitation (the state implementation plan requirements) for particulate matter at all times, even after conversion to coal. In addition, the source must take steps before conversion to assure that those requirements will be met by the effective date of the FEA's prohibition order. If EPA determines that the national primary standard is being attained in that AQCR, at any time subsequent to the granting of a CDE, the source would no longer be subject to the regional limitation, and necessary primary standard conditions for particulate matter would be prescribed. The source could burn coal in violation of extended SIP particulate matter requirements as soon as such primary standard conditions are met.

Interim requirements which must be met prior to conversion to coal (such as requirements to meet increments of progress contained in compliance schedules for PSC's, RL's, and all extended requirements) may be imposed and enforced by EPA under sections 119 and 113 of the Clean Air Act even before the source has converted to the use of coal. However, the source will not be excused from compliance with any applicable air pollution requirement until it has fulfilled all applicable conditions on the extension (PSC's or RL's) and has actually made the conversion to coal. The "effective date" of the CDE is, therefore, the date on which the conditions are met and compliance with applicable air pollution requirements is excused as provided by the terms of the CDE.

Determining Whether a CDE May Be Granted

Within 90 days after the issuance of a section 2(a) prohibition order, a source eligible for a CDE is required under 40 CFR Part 55 (40 FR 18438, April 28, 1975) to submit specified information necessary to enable the Administrator of EPA either to find that the source can comply with all applicable air pollution requirements without a CDE or to issue a CDE and impose appropriate conditions, limitations, and interim requirements thereon.

Information submitted by the source under 40 CFR Part 55, along with ambient air quality monitoring data, atmospheric simulation modeling data, and any other relevant information available to the Administrator will form the basis for the Administrator's findings on both ability to meet applicable PSC's and RL's as well as approvability of plans for compliance.

A. COAL AVAILABILITY

In order to receive a compliance date extension, a source must prove that without such CDE it cannot burn available coal in compliance with all applicable air pollution requirements. This proof should include documentation of efforts to obtain coal of a quality that could be burned in compliance with applicable requirements. Such documentation might include copies of advertisements for coal of suitable specified quality or within a suitable specified range of characteristics; records of contacts with named suppliers, and relevant correspondence or telephone memoranda.

B. ABILITY TO COMPLY WITH PRIMARY STANDARD CONDITIONS AND REGIONAL LIMITATIONS

Once EPA has determined the appropriate primary standard conditions necessary to protect NPAAQS throughout the period that applicable requirements are extended, and has determined whether the regional limitation applies, a finding must be made that the source can comply with applicable PSC and RL before a compliance date extension may be granted. Such a finding of ability to meet applicable primary standard conditions and regional limitations may involve several more limited findings. For example, the Administrator may find that a specific source can meet applicable PSC and/or RL by one or more of the following: obtaining through advertisement (or other means) coal with ap-

propriate sulfur and ash content; upgrading pollution control equipment presently in place; installation of new control equipment; or the use of supplementary control systems (only for purposes of meeting primary standard conditions) at isolated power plant which will assume responsibility for violation of NPAAQS in the area affected by such plant's emissions.

C. APPROVABLE COMPLIANCE SCHEDULES

Before a CDE may be issued, the source must submit and EPA must approve or modify a plan for compliance based upon the continued use of coal as the primary energy source. The plan must include requirements of the applicable SIP for which an extension is requested. Specifically, EPA must require that the source achieve the most stringent degree of emission reduction that would have been required under the applicable implementation plan which was in effect on or after the date of submittal of such compliance plan under 40 CFR Part 55. Such compliance plans are enforceable by EPA under section 119(g)(2).

Once an extension is granted, it will extend the date for compliance with specified air pollution requirements. Such requirements may be those imposed at the state, federal, or local level, whether or not they are included in the applicable state implementation plan. A CDE may affect requirements which are not federally enforceable, such as state or local requirements which are not part of an EPA approved implementation plan. In order to make the appropriate certification to FEA, EPA must require the source to submit a compliance plan for meeting these requirements so that EPA can determine the date by which the source can comply. EPA does not have authority to enforce compliance plans which are not part of an EPA approved SIP. However, state and local authorities may independently establish, adopt, and enforce appropriate schedules for each of their own requirements so long as the burning of coal by the source is not thereby prohibited prior to January 1, 1979.

D. REPORTING AND MONITORING REQUIREMENTS

Any source subject to a CDE or RL must furnish regular status reports to the EPA Region I Air and Hazardous Materials Division Director at six month intervals dating from the issuance of the CDE, as required by 40 CFR 55.04(g). Such status reports will summarize the source's progress towards achieving compliance with all applicable air pollution requirements. Sources are also required, at 40 CFR 55.04 (a)(2)(i)(F) or (a)(2)(ii)(F), to notify the appropriate Air and Hazardous Materials Division Director of the status of compliance no later than ten days after the date that each incremental step towards final compliance is required to be completed. If applicable, this notice must specify the reason for any failure as well as a schedule for completion of the step.

The Administrator may find that new or additional ambient air quality monitors are needed to determine the effect of a conversion to coal on air quality and, in some cases, to determine compliance with PSC's. Where this finding is made, the source will be required, under 40 CFR 55.04(f), to install monitors, and to report on the data produced at those monitors in the source's semi-annual report under 40 CFR 55.04(g).

FINDINGS UNDER SECTION 119

The Administrator of the Environmental Protection Agency, based upon information submitted pursuant to 40 CFR Part 55, and other information available to him, proposes to issue a compliance date extension to Public Service Company of New Hampshire, Schiller Station, Units 4 and 5, Portsmouth, New Hampshire (hereinafter referred to as "the source"), from New Hampshire Air Pollution Control Agency (NHAPCA) Regulation 4, Revision II, which limits emissions of particulate matter based upon these preliminary findings:

(i) The source is subject to section 2(a) FEA prohibition orders Nos. 050 and 051 for Units 4 and 5 respectively, and will convert after September 15, 1973, to coal as its primary energy source.

(ii) The Administrator, pursuant to section 119(c)(2)(A) of the Clean Air Act, finds that the source cannot burn coal available to it in compliance with NHAPCA Regulation 4, Revision II.

(iii) The source can comply with all conditions upon which a compliance date extension may be granted for NHAPCA Regulation 4, Revision II, in that:

(a) No regional limitation for particulate matter is applicable since exceedances of the NPAAQS for total suspended particulate matter cannot be substantiated in the Merrimack Valley Southern New Hampshire Interstate AQCR;

(b) EPA has determined, after consultation with the NHAPCA, that the sources must emit no more than 2.20 pounds of particulate matter per million BTU high heating value fuel input in order to assure (throughout the period that the compliance date extension will be in effect) that coal burning will not result in emissions which could cause or contribute to concentrations of particulate matter in excess of the National Primary Standard for particulate matter; and finds that coal of a suitable ash content (roughly 10 percent ash by weight) is presently available; and

(c) The Administrator finds that the compliance plan submitted by the source on October 28, 1975, and as modified by EPA provides for compliance with NHAPCA Regulation 4, Revision II, on the basis of coal usage within 820 days of the Notice of Effectiveness; that the compliance plans provide for compliance as soon as practicable, but no later than December 31, 1978; and that the compliance plans are therefore approvable under section 119(c).

(iv) The source can comply with NHAPCA Regulation 5, Revision II, within 180 days of the issuance of a Notice of Effectiveness by FEA.

COMPLIANCE WITH CONDITIONS UPON WHICH CDEs ARE GRANTED

A. COMPLIANCE WITH PRIMARY STANDARD CONDITIONS

Compliance with the PSC preliminarily determined by the Administrator as necessary to maintain NPAAQS for particulate matter will require the emission of not over 2.20 pounds of particulate per million BTU high heating value fuel input. The Administrator finds that compliance with this proposed primary standard condition may be attained with coal available to the source after refurbishing particulate emission controls now in place at the source within 180 days of the issuance of the Notice of Effectiveness.

B. FINAL COMPLIANCE WITH EXTENDED AIR POLLUTION REQUIREMENTS

The Administrator has determined that the following dates for achieving full compliance (on the basis of coal usage) with air pollution requirements proposed to be extended by CDE's provide for compliance as soon as practicable, as provided by section 119(c)(2)(C):

Source	Location	Pollutant	Regulation involved	Date of adoption	Final compliance date
Public Service Co. of New Hampshire, Schiller Generating Station: Unit No. 4.	Portsmouth, N.H.	Particulate matter.	New Hampshire Air Pollution Control Agency regulation 4, revision II.	Mar. 21, 1974	Within 820 d of FEA notice of effectiveness.
Unit No. 5	do	do	do	do	Do.
Units Nos. 4 and 5.	do	Sulfur dioxide.	New Hampshire Air Pollution Control Agency, regulation 5, revision II.	June 26, 1973	Date coal burning commences.

NOTES.—Increments of progress, enforceable against the source, to enable final compliance by the proposed date (including the date by which contracts will be entered into, initiation of on-site construction, and completion of on-site construction, etc., are available for public inspection during business hours at the U.S. Environmental Protection Agency, John F. Kennedy Federal Bldg., Boston, Mass. 02203.

CERTIFICATION TO FEA

The Administrator proposes to certify under section 119(d)(2)(B), 180 days from the issuance of a Notice of Effectiveness by the Administrator of FEA as the earliest date by which Public Service Company of New Hampshire, Schiller Generating Station, Units 4 and 5, can burn coal in compliance with all applicable primary standard conditions and regional limitations. This date, 180 days from publication of FEA's issuance of a Notice of Effectiveness, represents the earliest date upon which the FEA can make its orders Nos. 050 and 051 effective against this source. By this time, the source will have renovated existing dust collectors, will be prepared to show compliance initially and on a continuous basis with the primary standard conditions, and will also be prepared to report periodically on the effect of coal burning on ambient air quality in the Portsmouth, New Hampshire area.

PUBLIC PARTICIPATION

Interested parties are hereby notified that the public will be afforded an opportunity for oral and written presentations of data, views, and arguments. Information upon which the Administrator bases this proposed rulemaking is available for public inspection during business hours at the following locations: Region I Office of the U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203; City Hall, Portsmouth, New Hampshire; New Hampshire Air Pollution Control Agency, State Laboratory Building, Hazen Drive, Concord, New Hampshire, 03301; and State of Maine, Department of Environmental Protection, Portland Regional Office, 415 Congress Street, Portland, Maine 04101.

Information available includes:

(a) The EPA Regional Office Evaluation Summary for the action proposed herein;

(b) Compliance schedules, including increments of progress, providing for final compliance with air pollution requirements extended by the CDE;

(c) Compliance schedules, including increments of progress, for meeting the PSC;

(d) Information submitted by Public Service Company of New Hampshire under 40 CFR Part 55 (including the source's documentation on the issue of coal availability);

(e) Air quality data and analyses relevant to the source, including ambient air quality monitoring records for the AQCR in which the source is situated, and atmospheric simulation modeling data used to determine PSCs and applicability of RLs;

(f) Written comments made by the State of New Hampshire Air Pollution Control Agency on the proposed PSC; and

(g) Copies of the FEA prohibition order and supporting background documents.

The Administrator specifically invites the public to comment on the following aspects of the proposed compliance date extension:

(i) The availability of coal for the purpose of

(a) Meeting air pollution requirements without a CDE, and

(b) Meeting the proposed PSC;

(ii) The adequacy of the proposed PSC to assure that coal burning by the source will not result in emissions which cause or contribute to concentrations of particulate matter in excess of the NPAAQS for particulate matter;

(iii) The ability of the source to meet the proposed PSC; and

(iv) The expeditiousness of the proposed compliance schedules for meeting state implementation plan requirements on the basis of coal usage.

A public hearing will be held no sooner than April 8, 1976. Prominent notice will be published in the AQCR in which the source is situated, identifying the date, time, and place of the hearing. Requests for presentation of public comments concerning this proposed compliance date extension, primary standard conditions, or other matters concerning the impact of conversion of the source to coal may be directed to:

Jean W. Sutton, Office of Regional Counsel, U.S. Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

Due consideration shall be given to all timely relevant public comment whether submitted as a written comment or adduced at a public hearing, and where appropriate, proposed rulemaking then under consideration will be modified to reflect such comments.

This proposed rulemaking is based upon the authority of sectitns 119 and 301 of the Clean Air Act of 1970, as amended, (42 U.S.C. 1857 et seq.).

Dated: February 26, 1976.

JOHN A. S. MCGLENNON,
Regional Administrator, Region I.

Part 55 of Chapter I, Title 40 of the Code of Federal Regulations is proposed to be amended by adding a new Subpart EE as follows:

Subpart EE—New Hampshire

§ 55.1520 Compliance date extension.

The Administrator hereby issues a compliance date extension to the Public Service Company of New Hampshire, Schiller Generating Station, Units 4 and 5, Portsmouth, New Hampshire (the source), upon the following conditions.

(a) *Primary standard condition.* After 180 days from the date FEA issues a Notice of Effectiveness to Schiller Generating Station Units 4 and 5, the source shall not burn coal which results in the emissions of particulate matter over 2.20 pounds of particulate per million BTU high heating value fuel input in accordance with the following schedule of compliance:

(1) Within 30 days after the issuance of the Notice of Effectiveness by FEA to the Schiller Generating Station Units 4 and 5, submit for approval in writing to the EPA Region I Air and Hazardous Materials Division Director a proposed schedule of actions and dates by which particulate collection devices now in place at the source would be returned to service and operated with a reasonable degree of reliability, as well as any additional measures and devices which would ensure the return of the particulate collection devices to reliable service.

(2) Within 90 days after the issuance of the Notice of Effectiveness by FEA to the Schiller Generating Station Units 4 and 5, have existing particulate collectors in operational condition.

(3) Within 90 days after the issuance of the Notice of Effectiveness by FEA to Schiller Generating Station Units 4 and 5, submit a proposal for a complete air quality monitoring network to be set up by the source as required by paragraph (d)(4) of this section.

(4) Within 120 days after the issuance of the Notice of Effectiveness by FEA to Schiller Generating Station Units 4 and 5, the air quality monitoring network must be installed and operating.

(5) Within 120 days after the issuance of the Notice of Effectiveness by FEA to Schiller Generating Station Units 4 and 5, submit for approval in writing to EPA Region I Air and Hazardous Materials Division Director proposed methods, procedures, and devices to be used to obtain the information required on paragraph (d)(3) of this section.

(6) Within 180 days after the issuance of a Notice of Effectiveness to the Schiller Generating Station Units 4 and 5, complete installation of devices specified under paragraph (a)(1) of this section and subsequently approved by EPA Region I as necessary and suitable for reliable operation of existing particulate collection devices.

(b) *Plan for compliance with New Hampshire Air Pollution Control Agency Regulation 4, Revision II.* The source shall comply with New Hampshire Air Pollution Control Agency Regulation 4, Revision II within 820 days of the Notice of Effectiveness for FEA prohibition orders Nos. 050 and 051 in accordance with the following increments of compliance from the Notice of Effectiveness date:

(1)(i) Within 30 days: submit to the EPA Region I Air and Hazardous Materials Division Director contracts for approval for supply of particulate emission controls and other equipment necessary for final compliance; (ii) within 95 days: Submit to the EPA Region I Air and Hazardous Materials Division Director contracts for approval for long term supplies of coal.

(2)(i)—Within 65 days: enter contracts for particulate emission controls and other equipment necessary for final compliance; (ii) within 125 days: enter contracts for long term supplies of coal.

(3) Within 490 days: initiate on site installation of particulate emission control systems.

(4) Within 760 days: complete installation of particulate emission control systems.

(5) Within 820 days: Perform emission tests in accordance with Part 60 of this chapter and submit reports showing final compliance with New Hampshire Air Pollution Control Agency Regulation 4, Revision II.

(c) *Plan for compliance with New Hampshire Air Pollution Control Agency Regulation 5, Revision II.* The source shall comply with New Hampshire Air Pollution Control Agency Regulation 5, Revision II within 180 days of the Notice of Effectiveness for FEA prohibition orders Nos. 050 and 051 in accordance with the following increments of compliance from the Notice of Effectiveness date:

(1) Within 150 days: submit for approval in writing to the EPA Region I Air and Hazardous Materials Division Director, contracts for coal to be burned during the compliance date extension period.

(2) Within 180 days: Comply with New Hampshire Air Pollution Control Agency's Regulation 5, Revision II.

(d) *Interim requirements.* The source shall comply with the following interim requirements prior to achieving compliance with Regulation 4, Revision II which are deemed necessary to assure continued compliance with primary standard conditions.

(1) As guidelines to continual compliance with the primary standard condition of 2.20 pounds of particulate per million BTU high heating value fuel input: (i) The source shall not violate an opacity limitation to be set by EPA Region I at the time of source testing; (ii) the source shall not burn coal with an ash content exceeding 8 pounds per million BTU high heating value, 24 hour average.

(2) Within 60 days of commencing the use of coal in units 4 and 5 source testing for particulate emissions will be performed using EPA Method 5 as specified in the FEDERAL REGISTER (36 FR 24888) as amended on each of these unit. Such tests or variations thereof shall be performed in a manner approved in writing by EPA Region I and a minimum of 15 days written notice will be given to the EPA Region I Air and Hazardous Materials Division Director prior to conducting such tests. A complete report containing all information pertinent to the performance of these stack tests will be submitted to the EPA Region I Air and Hazardous Materials Division Director within 30 days of completing such tests.

(3) Monthly records of air pollutant emissions for the Schiller Generating Station shall be kept and submitted to the EPA Region I Air and Hazardous Materials Division Director within 15 days of the end of each month. These records shall detail daily emissions from all units at the Schiller Station and shall, as a minimum, include for each steam generating unit:

(i) Fuel consumption for each day of the preceding month.

(ii) Analyses of the fuel consumed during each day: sulfur content, ash content, and high heating value.

(iii) For the stacks serving units 4 and 5 only, hourly measurement of opacity, acquired with a continuous opacity monitor.

(iv) Estimates of bottom ash, electrostatic precipitator ash, and multiclone ash collected from each steam generating unit burning coal.

Methods, procedure, and devices, used to obtain or prepare the above data must be approved in writing by EPA Region I prior to the use of coal in any unit of the Schiller Station.

(4) The source must submit for approval to EPA Region I Air and Hazardous Materials Division Director a proposal to install and operate an ambient air quality monitoring network in the vicinity of the Schiller Generating Station. This network must include monitors capable of measuring 24 hour average particulate concentrations and EPA Region I, on its own authority and initiative, may direct that continuous sulfur dioxide monitors be co-located with particulate samplers and operated by the source. A complete monitoring network must be approved in writing by EPA Region I and installed and operating at least 60 days prior to the burning of coal in either unit 4 or unit 5. Monthly records of ambient air quality concentrations will be submitted to the EPA Region Air and Hazardous Materials Division Director within 15 days of the close of each month and in a format prescribed by Region I.

(5) The source must submit a written report of any primary or secondary violations of the NAAQS to the Director, EPA Air and Hazardous Materials Division, within 48 hours of the occurrence of such violations.

(e) The source shall not, until January 1, 1977, be prohibited from burning coal which is available to such source by reason of the application of any air pollution requirement except as provided in section 119(d)(3) of the Clean Air Act (42 U.S.C. 1857, et seq.).

[FR Doc.76-6685 Filed 3-8-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 212]

COMPUTATION OF LANDED COSTS: TRANSPORTATION

Notice of Proposed Rulemaking and Public Hearing

The Federal Energy Administration (FEA) hereby proposes to amend Part 212 of Chapter II of Title 10 of the Code of Federal Regulations to establish a standard measure for the cost of transportation of imported crude oil as a component of the landed cost of that crude oil. The relevant section of the current regulation, 10 CFR 212.83(b), defines the "landed cost" of crude oil to include transportation costs determined in one of two different ways:

(1) If the transportation was obtained pursuant to an arms-length transaction, the "actual transportation cost" is to be used.

(2) If the transportation was obtained pursuant to a transaction between affiliated entities, the cost is to be computed "by use of the accounting procedures generally accepted and consistently and historically applied by the firm involved."

The accounting procedures used by the companies importing crude oil lead to widely varying costs for similar shipments. Some companies use actual cost, or actual cost plus a percentage; the allocation of costs for vessels on long-term charters vary. Some companies use published single-voyage charter rates which can be highly volatile and dependent on the exact time frame selected for pricing a particular voyage. A common method is to use published average rates as a basis for determining costs; however, there are many ways in which that approach is implemented. Overall, substantial variations appear to exist in transportation costs calculated by the various procedures utilized.

The amendment herein proposed would establish a uniform procedure for measuring such costs to be used by each importer of crude oil. The proposed amendment applies to the entire range of possible transportation situations, including those in which the actual shipment of crude oil involves multiple pick-up and discharge points, transshipments between vessels, and other such complex transactions.

In order to make the implementation of the proposed regulation administratively feasible, and to encourage importers to minimize their actual shipping costs, the proposed amendment would establish that the allowed shipping cost be based on an appropriate stranded hypothetical voyage. The allowed per barrel cost would thus be dependent only on (1) the port of the country of origin of the crude (or port of purchase if purchased c.i.f. some intermediate point), (2) the domestic port of discharge, and (3) the date of loading.

One commonly-used and broad-based standard for pricing crude oil transportation costs, currently mandated in 10 CFR 212.84 for the calculation of derived f.o.b. prices when crude is purchased on a c.i.f. basis, is the London Tanker Broker's Panel's average freight rate assessment (AFRA), used in conjunction with the Worldwide Tanker Nominal Freight Scale (Worldscale). The AFRA basis is determined each month, for several tanker categories, as a weighted (by deadweight capacity) average of all reported arms-length contracts in force for each category in that month, taking into account long-term, short-term, and single-voyage (spot) charters.

FEA has not been able to determine a currently available broad-based alternative to the use of AFRA. Thus, the proposed amendment would establish that the allowed cost of transportation per ton of crude oil between the port of origin (or c.i.f. port) and the domestic port of entry be the appropriate Worldscale rate for that pair of ports multiplied by the AFRA factor for the appropriate month for the Large Range 2 (LR-2) class of vessels (80-159.9 thousand deadweight tons capacity).

Since the allowed cost is based on a hypothetical voyage, no reduction in cost for such events as the receipt of income for use of the vessel on the return voyage shall be made, nor shall additions to

cost be made for such elements as demurrage and lightering. When the refinery is not located at the port of entry, however, transportation from that point to the refinery would be an additional allowable cost.

Selection of the appropriation class of vessel on which to base the allowed cost is a complex task. The LR–2 class of vessel is capable of loading at all significant ports of origin, and discharging at the major West Coast ports in this country, as well as in Puerto Rico and the Virgin Islands. Such vessels are not capable of discharging at East or Gulf Coast ports. However, at least for ports of origin in the Persian Gulf, by shipping crude oil in Large Range 3 (LR–3) class vessels (160–319.9 thousand deadweight tons capacity) to a port in the Caribbean, and reloading into smaller vessels for shipment to the desired U.S. port, it appears that an effective rate lower than implied by the AFRA-derived rate for LR–1 class vessels (45–79.9 thousand deadweight tons capacity) and comparable to the AFRA LR–2 rate can be obtained. Thus, the proposed regulation would apply uniformly the LR–2 rate.

FEA recognizes that the use of AFRA results currently in a higher transportation cost than would a measure based solely on spot or new term charters, since AFRA includes shipping pursuant to transactions entered into in earlier periods when shipping rates were higher. This is, of course, the reverse of the picture at certain earlier times such as the embargo period. FEA believes, however, that some measure which is representative of average costs in the market is appropriate in determining "landed costs." This is especially so in light of the policy of the Emergency Petroleum Allocation Act as expressed in section 4(b)(2)(A) and section 9, that FEA provide in its regulations for a dollar for dollar pass through of net increases and decreases in the cost of crude oil, even though those sections do not apply per se to the determination of "landed costs." A different measure reflective of current market conditions may be appropriate for other FEA regulations, such as entitlements, which are intended in part to equalizing curent competitive conditions.

The proposed regulation would apply to all crude oil imports except those purchased in arms-length transactions on a delivered basis. Except for such delivered sales, there would no longer be any distinction between firms using affiliates for shipping and those obtaining transportation pursuant to arms-length transactions. This approach has been adopted because of the difficulties in properly allocating costs of shipping to particular transactions. In particular, if actual costs were used as a basis, the question of how long-term charter costs should be allocated, how back-haul cargo or other income should be credited, and similar questions would arise. In addition, the use of such a basis would require detailed probing of the importing companies' books by FEA for verification of reported costs, and might influence companies to utilize other than their perceived most efficient methods of transporting crude, in order to obtain a higher allowed cost. The exceptions process would, of course, be available for those situations in which application of this standard might work an undue economic hardship.

Interested parties are particularly encouraged to comment on the following questions:

1. Does the use of AFRA and Worldscale provide a valid approximation of actual transportation costs?

2. Is it appropriate for FEA to use in its regulatory system a basis such as AFRA, which is not subejct to FEA audit? If so, what measures, if any, should FEA take to validate the AFRA results, computations and/or source data?

3. Would the use of a different averaging system be more appropriate? Alternatives might include use of the spot component of AFRA, or a value derived from the Mullion Tankers (Shipbroking) Limited tanker market report, or compiled from information collected by FEA from the companies involved.

4. Is LR–2 the appropriate class of vessels to be utilized as a standard? If not, what class of vessels should be used and for what ports? Persons commenting on deliveries to East and Gulf Coast ports should, if possible, discuss the economics of transhipment.

5. Should the present rule concerning transportation obtained in arms-length transactions be retained in whole or in part? If so, what rules should be applied to attribute costs to particular transactions, taking into account the need for administrative simplicity?

6. Does the proposed rule provide incentives to utilize lower cost transport modes when available?

7. At what point should transportation from the port of entry be deemed to commence, and how may such costs be reasonably segregated from the allowed shipping costs?

8. How should the landed cost of Canadian crude be measured?

Public Comment and Hearing Procedures

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed amendments set forth in this notice to Executive Communications, Room 3309, Federal Energy Administration, Box GD, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation "Calculation of Landed Costs: Transportation." Fifteen copies should be submitted. All comments received by April 2, 1976, before 4:30 p.m., e.d.s.t., and all other relevant information, will be considered by FEA before final action is taken on the proposed regulations.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

The public hearing in this proceeding will be held at 9:30 a.m., on April 6, 1976 and will be continued, if necessary on April 7, 1976 in Room 2105, 2000 M Street, N.W., Washington, D.C., in order to receive comments from interested persons on the matters set forth herein.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.d.s.t. on March 29, 1976. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why she or he is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through April 2, 1976. Each person selected to be heard will be so notified by FEA before 4:30 p.m., e.d.s.t., March 31, 1976 and must submit 100 copies of his or her statement to Regulations Management, FEA, Room 2214, Federal Building, Washington, D.C. 20461, before 4:30 p.m., e.d.s.t., on April 5, 1976.

FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings, and there will be no cross-examination of persons presenting statements. Any decision made by FEA with respect to the subject matter of hearings will be based on information available to FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearings to Executive Communications, FEA, before 4:30 p.m., e.d.s.t., April 2, 1976. Any person who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA, or the presiding officer if the question is submitted at the hearings, will determine whether the question is relevant, and

whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 3116, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency (EPA) for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

The proposal has been reviewed in accordance with Executive Order 11821, and OMB Circular Number A-107, issued November 27, 1971, and has been determined not to be of a nature that requires an evaluation of its inflationary impact.

(Emergency Policy Allocation Act of 1973, Pub. L. 93-159, as amended by Pub. L. 94-163; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, it is proposed to amend Part 212 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., March 3, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

1. Section 212.83 is amended in paragraph (b) in (1), (2), (5), and (6) of the definition of "landed cost"; by adding a definition of "AFRA" immediately preceding "Cost of crude oil," and "Worldscale" immediately following "Transactions between affiliated entities;" and by adding a new paragraph (g), to read as follows:

§ 212.83 Allocation of refiner's increased cost.

* * * * *

(b) *Definitions.*

"AFRA" means the London Tanker Broker's Panel's average freight rate assessment.

* * * * *

"Landed cost" means:

(1) For purposes of covered products other than crude oil, purchased in complete arms-length transactions, the purchase price at the point of origin plus the actual transportation cost.

(2) For purposes of covered products other than crude oil, purchased in arms-length transactions and shipped pursuant to a transaction between affiliated entities, the purchase price at the point of origin plus the transportation cost computed by use of the accounting procedures generally accepted and consistently and historically applied by the firm concerned.

* * * * *

(5) For purposes of crude oil purchased in arms-length transactions, the purchase price plus the cost of transportation from the point of delivery specified in the contract or agreement of purchase to the U.S. port of entry, computed pursuant to § 212.83(g) (the reference loading date being the date that the crude oil was loaded at the point of delivery) plus the cost of transportation from the port of origin to the refinery.

(6) For purposes of crude oil purchased in a transaction between affiliated entities, the cost of crude oil computed pursuant to § 212.84 plus the cost of transportation from the port of the country origin of the crude oil to the U.S. port of entry, computed pursuant to § 212.83(g) (the reference loading date being the date the crude oil was loaded at the port of the country of origin) plus the cost of transportation from the port of origin to the refinery.

* * * * *

"Worldscale" means the Worldwide Tankers Nominal Freight Scale, jointly sponsored and issued by the Association of Ship Brokers and Agents (Worldscale) Inc. and the International Tanker Nominal Freight Scale Association Limited.

* * * * *

(g) *Transportation costs.* For the purposes of this section, transportation costs for the shipment of crude oil between two ports, given a reference loading date, shall be the product of the Worldscale rate between those ports and the AFRA factor applicable to that reference loading date, for the LR-2 class of vessels.

2. Section 212.84 is amended in paragraph (c), and in paragraphs (e)(3) and (e)(6)(i) to read as follows:

§ 212.84 Disallowance of cost.

* * * * *

(c) *Cost of crude oil.* The cost of crude oil allowed in transactions between affiliated entities shall be equal to the price which would prevail if the affiliated entities consistently and continuously dealt with each other at arms-length. A refiner purchasing crude oil from an affiliated entity shall initially set the cost of crude oil at the f.o.b. price at the port of loading in the country of origin which is representative of those prices prevailing in arms-length transactions according to the best information available to the refiner.

* * * * *

(e) * * *

(3) In determining the representative and maximum prices for a reference crude oil, FEA shall consider all transactions reported to FEA for the reference and related crude oils loaded during the month of measurement. For purposes of determining representative and maximum prices for a reference crude oil, FEA shall adjust the price of a related crude oil to the equivalent price of the related reference crude oil on the basis of the difference in the posted prices, tax-reference prices or other official selling prices, as established by the host government for those two crude oils. For delivered sales the price shall be adjusted by subtracting from the purchase price the transportation cost between the port of the country of origin of the crude oil and the port of delivery as calculated pursuant to § 212.83(g). The reference loading date shall be the date that the crude oil was loaded at the port of the country of origin, if that date is known; otherwise, the reference loading date shall be one month prior to the date on which delivery was made. If the delivered price includes delivery beyond the port of entry, the cost of such additional transportation shall also be subtracted from the purchase price.

* * * * *

(6) * * *

(i) The transportation adjustment shall be equal to the difference in the cost of shipping from the points of loading to the appropriate points of landing as calculated by § 212.83(g); the reference loading date shall be the month for which the adjustment is being made.

* * * * *

[FR Doc.76-6614 Filed 3-4-76;10:36 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z; Docket No. R-0021]

SINGLE-COMPONENT FINANCE CHARGES

Proposed Rulemaking on Disclosure

The Board of Governors of the Federal Reserve System (hereafter Board) proposes to amend §§ 226.8(c)(8)(i) and 226.8(d)(3) of Regulation Z to specifically provide that a finance charge consisting solely of one type of charge need not be individually described as to the nature of the charge. In such cases, use of the term "finance charge" is sufficient identification pursuant to Regulation Z. The amendments would not affect the requirement for a description of each amount included in the finance charge where the total charge is composed of more than one element.

The proposed amendments reflect the position stated by the Board in Interpretation § 226.820, issued on November 21, 1975. That interpretation was intended to alleviate the uncertainty resulting from the decision in *Ives v. W. T. Grant Co.*, (2nd Cir. 1975), 4 CCH CCG ¶98.561, in which the United States Court of Appeals for the Second Circuit held that failure to individually describe the type of charge when there is a single element finance charge violated the Truth in Lending Act. Those district courts which had recently considered this issue were divided on the necessity for such description. The growing uncertainty over the proper interpretation of §§ 226.8(c)(8)(i) and 226.8(d)(3) in such cases indicated to the Board the need for an official statement on this issue. As the agency responsible for promulgating §§ 226.8(c)(8)(i) and 226.8(d)

(3), pursuant to its implementing authority under the Truth in Lending Act, the Board issued Interpretation § 226.820 to clarify the application of those sections to transactions involving single-element finance charges. That interpretation reaffirmed the position taken in the illustrative forms in the first Regulation Z pamphlet, as well as in various opinion letters issued by the Board's staff.

A recent suit filed against the Board in the United States District Court for the District of Connecticut calls into question the position stated in Interpretation § 226.820. In *Hatten v. Board of Governors* (D.C. Conn., Civ. No. N76–14, filed January 7, 1976), plaintiffs allege, *inter alia*, that Interpretation § 226.820 was a substantive rule of general applicability as to which the Board was obligated to follow the notice-and-comment rulemaking procedures of the Administrative Procedure Act.

The Board believes that Interpretation § 226.820 was exempt from the usual rulemaking procedures of the APA pursuant to 5 U.S.C. 553(d)(2) and that it correctly construed the present language of the Truth in Lending Act and Regulation Z. However, to remove any uncertainty that may exist regarding this matter, and further to provide an opportunity to consider some broader related issues, the Board has decided to solicit public comment on the question of whether Regulation Z should be changed to: (1) make it even clearer that required itemization of finance charges is limited to multiple-element finance charges, or (2) require such itemization even in the case of a single-element finance charge, or (3) eliminate the requirement for itemization in all cases. Pending final Board action in this rulemaking proceeding, Interpretation § 226.820 will remain in effect.

Pursuant to the authority granted in 15 U.S.C. 1604 (1968), the Board proposes to amend Regulation Z, 12 CFR Part 226, as follows:

Section 212.8 is amended by revising paragraph (c)(8)(i), and amending paragraph (d)(3) as follows:

§ 226.8 Credit other than open end—specific disclosures.

* * * * *

(c) *Credit sales* * * *

(8) * * *

(i) The total amount of the finance charge, using the term "finance charge," and where the total charge consists of two or more types of charges, a description of the amount of each type, and

* * * * *

(d) *Loans and other nonsale credit* * * *

(3) * * * the total amount of the finance charge,[11] using the term "finance charge," and where the total charge consists of two or more types of charges, a description of the amount of each type.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, comments, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 9, 1976. All material submitted should include the docket number R–0021.

This notice is published pursuant to section 553(b) of Title 5, United States Code, and section 262.2(a) of the rules of procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).

By order of the Board of Governors, February 27, 1976.

[SEAL] THEODORE E. ALLISON,
Secretary to the Board.

[FR Doc.76–6611 Filed 3–8–76;8:45 am]

[11] The disclosure required by this subparagraph need not be made with respect to interim student loans made pursuant to federally insured student loan programs under Public Law 89–329, Title IV, Part B of the Higher Education Act of 1965, as amended.

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 240, 249]

[Release 34–12153, File No. S7–617]

REGISTRATION OF CLASSES OF SECURITIES

Proposed Termination

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposed rule under section 12(g) of the Securities Exchange Act of 1934 ("the Act"). Section 12(g)(4) provides for termination of registration for a class of security registered under section 12(g) when the record ownership of that class is reduced to less than 300 holders. Registration terminates 90 days after the issuer files a certification to that effect or within such shorter time as the Commission may direct. The Commission has not adopted a specific form or prescribed the exact format to be used by issuers certifying pursuant to this subsection.

The proposed rule, which would require the filing of a form with the Commission by an issuer certifying that the number of holders of record of a class of security is reduced to less than 300 persons, will facilitate compliance with the Act, expedite the processing of the certification by the staff and would parallel the requirement under Rule 15d–6.

Since the information required by the form under the proposed rule will generally be the same as is now required by Form 15d–6, the Commission is proposing to amend that form to consolidate it with a new form to be used for filing notices under Rule 15d–6 and certifications under the proposed Rule 12g–4.

The proposed rule is as follows:

17 CFR Part 240 would be amended by adding a new § 240.12g–4 to read as follows:

§ 240.12g–4 Certification of termination of registration under section 12(g) of the Act.

Pursuant to section 12(g)(4) of the Act, termination of registration of a class of security shall take effect 90 days, or such shorter period as the Commission may determine, after the issuer certifies to the Commission on Form 18g–4/15d–6 that the number of holders of record of such class of security is reduced to less than 300 persons. If the issuer has merged into or consolidated with another issuer or issuers, the form shall be filed by the successor issuer. The form shall be filed in addition to any other report required to be filed with the Commission in connection with the transaction or event which resulted in this decrease in the number of holders of record.

(Sec. 12, Pub. L. 92–299 which amends 15 U.S.C. 78*l*)

17 CFR Part 249 would be amended by adding a new § 249.323 and revising § 249.333 to read as follows:

§ 249.323 Form 12g–4, for certification to terminate registration of a class of security under section 12(g) of the Act.

This form shall be filed by each issuer to certify that the number of holders of record of a class of security registered under section 12(g) of the Securities Exchange Act of 1934 is reduced to less than 300 holders. Registration terminates 90 days after the filing of the certificate or within such shorter time as the Commission may direct. Copies of this form may be obtained from the Commission on request.

NOTE.—A binomial form for use also in reporting on Form 15d 6.

§ 249.333 Form 15d–6, for suspension of duty to file reports pursuant to section 15(d) of the Securities Exchange Act of 1934.

This form shall be filed by each issuer required to file reports pursuant to section 15(d) of the Securities Exchange Act of 1934, as a notification that the duty to file such reports is suspended because at the beginning of the fiscal year in which such reports would be required all securities of each class of such issuer registered under the Securities Act of 1933 are held of record by less than 300 persons. This form shall be filed within 30 days after the beginning of such fiscal year to which it pertains. Copies of this form may be obtained from the Commission on request.

NOTE: A binomial form for use also in reporting on Form 12g–4.

All interested persons are invited to submit their views and comments on this proposal to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, on or before April 19, 1976. All such communications should refer to File No. S7–617 and will be available for public inspection.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

MARCH 1, 1976.

[FR Doc.76–6676 Filed 3–8–76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

ART ADVISORY PANEL

Closed Meeting

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, that a closed meeting of the Art Advisory Panel will be held on April 5 and 6, 1976, beginning at 9:30 a.m. in Room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

The agenda will consist of the review and evaluation of the acceptability of market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This involves the discussion of material in individual tax returns made confidential by the provisions of section 6103 and 7213 of Title 26 of the United States Code and the regulations issued thereunder, and section 1905 of Title 18 of the Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that these meetings are concerned with matters listed in section 552(b)(3), (4), (5), (6) and (7) of Title 5 of the United States Code, and that the meetings will not be open to the public.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.76-6678 Filed 3-8-76;8:45 am]

[Treasury Department Order 221-3 (Revision 1)]

DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Authority Delegation

By virtue of the authority vested in me as Secretary of the Treasury, including the authority in Reorganization Plan No. 26 of 1950, it is ordered that:

1. There is hereby transferred, as specified herein, the functions, powers and duties of the Commissioner of Internal Revenue arising under laws relating to wagering to the Director of the Bureau of Alcohol, Tobacco and Firearms (hereinafter referred to as the Director).

2. The Director shall perform the functions, exercise the powers, and carry out the duties of the Secretary under Subtitle F of the Internal Revenue Code of 1954, insofar as the provisions of Subtitle F relate to forefeitures and criminal violations of the provisions of Chapter 35—Taxes on Wagering and Chapter 40—General Provisions Relating to Occupational Taxes. Regulations for the purpose of carrying out the functions, powers and duties specified in this paragraph may be issued by the Director with the appoval of the Secretary.

3. All regulations prescribed, all rules and instructions issued, and all forms adopted for carrying out the functions, powers and duties specified in paragraph 2 hereof, which are in effect or in use on the effective date of this Order shall continue in effect as regulations, rules, instructions and forms of the Bureau until superseded or revised.

4. All activities relating to the discovery of civil liability, determination, assessment, collection, processing, depositing, or accounting for taxes (including penalties and interest), under Chapter 35—Taxes on Wagering shall continue to be performed by the Commissioner of Internal Revenue. The Commissioner may call upon the Director for assistance when it is necessary to exercise any of the enforcement authority described in section 7608 of the Internal Revenue Code.

5 (a) The term "Commissioner of Internal Revenue" wherever used in regulations, rules, instructions and forms, issued or adopted for carrying out the functions, powers and duties specified in paragraph 2 hereof, which are in effect or in use of the effective date of this Order shall be held to mean the Director.

(b) The terms "internal revenue officer" and "officer, employee or agent of the internal revenue" wherever used in such regulations, rules, instructions and forms, in any law specified in paragraph 2 above, and in 18 U.S.C. § 1114, shall include all officers and employees of the United States engaged in the administration and enforcement of the laws administered by the Bureau, who are appointed or employed by, or pursuant to the authority of, or who are subject to the directions, instructions or orders of, the Secretary.

6. To the extent that any action taken by the Commissioner of Internal Revenue or his delegates or the Director of the Bureau or his delegates under Treasury Department Order 221-3, prior to the effective date of this Order, may require ratification, such action is hereby affirmed and ratified.

7. Each wagering tax case and investigation open or otherwise in process as of the date of this Order shall be pursued to conclusion by the agency processing the same on such date. The Commissioner shall be responsible for issuing rulings and regulations with respect to the administration of the wagering tax laws other than those described in paragraph 2.

8. This Order is effective immediately. Any prior orders or instructions in conflict with the provisions of this Order are hereby amended accordingly.

Dated: February 21, 1976.

WILLIAM E. SIMON,
Secretary of the Treasury.

[FR Doc.76-6624 Filed 3-8-76;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

HEADS OF PROCURING AGENCIES

Delegation of Authority

1. Pursuant to the authority contained in the Act of 31 December 1975 (Public Law 94-190) hereinafter called "the Act," a letter from the Office of Federal Procurement Policy, dated 9 January 1976, Subject: Guidelines for Implementation of the Small Business Emergency Relief Act, Public Law 94-190, and a memorandum from the Acting Assistant Secretary of Defense (Installations and Logistics), dated 29 January 1976, Subject: Small Business Emergency Relief Act, Public Law 94-190, I hereby delegate to Heads of Procuring Activities, with authority to redelegate to the extent practicable, the authority to terminate for the convenience of the Government or modify fixed-price contracts with small business concerns within the authority of Public Law 94-190 and in accordance with the following.

2. The above Relief cannot be granted if:

a. The award was not within the time frames permitted by the Act.

b. A firm has not suffered or will not suffer serious financial loss due to significant unanticipated cost increases directly affecting the cost of contract compliance.

c. The conditions which have caused or are causing such cost increases were not experienced generally by other similar small business concerns.

d. The conditions which caused the losses were caused by negligence, underbidding or other special management factors peculiar to that small business concern, or

e. The application was received too late to evaluate and grant relief by 30 September 1976.

3. Actions to terminate or modify contracts under the Act must be taken prior to 30 September 1976. Applications for relief must be received prior to that time and in sufficient time to permit a proper decision. Where the contractor's application for relief does not specify the portion of the contract to be terminated, the contractor should be requested to so

specify. Such portion shall not include any portion previously completed or terminated. Reasonable costs incurred in providing the documentation required by P.L. 94-190 will be considered as allowable settlement expenses in computing a termination settlement and in determining a modified contract price.

4. A small business concern requesting relief under Section 4(a) of the Act shall support that request with the following documentation and certification:

a. A brief description of the contract, indicating the date of execution and of any amendment thereto, the items being procured, the price and delivery schedule, and any revision thereof, and any other special contractual provision as may be relevant to the request;

b. A history of performance indicating when work under the contract or commitment was begun, the progress made as of the date of the application, an exact statement of the contractor's remaining obligations, and the contractor's expectations regarding completion thereof;

c. A statement of the factors which have caused the loss under the contract;

d. A statement as to the course of events anticipated if the request is denied;

e. A statement of payments received, payments due and payments yet to be received or to become due, including advance and progress payments, and amounts withheld by the Government, and information as to other obligations of the Government, if any, which are yet to be performed under the contract;

f. A statement and evidence of the contractor's original breakdown of estimated costs, including contingency allowances and profit;

g. A statement and evidence of the contractor's present estimate of total costs under the contract if enabled to complete, broken down between costs accrued to date of request, and runout costs, and as between costs for which the contractor has made payment and those for which he is indebted at the time of the request;

h. A statement and evidence of the contractor's estimate of the final price of the contract, giving effect to all escalation, changes, extras, and other comparable factors known or contemplated by the contractor;

i. A statement of any claims known or contemplated by the contractor against the Government involving the contract in question, other than those referred to under h above;

j. An estimate of the contractor's total profit or loss under the contract if required to complete at the orignal contract price;

k. An estimate of the total profits from other Government business, and all other sources, during the period from the date of the first contract involved to the latest estimated date of completion of any other contracts involved;

l. Balance sheets, certified by a certified public accountant, as of the end of the contractor's fiscal year first preceding the date of the first contract, as of the end of each subsequent fiscal year, and as of the date of the request together with income statements for annual periods subsequent to the date of the first balance sheet; and

m. A list of all salaries, bonuses, and all other forms of compensation of the principal officers or partners and of all dividends and other withdrawals, and all payments to stockholders in any form since the date of the first contract involved.

5. For purposes of Section 6(a) of the Act, a contract shall be considered completely performed if final delivery has been made under a supply contract or the period of performance has expired under a service contract, and the contract shall be considered otherwise terminated if the contracting officer has issued a notice of complete termination thereunder.

6. *Termination procedures.* Termination and settlement procedures shall be in accordance with the "Termination for Convenience of the Govenrment" clause of the contract.

7. *Modification of the contract in lieu of termination.* When proceeding under Section 4(b) of the Act, the agency head or his designee shall estimate the amount which would be paid to the contractor in settlement of a termination claim, including an estimate of the contractor's settlement costs as provided in the "Termination for Convenience of the Government" clause. He shall also estimate the price the Government would have to pay to reprocure—from a different contractor—the supplies or services not yet delivered or performed, or substantially similar supplies or services, of the contract in question were terminated. Administrative costs to the Government of reprocurement shall be estimated to the extent feasible, and added to the estimated reprocurement price. Procedures for estimating costs shall be in accordance with applicable agency regulations, to the extent practicable, taking into account all data reasonably available within the time period set by the Act. If the agency head or his designee determines that the contractor could satisfactorily provide the undelivered supplies or services under modified contract terms at a negotiated price which is less than the sum of the estimated termination settlement amount, the estimated reprocurement price of the supplies or services still required, and the estimated administrative costs of reprocurement the contract may be modified.

8. *Definition of small business concern.* For purposes of these guidelines, a small business concern is a concern which was a small business, as defined in the Act, at the time of award of a contract under which relief is sought.

9. Each rejection of an application made in accordance with Section 4(a) of the Act, including proposed contract modifications in lieu of termination for convenience, shall be reviewed and approved or disapproved at the next higher level of procurement authority but at a level no lower than the Chief of the Purchasing Office prior to final action. Each review and approval or disapproval action shall be completed within ten days of receipt in the office of review authority.

10. Each Head of Procuring Activity shall forward the following information to the Deputy for Materiel Acquisition, Office of the Assistant Secretary of the Army (Installations and Logistics) within 30 days after decision for each request for relief:

a. Contractor identification.

b. Nature of settlement (termination, modification or rejection of request).

c. Amount of termination settlement or of modification.

d. Date of application and date of settlement.

e. General comments considered pertinent.

Dated: February 19, 1976.

HAROLD L. BROWNMAN,
Assistant Secretary of the Army,
(Installations and Logistics).

[FR Doc.76-6628 Filed 3-8-76;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

NATIONAL ADVISORY COMMITTEE ON CRIMINAL JUSTICE STANDARDS AND GOALS

Meeting

This is to provide notice of meeting of the Private Security Task Force of the National Advisory Committee on Criminal Justice Standards and Goals.

The Private Security Task Force will be meeting at the Travelodge, Fisherman's Wharf, Bay Room "C", 250 Beach Street, San Francisco, California on March 31 through April 3, 1976. The meeting will be open to the public.

General items for discussion are: 1. Task Force review and approval for chapters on Conduct and Ethics, Private Security/Law Enforcement Relationships, Consumers of Security Services, and Registration.

2. Review of commentaries for previous approved Standards and Goals.

Meeting Times: March 31, 2 p.m. to 5:30 p.m., April 1 and 2, 9 a.m. to 5 p.m., April 3, 8 a.m. to noon.

For further information, contact William T. Archey, Director, Policy Analysis Division, Office of Planning and Management, 633 Indiana Avenue N.W., Washington, D.C.

JAY A. BROZOST,
Attorney-Advisor,
Office of General Counsel.

[FR Doc.76-6638 Filed 3-8-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A303]

LOUISIANA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Louisiana Parishes as a result of various adverse weather conditions shown in the following chart:

*Catahoula—*Continuous* excessive rainfall and flooding May 17, 1975, through August 31, 1975.

*Concordia—*Continuous* excessive rainfall May 17, 1975, through September 1, 1975.

East Carroll—*Continuous* excessive rainfall January 1, 1975, through September 30, 1975.

Evangeline—Excessive rainfall April 8, 1975, through August 1, 1975.

*Franklin—*Continuous* excessive rainfall May 17, 1975, through July 1, 1975.

Lafayette—Excessive rainfall April 1, 1975, to August 31, 1975.

*St. Landry—*Continuous* excessive rainfall May 17, 1975, through September 17, 1975.

West Carroll—Excessive rainfall March 1, 1975, to July 31, 1975, and a drought August 1, 1975, to October 15, 1975.

*Request for extension of incidence period. These parishes were declared *Major Disaster* areas on June 5, 1975 by President Ford because of heavy rains, flooding and tornadoes beginning about March 14, 1975. The incidence period is March 14, 1975 through May 16, 1975. Therefore, the incidence period for these parishes will commence on March 14, 1975.

Therefore, the Secretary has designated these areas as eligible for Emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Edwin Edwards that such designation be made.

Applications for Emergency loans must be received by this Department no later than April 12, 1976, for physical losses and November 10, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 27th day of February 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-6622 Filed 3-8-76;8:45 am]

Forest Service

BUCKEYE-ROUND HILL POWER TRANSMISSION LINE, LAKE TAHOE BASIN MANAGEMENT UNIT

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture has prepared a final environmental statement for Buckeye-Round Hill Power Transmission Line, Lake Tahoe Basin Management Unit, California, USDA–FS–R5–FES(Adm) 76–01.

The environmental statement concerns a proposed special use permit by the Forest Service, USDA, to the Sierra Pacific Power Company for the construction and operation of a 120 K.V. Power Transmission line across two and one-quarter miles of the Toiyabe National Forest located in Douglas County, Nevada.

The purpose of this transmission line is to help provide an acceptable level of reliability for the bulk electrical supply system serving the present development in the South Lake Tahoe area.

This final environmental statement was submitted to the Council on Environmental Quality (CEQ) on March 2, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, So. Agriculture Bldg., Rm. 3230, 12th St. & Independence Ave. SW., Washington, D.C. 20250

USDA, Forest Service, Lake Tahoe Basin Management Unit, 1052 Tata Lane, P.O. Box 8465, South Lake Tahoe, CA 95731

Forest Service, Carson Ranger District, 1560 Carson Street, Carson City, Nevada 89701

Regional Forester, U.S. Forest Service, 630 Sansome St., Rm. 529, San Francisco, CA 94111

Forest Supervisor's Office, Toiyabe National Forest, 111 No. Virginia St. Rm. 601, Reno, Nevada 89501

A limited number of single copies are available upon request to: William Morgan, Acting Administrator, Lake Tahoe Basin Management Unit, P.O. Box 8465, South Lake Tahoe, CA 95731, or : John Lavin, Forest Supervisor, Toiyabe National Forest, Charles Mapes Building, 111 No. Virginia Street, Reno, NV 89503.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

DOUGLAS LEISZ,
Regional Forester.

MARCH 2, 1976.

[FR Doc.76-6626 Filed 3-8-76;8:45 am]

COMANCHE NATIONAL GRASSLAND JOINT GRAZING ADVISORY BOARDS

Meeting

The Timpas Unit Grazing Advisory Board and the Carrizo Unit Grazing Advisory Board will meet at 2 p.m. m.s.t. on March 18, 1976, at the Kim School Lunch Room, Kim, Colorado. The purpose of this meeting is to discuss an emergency situation that only because apparent on February 26, 1976, concerning the need to move permitted livestock to swing pastures on or about April 1, 1976, because of continuing critical drought conditions.

The meeting will be open to the public. Persons who wish to attend should notify the District Ranger's Office, P.O. Box 127, Springfield, Colorado 81073, (303) 523–6591. Written statements may be filed with the board before or after the meeting.

The board has no established rules for public participation.

R. N. RIDINGS,
Forest Supervisor.

MARCH 1, 1976.

[FR Doc.76-6625 Filed 3-8-76;8:45 am]

MT. HOOD INTERAGENCY PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture (lead agency) and Bureau of Land Management, Department of Interior, have prepared a draft environmental statement for the Mt. Hood Interagency Planning Unit, USDA–FS–DES-(Adm)–76–8.

The environmental statement concerns a proposed interagency land use plan for 158,000 acres in the Hood River and Clackamas Counties, Oregon. The planning unit encompasses lands under the jurisdiction of the Forest Service, Bureau of Land Management, State of Oregon, respective counties and privately-owned land. The draft statement includes recommendations for land use direction for all lands in the planning unit, irrespective of ownership or administrative area. The proposed plan is designed to integrate land uses in the various ownerships and administrative areas.

This draft environmental statement was transmitted to CEQ on March 1, 1976.

Copies are available for inspection during regular work hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW., Washington, D.C. 20250

USDA, Forest Service, Pacific Northwest Region, 319 S.W. Pine, Portland, Oregon 97204

Mt. Hood National Forest, Supervisor's Office, 2440 S.E. 195th Ave., Portland, Oregon 97233

Hood River Valley Ranger Station, Route 1, Box 573, Hood River, Oregon 97047

Zigzag Ranger Station, Zigzag, Oregon 97073

Bureau of Land Management, P.O. Box 3227, Salem, Oregon 97302

Clackamas County Planning Department, 940 Warner-Milne Rd., Oregon City, Oregon 97045
Hood River County Planning Department, 18th and May St., Hood River County Courthouse, Hood River, Oregon 97031

A limited number of copies are available upon request to Forest Supervisor, Mt. Hood National Forest, 2440 S.E. 195th Ave., Portland, Oregon 97233.

Copies of the environmental statement have been sent to various Federal, State and local agencies as outlined in CEQ guidelines.

Comments are invited from the public, and from the State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Mt. Hood National Forest, 2440 SE. 195th Ave., Portland, Oregon 97233. Comments must be received by May 1, 1976 in order to be considered in the preparation of the final environmental statement.

Date: March 1, 1976.

F. DALE ROBERTSON,
Forest Supervisor,
Mt. Hood National Forest.

[FR Doc.76-6627 Filed 3-8-76;8:45 am]

Rural Electrification Administration

NORTH FLORIDA TELEPHONE CO., LIVE OAK, FLORIDA

Proposed Loan Guarantee

Under the authority of Public Law 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 320-22, "Guarantee of Loans for Telephone Facilities," dated February 4, 1975, published in proposed form in the Federal Register, September 16, 1974, (Vol. 39 No. 180, pages 33228-33229) notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $20,000,000 to North Florida Telephone Company, Live Oak, Florida. The loan funds will be used to finance the construction of facilities to extend telephone service to new subscribers, and improve telephone service for existing subscribers.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information and details of the proposed project from Mr. Wallace C. Townsend, President, North Florida Telephone Company, P.O. Box 550, Live Oak, Florida 32060.

To assure consideration, proposals must be submitted (within 30 days of the date of this notice) to Mr. Townsend. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as the North Florida Telephone Company and REA deem appropriate. Prospective lenders are advised that financing for this project is available from the Federal Financing Bank under a standing loan commitment agreement with the Rural Electrification Administration.

Copies of REA Bulletin 320-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 1st day of March, 1976.

DAVID A. HAMIL,
Administrator,
Rural Electrification Administration.

[FR Doc.76-6579 Filed 3-8-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

GRANTS FOR NONCOMMERCIAL EDUCATIONAL BROADCASTING FACILITIES

Notice of Acceptance of Applications for Filing

Notice is hereby given that the following described applications for Federal financial assistance in the construction of noncommercial educational broadcasting facilities are accepted for filing under provisions of Title III, Part IV of the Communications Act of 1934, as amended (47 U.S.C. 390-399) and in accordance with 45 CFR 153.8.

Any interested person may, pursuant to 45 CFR 153.9, file comments regarding these applications within 30 calendar days from publication of this notice with the Chief, Educational Broadcasting Facilities Branch, Division of Educational Technology, Bureau of School Systems, Office of Education, Washington, D.C. 20202.

EDUCATIONAL TELEVISION

The Commonwealth of Puerto Rico, Department of Education, Hato Rey, Puerto Rico 00919, File No. 527-T/413AH60046, for the improvement of a noncommercial educational television station WIPM on Ch. 3, Mayaguez, Puerto Rico. Proposal determined acceptable: December 12, 1975. Estimated project cost: $882,474. Grant requested: $661,855. Application signed by: Ramon A. Cruz, Secretary of Education.

Greater Washington Educational Telecommunications Association, Inc., 3620 27th Street, South, Arlington, Virginia 22206, File No. 528-T/413AH60013, for the improvement of a noncommercial educational television station on Ch. 20, WETA, Washington, D.C. Proposal determined acceptable: December 12, 1976. Estimated project cost: $995,309. Grant requested: $746,481. Application signed by: Ward Chamberlin, President.

Alabama A & M University, Normal, Alabama 35762, File No. 529-T/413AH-60094, for the improvement of a noncommercial educational television station, Normal, Alabama. Proposal determined acceptable: December 12, 1975. Estimated project cost: $643,949. Grant requested: $482,961. Application signed by: Richard D. Morrison, President.

South Central Educational Broadcasting Council, P.O. Box 7, Hershey, Pennsylvania 17033, File No. 530-T/413-AH60003, for the improvement of a noncommercial educational television station on Ch. 33, WITF, Hershey, Pennsylvania. Proposal determined acceptable: December 12, 1975. Estimated project cost: $1,100,000. Grant requested: $825,000. Application signed by: Robert F. Larson, General Manager.

West Central Minnesota Educational Television Company, 239 Miles, Appleton, Minnesota 56208, File No. 531-T/413 AH-60033, for the improvement of a noncommercial educational television station on Ch. 10, Appleton, Minnesota. Proposal determined acceptable: December 12, 1975. Estimated project cost: $119,880. Grant requested: $89,910. Application signed by: Ralph C. Schmidt, President.

Springfield Community Television, Inc., MPO Box 21, Springfield, Missouri 65801, File No. 532-T/413AH60052, for the improvement of a noncommercial educational television station on Ch. 21, Springfield, Missouri. Proposal determined acceptable: December 12, 1975. Estimated project cost: $292,190. Grant requested: $219,142. Application signed by: William T. Maynard, Executive Director.

Duluth-Superior Area Educational TV Commission, 210 Bradley Building, Duluth, Minnesota 55802, File No. 533-T/413AH60082, for the improvement of a noncommercial educational television station on Ch. 8, Duluth, Minnesota. Proposal determined acceptable: February 26, 1975. Estimated project cost: $6,703. Grant requested: $5,027. Application signed by: George A. Beck, General Manager.

Educational Communications Board, 732 N. Midvale Boulevard, Madison, Wisconsin 53705, File No. 534-T/413AH 60048, for the establishment of a noncommercial educational television station Ch. 36, Park Falls, Wisconsin. Proposal determined acceptable: December 12, 1975. Estimated project cost: $1,231,250. Grant requested: $816,750. Application signed by: Doris Ullrich, Chairperson.

Florida Central East Coast ETV, Inc., Orlando, Florida 32809, File No. 535-T/413AH60016, for the improvement of a noncommercial educational television station on Ch. 24, Orlando, Florida. Proposal determined acceptable: December 12, 1975. Estimated project cost: $664,984. Grant requested: $498,738. Application signed by: Stephen M. Steck, Executive Vice President.

Amistad Productions, Inc., Atlanta, Georgia, File No. 536-T/413AH60120, for the improvement of a noncommercial educational television station on Ch. 57, Atlanta, Georgia. Proposal determined acceptable: December 12, 1975. Estimated project cost: $1,762,500. Grant re-

quested: $1,321,875. Application signed by: Dan P. Young, Chairman.

Greater New Orleans ETV Foundation, New Orleans, Louisiana 70124, File No. 537–T/413AH60043, for the improvement of a noncommercial educational television station on Ch. 12, New Orleans, Louisiana. Proposal determined acceptable: December 12, 1975. Estimated project cost: $318,835. Grant requested: $239,126. Application signed by: William S. Hart, President.

Regents New Mexico State University, Las Cruces, New Mexico 88003, File No. 538–T/413AH60040, for the improvement of a noncommercial educational television station on Ch. 22, Las Cruces, New Mexico. Proposal determined acceptable: December 12, 1975. Estimated project cost: $360,000. Grant requested: $270,000. Application signed by: Frank Hash, Head, Department of Communications.

University of Georgia, Athens, Georgia 30602, File No. 539–T/413AH60021, for the improvement of a noncommercial educational television station on Ch. 8, Athens, Georgia. Proposal determined acceptable: December 12, 1975. Estimated project cost: $483,918. Grant requested: $362,938. Application signed by: Fred C. Davison, President.

South Carolina ETV Commission, Columbia, South Carolina 29250, File No. 540–T/413AH60034, for the improvement of a noncommercial educational television station on Ch. 30, Roch Hill, South Carolina. Proposal determined acceptable: December 12, 1975. Estimated project cost: $371,566. Grant requested: $278,674. Application signed by: Henry J. Cauthen, President.

Tennessee State Board of Education, Nashville, Tennessee 37219, File No. 541–T/413AH60027, for the establishment of a noncommercial educational television station on Ch. 15, Knoxville, Tennessee. Proposal determined acceptable: December 12, 1975. Estimated project cost: $1,180,345. Grant requested: $812,013. Ap- $278,674. Application signed by: Henry J. Cauthen, President.

Tennessee State Board of Education, Nashville, Tennessee 37219, File No. 542–T/413AH60026, for the establishment of a noncommercial educational television station on Ch. 22, Cookeville, Tennessee. Proposal determined acceptable: December 12, 1975. Estimated project cost: $1,220,826. Grant requested: $610,413. Application signed by: Sam H. Ingram, President.

Board of Regents for Education, State of Rhode Island and Providence Plantations, Providence, R.I. 02908, File No. 543–T/413AH60065, for the improvement of a noncommercial educational television station on Ch. 36, Providence, Rhode Island. Proposal determined acceptable: December 12, 1975. Estimated project cost: $240,000. Grant requested: $180,000. Application signed by: Grace M. Glynn, Assistant Commissioner.

Mohawk-Hudson Council on ETV, Inc., Schenectady, N.Y. 12301, File No. 544–T/413AH60055, for the improvement of a noncommercial educational television station on Ch. 17, Schenectady, N.Y. Proposal determined acceptable: December 12, 1975. Estimated project cost: $632,930. Grant requested: $474,697. Application signed by: Donald E. Schein, President and General Manager.

Northeast New York ETV Association, Plattsburg, N.Y. 12901, File No. 545–T/413AH60004, for the improvement of a noncommercial educational television station on Ch. 57, Plattsburg, N.Y. Proposal determined acceptable: December 12, 1975. Estimated project cost: $339,318. Grant requested: $248,569. Application signed by: Paul C. Hassenplug, General Manager.

City of New York Municipal Broadcasting System, New York, N.Y. 10007, File No. 546–T/413AH60017, for the improvement of a noncommercial educational television station on Ch. 31, New York, N.Y. Proposal determined acceptable: December 11, 1975. Estimated project cost: $1,825,000. Grant requested: $1,076,000. Application signed by: Arnold Labaton, Director.

Colby-Bates-Bowdoin Educational Telecasting Corporation, Lewiston, Maine 04240, File No. 547–T/413AH60029, for the improvement of a noncommercial educational television station on Ch. 10, Augusta, Maine. Proposal determined acceptable: December 12, 1975. Estimated project cost: $707,944. Grant requested: $530,958. Application signed by: Howard O. Skinner, General Manager.

Hawaii Public Broadcasting Authority, Honolulu, Hawaii 96822, File No. 548–T/413AH60038, for the improvement of a noncommercial educational television station on Ch. 11, Honolulu, Hawaii. Proposal determined acceptable: December 12, 1975. Estimated project cost: $218,483. Grant requested: $163,862. Application signed by: Teruo Ihara, Board Chairman.

Spokane School District #81, West 825 Spokane Falls Blvd., Spokane, Washington 99201, File No. 549–T/413AH60041, for the improvement of a noncommercial educational television station KSPS on Ch. 7, Spokane, Washington. Proposal determined acceptable: December 12, 1975. Estimated project cost: $382,427. Grant requested: $286,820. Application signed by: Walter A. Hitchcook, Superintendent of Schools.

Yakima School District #7, 104 North 4th Avenue, Yakima, Washington 98902, File No. 550–T/413AH60117, for the improvement of a noncommercial educational television station KYVE–TV on Ch. 47, Yakima, Washington. Proposal determined acceptable: February 18, 1975. Estimated project cost: $380,983. Grant requested: $260,983. Application signed by: Jack L. Frisk, Superintendent.

Board of Regents of the University of Idaho, Moscow, Idaho 83843, File No. 551–T/413AH60067, for the improvement of a noncommercial educational television station KUID–TV on Ch. 12, Moscow, Idaho. Proposal determined acceptable: December 9, 1975. Estimated project cost: $300,000. Grant requested: $225,000. Application signed by: Sherman Carter, Controller and Financial Vice President, University of Idaho.

Ohio University, Athens, Ohio 45701, File No. 552–T/413AH60063, for the improvement of a noncommercial educational television station on Chs. 20/44, Athers, Cambridge, Ohio. Proposal determined acceptable: December 12, 1975. Estimated project cost: $215,340. Grant requested: $161,505. Application signed by: John F. Milar, Vice President and Treasurer.

The Board of Trustees of the University of Illinois, Urbana, Illinois 61801, File No. 553–T/413AH60095, for the improvement of a noncommercial educational television station on Ch. 12, Urbana, Illinois. Proposal determined acceptable: December 12, 1975. Estimated project cost: $181,267. Grant requested: $135,950. Application signed by: Linda S. Wilson, Secretary, Research Board.

Chicago Educational Television Association, 5400 North St. Louis Avenue, Chicago, Illinois 60625, File No. 554–T/413AH60060, for the improvement of a noncommercial educational television station on Ch. 11, Chicago, Illinois. Proposal determined acceptable: December 12, 1975. Estimated project cost: $644,191. Grant requested: $450,934. Application signed by: William J. McCarter, Vice President and General Manager.

The Board of Trustees for the Vincennes University, 1002 No. First Street, Vincennes, Indiana 47591, File No. 555–T/413AH60061, for the improvement of a noncommercial educational television station on Ch. 22, Vincennes, Indiana. Proposal determined acceptable: December 12, 1975. Estimated project cost: $628,560. Grant requested: $471,420. Application signed by: Isaac K. Beckes, President.

Kentucky State Board of Education By Kentucky Authority for ETV, 600 Cooper Drive, Lexington, Kentucky 40502, File No. 556–T/413AH60023, for the establishment of a noncommercial educational television station on Ch. 19, Owensboro, Kentucky. Proposal determined acceptable: December 12, 1975. Estimated project cost: $771,000. Grant requested: $578,250. Application signed by: O. Leonard Press, Executive Director.

Hampton Roads Educational TV Association, Inc., 5200 Hampton Blvd., Norfolk, Virginia 23508, File No. 557–T/413AH60035, for the improvement of a noncommercial educational television station on Ch. 15, Hampton/Norfolk, Virginia. Proposal determined acceptable: December 12, 1975. Estimated project cost: $614,360. Grant request: $460,770. Application signed by: John R. Morrison, General Manager.

University Regional Broadcasting, Inc., 3131 S. Dixie Dr., Dayton, Ohio 45439, File No. 558–T/413AH60015, for the improvement of a noncommercial educational television station on Chs. 16/14, Kettering, Ohio; Oxford, Ohio. Proposal determined acceptable: December 12, 1975. Estimated project cost: $778,487. Grant requested: $578,487. Application signed by: Clair R. Tettemer, Executive Director.

Louisiana ETV, Baton Rouge, Louisiana 70804, File No. 559-T/413AH60044, for the establishment of a noncommercial television station on Ch. 24, Lafayette, Louisiana. Proposal determined acceptable: December 12, 1975. Estimated project cost: $826,795. Grant requested: $620,094. Application signed by: A. Fred Frey, Executive Vice President.

Southwest Texas Public Broadcasting Council, Austin, Texas 78712. File No. 560–T/413AH60057, for the establishment of a noncommercial educational television station on Ch. 18, Austin, Texas. Proposal determined acceptable: December 12, 1975. Estimated project cost: $653,733. Grant requested: $490,299. Application signed by: R. F. Schenkkan, General Manager.

State of Oregon Acting By and Through the State Board of Higher Education, P.O. Box 3175, Eugene, Oregon 97403, File No. 561–T/413AH60036, for the improvement of noncommercial educational television stations KOAP, Ch. 10, Portland and KAOC, Ch. 7, Corvallis by activating translators to serve coastal communities. Proposal determined acceptable: December 12, 1975. Estimated project cost: $80,000. Grant requested: $60,000. Application signed by: Donald R. Larson, Secretary.

Nebraska ETV Commission, P.O. Box 83111, Lincoln, Nebraska 68501, File No. 562–T/413AH60056, for the improvement of a noncommercial educational television station on Ch. 26, Omaha, Nebraska. Proposal determined acceptable: December 12, 1975. Estimated project cost: $462,500. Grant requested: $346,875. Application signed by: Jack C. McBride, General Manager.

Oklahoma Educational Television Authority, 7403 N. Kelley, Oklahoma City, Oklahoma 73114, File No. 563–T/413AH 60049, for the establishment of a noncommercial educational television station on Ch. 3, Eufaula, Oklahoma. Proposal determined acceptable: December 12, 1975. Estimated project cost: $1,201,593. Grant requested: $901,466. Application signed by: Robert L. Allen, Director.

University of Nebraska at Omaha, P.O. Box 83111, Omaha, Nebraska 68101, File No. 564–T/413AH60059, for the improvement of a noncommercial educational television station on Ch. 26, Omaha, Nebraska. Proposal determined acceptable: December 12, 1975. Estimated project cost: $30,185. Grant requested: $22,638. Application signed by: Ronald W. Roskens, Chancellor.

San Mateo Community College, 2015 Pioneer Court, San Mateo, California 94403, File No. 565–T/413AH60058, for the improvement of a noncommercial educational television station on Ch. 14, San Mateo, California. Proposal determined acceptable: December 12, 1975. Estimated project cost: $894,293. Grant requested: $450,000. Application signed by: Glenn P. Smith, Superintendent.

State of Oregon Acting By and Through the State Board of Higher Education, P.O. Box 3175, Eugene, Oregon 97403, File No. 566–T/413AH60019, for the improvement of remote production facilities to be used Statewide as well as integrated with a State Capital television studio associated with the Oregon Educational and Public Broadcasting Service. Proposal determined acceptable: December 12, 1975. Estimated project cost: $160,000. Grant requested: $120,000. Application signed by: Donald R. Larson, Secretary.

Limitless Learning, 507 Wilshire Blvd., Santa Monica, California 90401, File No. 567–T/413AH60088, for the establishment of a noncommercial educational television station on Ch. 63, Oxnard, California. Proposal determined acceptable: December 12, 1975. Estimated project cost: $883,944. Grant requested: $625,000. Application signed by: Lola Yoakem, President.

State of Oregon, Acting By and Through the State Board of Higher Education, P.O. Box 3175, Eugene, Oregon 97403. File No. 568–T/413AH60006, for the improvement of a noncommercial educational television studio facilities at University of Oregon, Eugene, associated with the Oregon Educational and Public Broadcasting Service, State of Oregon. Proposal determined acceptable: December 29, 1975. Estimated project cost: $292,274. Grant requested: $219,205. Application signed by: Donald R. Larson, Secretary.

North California ETV Association, P.O. Box 9, 825 Industrial Street, Redding, California, File No. 569–T/413AH60031, for the improvement of a noncommercial educational television station on Ch. 9, Redding, California. Proposal determined acceptable: December 12, 1975. Estimated project cost: $295,612. Grant requested: $221,709. Application signed by: Robert Casey, Executive Vice President.

Santa Clara County Board of Education, 100 Skyport Drive, San Jose, California 95110, File No. 570–T/413AH60066, for the improvement of a noncommercial educational television station on Ch. 58 KTEH, San Jose, California. Proposal determined acceptable: December 12, 1975. Estimated project cost: $619,902. Grant requested: $464,926. Application signed by: Glenn Hoffman, General Manager.

University of Alaska, Fairbanks, Alaska 99701, File No. 571–T/413AH60051, for the improvement of a noncommercial educational television station on Ch. 9, Fairbanks, Alaska. Proposal determined acceptable: December 9, 1975. Estimated project cost: $140,237. Grant requested: $105,177. Application signed by: Don M. DaFoe, Executive Vice President.

Clark County School District, 2832 E. Flamingo Road, Las Vegas, Nevada 89109, File No. 572–T/413AH60032, for the improvement of a noncommercial educational television station on Ch. 10, Las Vegas, Nevada. Proposal determined acceptable: December 12, 1975. Estimated project cost: $150,000. Grant requested: $112,500. Application signed by: Ronald Hawley, General Manager.

Eastern New Mexico University, Portales, New Mexico 88130, File No. 573–T/413AH60012, for the improvement of a noncommercial educational television station on Ch. 3, Portales, New Mexico. Proposal determined acceptable: December 12, 1975. Estimated project cost: $558,500. Grant requested: $419,875. Application signed by: Warren B. Armstrong, Manager.

Alabama Citizens for Responsive TV, Auburn, Alabama 36830, File No. 574–T/413AH60028, for the establishment of a noncommercial educational television station on Chs. 10, 26, 41, Birmingham/Montgomery/Demopolis, Alabama. Proposal determined acceptable: December 12, 1975. Estimated project cost: $452,087. Grant requested: $339,065. Application signed by: Jesse Stewart, Secretary.

EDUCATIONAL RADIO

Ithaca College, Ithaca, New York 14850, File No. 229–R/413BH60063, for the improvement of a noncommercial educational radio station on 610 KH/z, 91.0 MH/z, Ithaca, New York. Proposal determined acceptable: October 21, 1975. Estimated project cost: $50,880. Grant requested: $38,160. Application signed by: Lorrine Chickering-Clay, Director of Research and Academic Funding.

Lenoir Community College, Kinston, North Carolina 28501, File No. 230–R/413BH60103, for the establishment of a noncommercial educational radio station on 90.5 MH/z, Kinston, North Carolina. Proposal determined acceptable: December 12, 1975. Estimated project cost: $40,488. Grant requested: $30,366. Application signed by: Jesse L. McDaniel, President.

Connecticut ETV Corporation, Hartford, Connecticut 06106, File No. 231–R/413BH60043, for the establishment of a noncommercial educational radio station on 90.5 MH/z, Hartford/New Haven, Connecticut. Proposal determined acceptable: December 10, 1975. Estimated project cost: $201,350. Grant requested: $150,992. Application signed by: Paul K. Taff, President.

WGBH Educational Foundation, Boston, Massachusetts 02134, File No. 232–R/413BH60056, for the improvement of a noncommercial educational radio station on 89.7 MH/z, Boston, Massachusetts. Proposal determined acceptable: December 12, 1975. Estimated project cost: $119,640. Grant requested: $39,730. Application signed by: David O. Ives, President.

Hawaii Public Broadcasting Authority, Honolulu, Hawaii 96822, File No. 233–R/413BH60002, for the establishment of a noncommercial educational radio station on 91.9 MH/z, 1600 KH/z, Honolulu, Hawaii. Proposal determined acceptable: December 9, 1975. Estimated project cost: $219,586. Grant requested: $164,689. Application signed by: Teruo Ihara, Board Chairman.

Louisville Free Public Library, Fourth and York Sts., Louisville, Kentucky 40203, File No. 234–R/413BH60033, for the improvement of a noncommercial educational radio station on 89.3/91.9 MH/z, Louisville, Kentucky. Proposal determined acceptable: December 12, 1975. Estimated project cost: $200,000. Grant requested: $150,000. Application

signed by: C. R. Graham, Director of Library.

University of Colorado, Educational Media Center, Boulder, Colorado 80309, File No. 235–R/413BH60009, for the establishment of a noncommercial educational radio station on 89.3 MH/z, Boulder, Colorado. Proposal determined acceptable: December 11, 1975. Estimated project cost: $81,222. Grant requested: $60,916. Application signed by: Lawson Crowe, Chancellor.

Hutchinson Community Junior College, 1300 N. Plum, Hutchinson, Kansas 67501, File No. 236–R/413BH60050, for the improvement of a noncommercial educational radio station on 90.1 MH/z, Hutchinson, Kansas. Proposal determined acceptable: December 12, 1975. Estimated project cost: $67,366. Grant requested: $50,524. Application signed by: G. L. Cooper, Academic Dean.

University of Massachusetts, Boston, Massachusetts, 02125, File No. 237–R/413BH60067, for the establishment of a noncommercial educational radio station on 91.9 MH/z, Boston, Massachusetts. Proposal determined acceptable: December 12, 1975. Estimated project cost: $82,880. Grant requested: $62,160. Application signed by: Donald D. Babcock, Vice Chancellor for Academic Affairs.

Trustees of Columbia University in City of New York, New York, N.Y., 10027, File No. 238–R/413BH60005, for the improvement of a noncommercial educational radio station on 89.9 MH/z, New York, N.Y. Proposed determined acceptable: December 11, 1975. Estimated project cost: $73,019. Grant requested: $30,000. Application signed by: Clavin B. Meyer, Senior Projects Officer.

City of New York Municipal Broadcasting System, New York, N.Y. 10007, File No. 239–R/13BH60010, for the improvement of a noncommercial educational radio station on 830 KH/z, New York, N.Y. Proposal determined acceptable: December 11, 1975. Estimated project cost: $631,000. Grant requested: $473,250. Application signed by: Arnold Labaton, Director.

Mohawk-Hudson Council on ETV, Inc., Schenectady, New York 12301, File No. 240–R/413BH60053, for the improvement of a noncommercial educational radio station on 89.1 MH/z, Schenectady, New York. Proposal determined acceptable: December 11, 1975. Estimated project cost: $56,800. Grant requested: $42,600. Application signed by: Donald E. Schein, President.

Pacifica Foundation (WBAI), New York, New York 10021, File No. 241–R/413BH60025, for the improvement of a noncommercial educational radio station on 99.5 MH/z, New York, N.Y. Proposal determined acceptable: December 12, 1975. Estimated project cost: $156,128. Grant requested: $117,096. Application signed by: Larry Josephson, General Manager.

Siena College, Loudonville, New York 12211, File No. 242–R/413BH60048, for the improvement of a noncommercial educational radio station on 89.1 MH/z, Loudonville, N.Y. Proposal determined acceptable: December 12, 1975. Estimated project cost: $28,832. Grant requested: $21,624. Application signed by: Terry J. Reynolds, Dean of Students.

Vermont Public Radio, Essex Junction, Vermont 05452, File No. 243–R/413BH60069, for the establishment of a noncommercial educational radio station on 89.5/107.9 MH/z, Windsor/Burlington, Vermont. Proposal determined acceptable: December 12, 1975. Estimated project cost: $328,539. Grant requested: $246,404. Application signed by: Raymond V. Phillips, President.

Trustees of Berwick Academy, South Berwick, Maine 03908, File No. 244–R/413BH60031, for the establishment of a noncommercial educational radio station on 89.3 MH/z, South Berwick, Maine Proposal determined acceptable: December 9, 1975. Estimated project cost: $78,-905. Grant requested: $59,178. Application signed by: Andrew C. Holmes, Headmaster.

City College of New York, New York, N.Y. 10031, File No. 245–R/413BH60079, for the establishment of a noncommercial educational radio station on 88.3 MH/z, New York, N.Y. Proposal determined acceptable: December 12, 1975. Estimated project cost: $60,000. Grant requested: $45,000. Application signed by: John Long, Vice President, Educational Affairs.

Central State University, Wilberforce, Ohio 45384, File No. 246–R/413BH60070, for the improvement of a noncommercial educational radio station on 88.7 MH/z, Wilberforce, Ohio. Proposal determined acceptable: December 12, 1975. Estimated project cost: $23,981. Grant requested: $17,985. Application signed by: Fuad V. Suleiman, Associate Vice President.

Claremont Northeastern School District, 5347 Hutchinson Road, Batavia, Ohio 45103, File No. 247–R/413BH60051, for the improvement of a noncommercial educational radio station on 88.7 MH/z, Batavia, Ohio. Project determined acceptable: December 12, 1975. Estimated project cost: $22,280. Grant requested: $16,710. Application signed by: Leo H. Bradley, Superintendent.

The Greater Toledo Educational TV Foundation, 415 North Saint Clair Street, Toledo, Ohio 43604, File No. 248–R/413BH60049, for the improvement of a noncommercial educational radio station on 91.3 MH/z, Toledo, Ohio. Proposal determined acceptable: December 12, 1975. Estimated project cost: $13,443. Grant requested: $10,082. Application signed by: Robert D. Smith, Vice President and General Manager.

New Albany-Floyd Co. Consolidated School Corporation, P.O. Box 140, New Albany, Indiana 47150, File No. 250–R/413BH60045, for the improvement of a noncommercial educational radio station on 88.1 MH/z, New Albany, Indiana. Proposal determined acceptable: December 12, 1975. Estimated project cost: $45,494. Grant requested: $34,120. Application signed by: Robert Holmes, Superintendent.

University of Montana, Radio-Television Department, Missoula, Montana 59801. File No. 251–R/413BH60012, for the improvement of a noncommercial educational radio station KUFM on 89.1 MH/z, Missoula, Montana. Proposal determined acceptable: December 9, 1975. Estimated project cost: $12,390. Grant requested: $9,290. Application signed by: Gordon Browder, Director, Sponsored Program Administration, University of Montana.

Purdue University, West Lafayette, Indiana 47907, File No. 252–R/413BH60035, for the improvement of a noncommercial educational radio station on 920 KH/z, W. Lafayette, Indiana. Proposal determined acceptable: December 12, 1975. Estimated project cost: $115,000. Grant requested $86,250. Application signed by: S. M. Marks, Associate Director, Division of Sponsored Programs.

The Board of Regents of the University of Michigan, 4080 Administration Bldg., Ann Arbor, Michigan 48104, File No. 253–R/413BH60100, for the improvement of a noncommercial educational radio station on 91.7 MH/z, Ann Arbor, Michigan. Proposal determined acceptable: December 12, 1975. Estimated project cost: $70,-771. Grant requested: $46,771. Application signed by: Charles G. Overberger, Vice President for Research.

Western Illinois University, 900 West Adams, Macomb, Illinois 61455, File No. 254–R/413BH60014 for the improvement of a noncommercial educational radio station on 91.3 MH/z, Macomb, Illinois. Proposal determined acceptable: December 12, 1975. Estimated project cost: $10,468. Grant requested: $7,851. Application signed by: James J. Murphy, Assistant Provost.

University of Virginia-WTJU Broadcasting Association, Humphreys House, Charlottesville, Virginia 22903, File No. 255–R/413BH60037, for the improvement of a noncommercial educational radio station on 91.3 MH/z, Charlottesville, Va. Proposal determined acceptable: December 12, 1975. Estimated project cost: $10,000. Grant requested: $7,500. Application signed by: Ray C. Hunt, Jr., University Comptroller.

Prairie View A&M University, Prairie View, Texas 77445, File No. 256–R/413–BH60001, for the establishment of a noncommercial educational radio station on 89.1 MH/z, Prairie View, Texas. Proposal determined acceptable: December 12, 1975. Estimated project cost: $191,569. Grant requested: $143,675. Application signed by: A. I. Thomas, President.

Texas A & M University, College Station, Texas 77840, File No. 257–R/413-BH60032, for the establishment of a noncommercial educational radio station on 90.3 MH/z, Ch. 212, KAMU–FM, College Station, Texas. Proposal determined acceptable: December 12, 1975. Estimated project cost: $92,469. Grant requested: $69,016. Application signed by: Jack K. Williams, President.

Newark New Jersey Board of Education, Newark, New Jersey 07102, File No. 258–R/413BH60021, for the improvement of a noncommercial educational radio station on 88.3 MH/z, WGBO, Newark, New Jersey. Proposal determined acceptable: December 12, 1975. Estimated project cost: $163,587. Grant requested:

$122,690. Application signed by: Stanley Taylor, Superintendent.

State University of Iowa, Iowa City, Iowa 52242, File No. 259–R/413BH60018, for the improvement of a noncommercial educational radio station on 91.7 MH/z, Iowa City, Iowa. Proposal determined acceptable: December 12, 1975. Estimated project cost: $190,512. Grant requested: $142,884. Application signed by: Duane C. Spriesterbach, Vice President.

Kirkwood Community College, P.O. Box 2068, Cedar Rapids, Iowa 52406, File No. 260–R/413BH60073, for the improvement of a noncommercial educational radio station on 88.3 MH/z, Cedar Rapids, Iowa. Proposal determined acceptable: December 12, 1975. Estimated project cost: $127,687. Grant requested: $95,765. Application signed by: S. A. Ballantyne, Superintendent.

University of Kansas, Audio Reader, Lawrence, Kansas 66045, File No. 261–R/413BH60071, for the improvement of a noncommercial educational radio station on 91.5 MH/z, Lawrence, Kansas. Proposal determined acceptable: December 12, 1975. Estimated project cost: $49,996. Grant requested: $37,497. Application signed by: Henry L. Snyder, Dean of Research Administration.

Western Iowa Tech Community College, 4647 Stone Avenue, Sioux City, Iowa 51102, File No. 262–R/413BH60036, for the establishment of a noncommercial educational radio station on 88.1 MH/z, Sioux City, Iowa. Proposal determined acceptable: December 12, 1975. Estimated project cost: $240,000. Grant requested: $180,000. Application signed by: Robert H. Kiser, Superintendent.

Board of Curators, Lincoln University of Misouri, 1004 East Dunklin, Jefferson City, Missouri 65101, File No. 263–R/413BH60047, for the improvement of a noncommercial educational radio station on 88.9 MH/z, Jefferson City, Missouri. Proposal determined acceptable: December 12, 1975. Estimated project cost: $204,288. Grant requested: $153,216. Application signed by: James Frank, President.

Board of Trustees of Southern Illinois University, 1056 Communications Building-SIU, Carbondale, Illinois 62901, File No. 264–R/413BH60101, for the establishment of a noncommercial educational radio station on 91.9 MH/z, Carbondale, Illinois. Proposal determined acceptable: December 12, 1975. Estimated project cost: $48,000. Grant requested: $36,000. Application signed by: Hiram H. Lesar, President.

Northern Kentucky State College, Highland Heights, Kentucky 41076, File No. 265–R/413BH60099, for the establishment of a noncommercial educational radio station on 89.7 MH/z, Highland Heights, Kentucky. Proposal determined acceptable: December 12, 1975. Estimated project cost: $54,364. Grant requested: $25,000. Application signed by: W. Frank Steely, President.

West Virginia Board of Regents c/o West Virginia University's RTMP Box TV–24, Morgantown, West Virginia 26505, File No. 266–R/413BH60076, for the establishment of a noncommercial educational radio station on 90.9 MH/z, Morgantown, West Virginia. Proposal determined acceptable: December 12, 1975. Estimated project cost: $137,995. Grant requested: $103,496. Application signed by: James G. Harlow, President.

West Virginia Educational Broadcasting Authority, State Building Six, Charleston, West Virginia 25305, File No. 267–R/413BH60088, for the establishment of a noncommercial educational radio station on 89.9 MH/z, Huntington, West Virginia. Proposal determined acceptable: December 12, 1975. Estimated project cost: $100,444. Grant requested: $75,333. Application signed by: Francis L. Blake, Executive Secretary.

University of Louisville, 2301 South Third St., Louisville, Kentucky 40208, File No. 268–R/413BH60074, for the establishment of a noncommercial educational radio station on 90.5 MH/z, Louisville, Kentucky. Proposal determined acceptable: December 12, 1975. Estimated project cost: $166,145. Grant requested: $123,790. Application signed by: William F. Ekstrom, Executive Vice President.

Springfield Technical Community College, Springfield, Massachusetts 01105, File No. 269–R/413BH60054, for the improvement of a noncommercial educational radio station on 90.7 MH/z, Springfield, Massachusetts. Proposal determined acceptable: December 12, 1975. Estimated project cost: $48,881. Grant requested: $36,660. Application signed by: Robert C. Geitz, President.

School Board of Palm Beach County, West Palm Beach, Florida 33401, File No. 270–R/413BH60029, for the improvement of a noncommercial educational radio station on 91.7 MH/z, Boynton Beach, Florida. Proposal determined acceptable: December 12, 1975. Estimated project cost: $62,100. Grant requested: $46,575. Application signed by: Joseph M. Carroll, President.

Memphis Community TV Foundation, Memphis, Tennessee 38152, File No. 271–R/413BH60058, for the improvement of a noncommercial educational radio station on 91.1 MH/z, Memphis, Tennessee. Proposal determined acceptable: December 12, 1975. Estimated project cost: $9,028. Grant requested: $6,771. Application signed by: William S. Pollard, President.

Back Porch Radio Broadcasting, Inc., Box 3219, Madison, Wisconsin 53704, File No. 272–R/413BH60003, for the improvement of a noncommercial educational radio station on 98.7 MH/z, Madison, Wisconsin. Proposal determined acceptable: December 12, 1975. Estimated project cost: $20,385. Grant requested: $15,288. Application signed by: Michael O'Connor, President.

Educational Broadcasters of Mississippi, Jackson, Mississippi 39212, File No. 273–R/413BH60096, for the improvement of a noncommercial educational radio station on 91.5 MH/z, Jackson, Mississippi. Proposal determined acceptable: December 12, 1975. Estimated project cost: $1,261. Grant requested: $945. Application signed by: Robert T. Sanders, President.

Saddleback Community College, 28000 Marquerite Parkway, Mission Viejo, California 92675, File No. 274–R/413BH 60040, for the improvement of a noncommercial educational radio station on 88.5 MH/z, Mission Viejo, California. Proposal determined acceptable: December 9, 1975. Estimated project cost: $98,380. Grant requested: $73,784. Application signed by: Robert Lombardi, Superintendent.

California State University, 6000 Jay St., Sacramento, California 95819, File No. 275–R/413BH60008, for the improvement of a noncommercial educational radio station on 88.9 MH/z, Sacramento, California. Proposal determined acceptable: December 12, 1975. Estimated project cost: $116,332. Grant requested: $87,249. Application signed by: E. James Archer, Vice President Academic Affairs.

Eastern New Mexico University, New Mexico University, Portales, New Mexico 88130, File No. 276–R/413BH60038, for the establishment of a noncommercial educational radio station on 88.9 MH/z, Portales, New Mexico. Proposal determined acceptable: December 12, 1975. Estimated project cost: $119,279. Grant requested: $89,459. Application signed by: Warren B. Armstrong, President.

State of Oregon Acting By and Through the State Board of Higher Education, P.O. Box 3175, Eugene, Oregon 97403, File No. 277–R/413BH60016, for the improvement of a noncommercial educational radio station KSOR on 90.1 MH/z, Southern Oregon State College, Ashland, Oregon. Proposal determined acceptable: December 12, 1975. Estimated project cost: $60,990. Grant requested: $45,345. Application signed by Donald R. Larson, Secretary.

University of Houston—KUHF–FM, 4800 Calhoun St., Houston, Texas 77004, File No. 278–R/413BH60019, for the improvement of a noncommercial educational radio station KUHF on 88.7 MH/z, Houston, Texas. Proposal determined acceptable: December 12, 1975. Estimated project cost: $172,531. Grant requested: $129,398. Application signed by: J. T. Brogdon, Assistant Vice President and Treasurer.

Ramah Navajo School Board, Inc., P.O. Box 18, Ramah, New Mexico 87321, File No. 279–R/413BH60042 for the improvement of a noncommercial educational radio station on 89.7 MH/z, Ramah, New Mexico. Proposal determined acceptable: December 12, 1975. Estimated project cost: $180,200. Grant requested: $133,000. Application signed by: Leonard Eriacho, Manager.

Nevada Public Broadcasting Corporation, 3200 E. Cheyenne Street, Las Vegas, Nevada 89030, File No. 280–R/413BH–60006, for the establishment of a noncommercial educational radio station, Las Vegas, Nevada. Proposal determined acceptable: December 12, 1975. Estimated project cost: $86,070. Grant requested: $53,145. Application signed by: Curtis Schultz, General Manager.

California State University, 18111 Nordhoff Street, Northridge, California 91324, File No. 281–R/413BH60028, for the improvement of a noncommercial educational radio station on 88.5 MH/z, Northridge, California. Proposal determined acceptable; December 12, 1975. Estimated project cost: $21,758. Grant requested: $16,318. Application signed by: James W. Cleary, Manager.

Pacifica Foundation, 2207 Shattuck Avenue, Berkeley, California 94704, File No. 282–R/413BH60024, for the improvement of a noncommercial educational radio station on 94.1 MH/z, Berkeley, California. Proposal determined acceptable: December 12, 1975. Estimated project cost: $139,901. Grant requested: $104,925. Application signed by: Peter Frank, 3rd Vice President.

Community Broadcasting, Inc., P.O. Box 95, San Luis Obispo, California 93400, File No. 283–R/413BH60080, for the improvement of a noncommercial educational radio station on 90.1 MH/z, San Luis Obispo, California. Proposal determined acceptable: December 12, 1975. Estimated project cost: $40,690. Grant requested: $30,517. Application signed by: Stephen Urbani, Corporate President.

Dillingham School District, P.O. Box 202, Dillingham, Alaska 95576, File No. 284–R/413BH60060, for the improvement of a noncommercial educational radio station on 670 KH/z, Dillingham, Alaska. Proposal determined acceptable: December 12, 1975. Estimated project cost: $115,770. Grant requested: $86,827. Application signed by: Leo Lutchanski, Jr., General Manager.

KQED Incorporated, 1011 Bryant Street, San Francisco, California 94103, File No. 285–R/413BH60059, for the improvement of a noncommercial educational radio station on 88.5 MH/z, San Francisco, California. Proposal determined acceptable: December 9, 1975. Estimated project cost: $159,779. Grant requested: $119,834. Application signed by: Arthur Porter, Executive Vice President.

White Ash Broadcasting, Inc., 2994 E. McKenzie, Fresno, California 93701, File No. 286–R/413BH60030, for the establishment of a noncommercial educational radio station on 91.7 MH/z, Fresno, California. Proposal determined acceptable: December 12, 1975. Estimated project cost: $180,012. Grant requested: $135,-009. Application signed by: Richard Mays, President.

Greene County Broadcasting Center, Eutaw, Alabama 35462, File No. 287–R/413BH60023, for the establishment of a nonncommercial educational radio station on 91.3 MH/z, Eutaw, Alabama. Proposal determined acceptable: December 12, 1975. Estimated project cost: $83,235. Grant requested: $62,326. Application signed by: Louis Barnett, Jr., President.

Public Radio, Inc., Baton Rouge, Louisiana 70806, File No. 288–R/413BH60068, for the establishment of a noncommercial educational radio station on 212 MH/z, Baton Rouge, Louisiana. Proposal determined acceptable: December 12, 1975. Estimated project cost: $102,980. Grant requested: $76,935. Application signed by: Pat Addison, President.

West Virginia Educational Broadcasting Authority, State Bldg. Six, Charleston, West Virginia 25305. File No. 249–R/413BH60041, for the establishment of a noncommercial educational radio station on 88.5 MH/z, Charleston, West Virginia. Proposal determined acceptable: December 12, 1975. Estimated project cost: $169,556. Grant requested: $127,167. Application signed by: Francis L. Blake, Executive Secretary.

(U.S.C. 390–95; 397–99)

(Catalog of Federal Domestic Assistance Program No. 13.413, Educational Broadcasting Facilities Program.)

This Notice issued in Washington, D.C.

Dated: March 3, 1976.

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

[FR Doc.76–6603 Filed 3–8–76;8:45 am]

Food and Drug Administration

PANEL ON REVIEW OF ANTIPERSPIRANT DRUG PRODUCTS

Rescheduled Meeting

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announced in a notice published in the Federal Register of February 23, 1976 (41 FR 7973), public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Panel on Review of Antiperspirant Drug Products scheduled for March 25 and 26, 1976, has been rescheduled to meet on April 29 and 30, 1976, in Conference Rm. C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. The open public hearing will be held at 9 a.m. on April 29.

The meeting has been rescheduled to give members sufficient time to write sections for their first draft report.

Dated: March 3, 1976.

Sam D. Fine,
Associate Commissioner for Compliance.

[FR Doc.76–6618 Filed 3–8–76;8:45 am]

Office of the Secretary

OFFICE OF INVESTIGATIONS

Delegation of Authority

Under the authority of Section 6 of Reorganization Plan No. 1 of 1953 and pursuant to the authority vested in me as Secretary of Health, Education, and Welfare and in accordance with the Reorganization Order establishing the Office of Investigations (40 FR 58489, 12/17/75), I hereby delegate to the Director, Office of Investigations, the authority to conduct or authorize others to conduct investigations of alleged cases of: malfeasance; fraud; misuse of funds; equipment, or facilities; violations of terms or conditions of funding; and conflicts of interest by employees, grantees, contractors, and other personnel working on behalf of the Department. This authority includes the authority to undertake or authorize others to undertake such investigations without the prior approval of higher authority.

This authority does not include the conduct of investigations of employee suitability, equal employment opportunity, employee civil rights, tort claims, and similar activities which are under the functional jurisdiction of other offices.

This authority may not be redelegated, and is effective the date of approval.

Date: February 26, 1976.

Marjorie Lynch,
Acting Secretary.

[FR Doc.76–6659 Filed 3–8–76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N–76–499]

HOLIDAY FOREST, UNITS 1 & 2

Hearing

In the matter of Holiday Forest, Units 1 & 2, OILSR No. 0–2196–02–444, Doc. No. 76–5–IS. Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. Holiday Forest Partners and Heber Land Development Company, Inc., General Partner, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued January 9, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Holiday Forest Units 1 and 2, located in Navajo County, Arizona, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received February 3, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on April 7, 1976, at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before March 24, 1976.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the alle-

gations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: February 18, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-6658 Filed 3-8-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

HAZARDOUS MATERIALS REGULATIONS

Notice of Applications for Exemptions or Renewals

In accordance with the procedures governing the applications for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations has received applications for exemptions and renewals of exemptions, that are described below. The modes of transportation requested are identified by a number in the "Nature of Application" portion of the table below as follows: 1—Motor Vehicle, 2—Rail Freight, 3—Cargo Vessel, 4—Cargo-only Aircraft, 5—Passenger-carrying Aircraft.

Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6213, Trans Point Building, 2100 Second Street, S.W., Washington, D.C.

Interested persons are invited to submit views or comments with respect to any one or more of the applications. Comments should refer to the application number and be submitted in triplicate to the Docket Section Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. All comments received before the close of business on the specified comment closing date will be considered and will be available in the docket for inspection and copying, both before and after the closing date.

This notice of receipt of applications for exemptions and renewals of exemptions is published in accordance with section 107(a) of the Hazardous Materials Transportation Act (49 U.S. C. 1806(a)) and the Materials Transportation Bureau's regulations on this subject (49 CFR 107.109(a)), and does not represent any agency decision or other exercise of judgment concerning the merits of the petitions.

Application No.	Applicant	Regulation(s) affected	Nature of application
		NEW EXEMPTIONS [1]	
76-74	The Carborundum Co., Avondale, Pa.	49 CFR 178.340-5	To allow transportation of waste chemicals (corrosive liquids) in lined steel tank trailers with flanged and bolted heads, otherwise patterned after DOT specification MC-312 (mode 1).
76-75	Mine Safety Appliances, Pittsburgh, Pa.	49 CFR 173.302	To allow use of fully wrapped glass reinforced seamless aluminum cylinders for shipments of compressed gases (modes 1, 2, 3, 4, 5).
76-76	Thiokol/Dynachem Corp., Santa Ana, Calif.	46 CFR 146.23-100	To allow shipments of corrosive liquids in DOT specification 34 polyethylene pails (mode 3).
76-77	Atlas Powder Co., Dallas, Tex.	49 CFR 173.182	To allow the use of the rubber "Sealdtank Container" for shipments of nitrocarbonitrate slurry (mode 1).
76-78	Fabricated Metals, Inc., Modena, Pa.	49 CFR 173.345, 173.348	To allow use of modified DOT specification 57 stainless steel or aluminum portable tanks for shipments of arsenic acid solution (modes 1, 2).
76-79	Stauffer Chemical Co., Westport, Conn.	46 CFR 146.22-100	To allow shipments of phosphorus pentasulfide in DOT specification 56 aluminum portable tanks, packed in an ISO container (mode 3).
76-80	SerVair Accessories, Inc., Williston, N. Dak.	14 CFR 103.25, 103.25	To eliminate the need for written notice to the pilot of an aircraft transporting hazardous materials; and to allow flight operations to be conducted without a compass (mode 4).
76-81a	American Plastics of Indiana, Elkhart, Ind.	49 CFR ch. 1, subch. C	To exempt the applicant from all of the Department's hazardous materials regulations applicable to flammable liquids identified as styrene-unsaturated polyester resins (modes 1, 2, 3, 4, 5).
76-81b	Barton Solvents, Inc., Des Moines, Iowa.	49 CFR ch. 1, subch. C	Do.
76-81c	Durkin Chemicals, Inc., Kirkland, Wash.	49 CFR ch. 1, subch. C	Do.
76-81d	Fiberchem, Inc., Seattle, Wash.	49 CFR ch. 1, subch. C	Do.
76-81e	GLS Fiberglass, Chicago, Ill.	49 CFR ch. 1, subch. C	Do.
76-81f	Plastic Supply, Inc., Des Moines, Iowa.	49 CFR ch. 1, subch. C	Do.
76-81g	Schibley Solvents & Chemicals Co., Cleveland, Ohio.	49 CFR ch. 1, subch. C	Do.
76-81h	Thalco, Los Angeles, Calif.	49 CFR ch. 1, subch. C	Do.
76-81i	Synres Chemical Corp., Anaheim, Calif.	49 CFR ch. 1, subch. C	Do.
76-81j	Berton Plastics, Inc., South Hackensack, N.J.	49 CFR ch. 1, subch. C	Do.
76-81k	Erskine-Johns Co., Los Angeles, Calif.	49 CFR ch. 1, subch. C	Do.
76-81L	Plasticrafts, Inc., Denver, Colo.	49 CFR ch. 1, subch. C	Do.
76-81m	Riberglass, Inc., Garland, Tex.	49 CFR ch. 1, subch. C	Do.
76-81n	Royell, Inc., Mountain View, Calif.	49 CFR ch. 1, subch. C	Do.
76-81o	Southern Fiberglass Supply Co., Oklahoma City, Okla.	49 CFR ch. 1, subch. C	Do.
76-81p	Worum Fiberglass Supply Co., St. Paul, Minn.	49 CFR ch. 1, subch. C	Do.
		RENEWALS [2]	
76-82	Grumman Aerospace Corp., Bethpage, N.Y.	49 CFR 173.302	To renew special permit No. 6992 which allows carriage of an anhydrous ammonia or anhydrous ammonia-nitrogen mixture in heat pipe radiator panels (mode 4).
76-83	Lear Siegler, Inc., Anaheim, Calif	49 CFR 173.302	To convert special permit No. 6589 to an exemption which allows specially designed pressure vessels for shipments of compressed air (modes 1, 2).
76-84	Rio Tinto Zinc Corp., New York, N.Y.	49 CFR 173.264; 46 CFR 146.23-100	To amend special permit No. 6963 to allow transportation of hydrofluoric acid in non-DOT specification portable tanks (modes 1, 2).
76-85	McDonnell Douglas Aeronautics Co., Huntington Beach, Calif.	49 CFR 173.304; 46 CFR 146.24-100.	To amend special permit No. 7036 to provide an alternate method of sealing the secondary safety cap on nonrefillable heat pipes filled with anhydrous ammonia (modes 1, 2, 3, 4, 5).
76-86	do	49 CFR 173.304; 46 CFR 146.24-100.	To renew special permit No. 6889 and to allow for an increase in length in nonrefillable steel pipes containing anhydrous ammonia (modes 1, 2, 3).
76-87	Owens-Illinois, Inc., Toledo, Ohio.	49 CFR Part 173; 46 CFR 146.23-100.	To renew special permit No. 7035 which allows shipments of certain corrosive liquids and a corrosive solid in 55-gal polyethylene drums patterned after DOT specification 34.
76-88	Dow Chemical USA, Midland, Mich.	49 CFR 173.253	To renew special permit No. 6126 which allows shipments of chloroacetyl chloride in DOT specification 6D steel overpack with an inside DOT-2S polyethylene container (mode 1).
76-89	United Airlines, San Francisco, Calif.	14 CFR 103.3, 103.31	To renew FAA exemption 1849B which allows shipment of organ transport modules, equipped with oxygen cylinders, in the cabin of a passenger-carrying aircraft (mode 5).
76-90	E. I du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.315	To renew special permit No. 6738 which allows transportation of liquefied ethylene in non-DOT specification cargo tanks (mode 1).
76-91	Commander, Military Sealift Command, Department of the Navy, Washington, D.C.	46 CFR 146.29-45, 146.29-11(c)(10).	To renew U.S. Coast Guard permit 4-73 which allows shipments of certain classes of explosives in MILVAN containers (mode 3).

Application No.	Applicant	Regulation(s) affected	Nature of application
		RENEWALS [2]—continued	
76-92...	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.315; 46 CFR 146.24-100.	To amend special permit N.. 7067 to allow for a change in safety relief valves and the removal of the internal liquid discharge valve on portable tanks similar to the DOT specification 51 (modes 1,2).
76-93...	Advanced Instruments, Inc., Needham Heights, Mass.	49 CFR 173.124; 14 CFR 103.9; 46 CFR 146.21-100.	To renew special permit No. 4988 which allows ethylene oxide to be shipped in aluminum cartridges overpacked in a DOT 12B box, 10 boxes to a master carton; and to include cargo vessels as a mode of transportation (modes 1, 2, 3, 4).
76-94...	Foote Mineral Co., Exton, Pa.	49 CFR 173.247a.....	To renew special permit No. 6211 which allows shipments of vanadium oxytrichloride, blanketed with an inert gas, in DOT MC-310, MC-311, or MC-312 cargo tanks (mode 1).
76-95...	U.S. Industrial Chemicals Co,, New York, N.Y.	49 CFR 173.119, 173.125.	To renew special permit No. 4652 which allows shipments of certain alcohols and flammable liquids in drums similar to DOT 17E except they are not marked with the specification number (modes 1, 2).
76-96...	Warren Petroleum Co., Tulsa, Okla.	49 CFR 173.315.....	To amend special permit 6030 to allow certain design changes to facilitate offloading capabilities for cargo tanks in liquified flammable compressed gas service (mode 1).
76-97...	Economics Laboratory, Inc., St. Paul, Minn.	49 CFR 173.277.....	To renew special permit 6220 which allows transportation of hypochlorite solutions in DOT specification 21P fiber drums with inside DOT specification polyethylene containers (modes 1, 2).
76-98...	The Firestone Tire & Rubber Co., Akron, Ohio.	49 CFR 173.315; 46 CFR 146.24-100.	To renew special permit 6746 which allows transportation of anhydrous ammonia in portable tanks built in accordance with DOT specification MC 331 (modes 1, 3).
		PARTIES TO AN EXEMPTION [1]	
75-134..	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.62, 177.834, and 177.835.	To become a party to an application filed by Austin Powder Co., allowing the use of a specially designed container for transportation of liquid high explosives (mode 1).
75-136..	The Boeing Co., Seattle Wash.	49 CFR 173.305.....	To become a party to an exemption issued to Buckeye Fire Equipment Co. which allows the use of non-DOT specification spherical pressure vessels for shipments of compressed gas (modes 1, 4, 5).
75-141..	Aerojet Solid Propulsion Co., Sacramento, Calif.	49 CFR 177.834.....	To become a party to an exemption issued to the Department of Defense allowing shipments of class A and B explosives and accompanying devices in or on transport vehicles equipped with heating or refrigerating apparatus (modes 1, 2).
75-189..	Lox Equipment Co., Livermore, Calif.	46 CFR 146.24-100.....	To become a party to an application filed by Air Products & Chemicals which allows the use of non-DOT specification portable tanks for shipments of liquid nitrogen (mode 3).
76-52...	McNair Transport, Inc., Houston, Tex.	49 CFR 173.304.....	To become a party to an application filed by Dow Chemical USA allowing use of a specially designed cargo tank for transporting ethylene at cryogenic temperatures (mode 1).
76-58...	United Technologies, Chemical Systems Division, Sunnyvale, Calif.	49 CFR 173.239a.....	To become a party to an application allowing shipments of ammonium perchlorate in aluminum portable tanks (modes 1, 2).

[1] The closing date for filing comments on the above applications is Apr. 12, 1976.
[2] The closing date for filing comments on the above applications for renewal is Mar. 26, 1976.

J. R. GROTHE,
Chief, Exemption Branch, Office of Hazardous Materials Operations.

[FR Doc.76-6572 Filed 3-8-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26494; Order 76-2-74]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding North/Central Pacific Air Fares

Correction

In FR Doc. 76-5358 appearing at page 8205 in the issue for Wednesday, February 25, 1976, in the first footnote, the Order Number in the third line should read "75-10-8".

[Docket 27573, Agreement C.A.B. 25697; Order No. 76-2-84]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order

Correction

In FR Doc. 76-5771 appearing on page 8822 in the issue for Monday, March 1, 1976, the heading should read as set forth above. Also, in the material in small print, the seventh line which presently reads "other parts thereof, 12¢" should read "other parts thereof, 127¢".

[Order 76-3-25; Docket 27573, Agreement C.A.B. 25706]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

General Commodity Rates

Issued under delegated authority March 3, 1976.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above C.A.B. agreement number.

The agreement would amend Proportional Rate Tables for general commodity rates to commonrate Constantine with Skikda. The rates are combinable with rates to/from U.S. points and thus have indirect application in air transportation as defined by the Act.

Pursuant to authority duly delegated by the Board in the Board's Regulations 14 CFR 385.14, it is not found that resolution 200(Mail 1)552, incorporated in Agreement C.A.B. 25706 as indicated, and which has indirect application in air transoprtation as defined by the Act, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Agreement C.A.B. 25706 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385. 50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-6661 Filed 3-8-76;8:45 am]

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES PAY COUNCIL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the Federal Employees Pay Council will meet at 2:00 p.m. on Wednesday, March 24, 1976. The meeting will be held on room 5323 of the U.S. Civil Service Commission building, 1900 H Street, NW., and will consist of continued discussions on future comparability adjustments for the statutory pay systems of the Federal Government which are defined in section 5301 of title 5, United States Code.

The Chairman of the U.S. Civil Service Commission is responsible for the making of determinations under section 10(d) of the Federal Advisory Committee Act as to whether or not meetings of the Federal Employees Pay Council shall be open to the public. He has determined that this meeting will consist of exchanges of opinions and information which, if written, would fall within exemptions (2) or (5) of 5 U.S.C. 552(b). Therefore, this meeting will not be open to the public.

For the President's Agent.

RICHARD H. HALL,
Advisory Committee Management Officer for the President's Agent.

[FR Doc.76-6662; Filed 3-8-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of February 20 Through February 27, 1976

Notice is hereby given that during the week of February 20 through February 27, 1976, the appeals and applications for exception or other relief listed in the Appendix to this notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

Dated: March 3, 1976.

MICHAEL F. BUTLER,
General Counsel.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of Feb. 20 through Feb. 27, 1976*

Date	Name and location of applicant	Case No.	Type of submission
Feb. 20, 1976	Exxon Co., U.S.A., Washington, D.C. (If granted: FEA's November 1975 entitlement notice would be rescinded and Exxon Co., U.S.A., would receive an adjustment in its entitlement purchase obligation.)	FEA-0760	Appeal of FEA's November 1975 Entitlement Notice.
Do	Shell Oil Co., Houston, Tex., (If granted: FEA Region IX's Jan. 21, 1976, interpretation of pricing procedures issued to Mercantile Oil Co. would be rescinded.)	FEA-0761	Appeal of FEA Region IX's interpretation.
Feb. 23, 1976	Buckhorn Oil & Energy Co., Inc., Paramus, N.J. (If granted: Crude oil produced by Buckhorn Oil & Energy Co., Inc., would be sold at prices above the ceiling price.)	FEE-2246	Price exception (sec. 212.72).
Do	Eddy Refining Co., Houston, Tex. (If granted: Eddy Refining Co. would be permitted to retroactively increase its prices for diesel fuel above the maximum permissible levels established in accordance with the refiners' pricing rules.)	FEE-2243	Price exception (sec. 212.82).
Do	Mobil Oil Corp. (Central Petroleum), Valley Forge, Pa. (If granted: The FEA Office of Regulatory Programs' order issued to Bay City Refining and the order issued by FEA Region V assigning Mobil to supply Central Petroleum, one of Bay City's former customers, would be rescinded.)	FEA-0762	Appeal of FEA Office of Regulatory Programs' determination under 10 CFR 211.14(d) that Bay City Refining is significantly reducing its gasoline marketing activities and that the firm's customers should be reassigned to other suppliers.
Do	Mobil Oil Corp. (Hubb Oil), Valley Forge, Pa. (If granted: The FEA Office of Regulatory Programs' order issued to Bay City Refining and the order issued by FEA Region V assigning Mobil to supply Hubb Oil, one of Bay City's former customers, would be rescinded.)	FEA-0763	Do.
Do	Robert W. O'Meara, New Orleans, La. (If granted: Crude oil produced from the Louisiana Fruit Lease would be sold at prices above the ceiling price.)	FEE-2244	Price exception (sec. 212.72).
Do	Rickelson Oil & Gas Co., Wichita, Kans. (If granted: Crude oil produced from the Rosa Washington lease would be sold at prices above the ceiling price.)	FEE-2245	Do.
Do	Thompson Oil Producers, Titusville, Pa. (If granted: Crude oil produced by Thompson Oil Producers would be sold at prices above the ceiling price.)	FEE-2247	Do.
Feb. 24, 1976	Southern California Edison Co., Rosemead, Calif. (If granted: Southern California Edison Co. would be permitted to import 114,000,000 bbl of low-sulfur residual fuel oil over a 10-yr period on a license fee-free basis.)	FPI-0088	Request for exception from the payment of import license fees.
Feb. 25, 1976	Commonwealth Oil Refining Co., Washington, D.C. (If granted: Commonwealth Oil Refining Co. would be permitted to consider its naphtha purchases as crude oil receipts for purposes of the entitlements program.)	FEE-2248	Exception to the old oil entitlements program.
Feb. 26, 1976	Delaware Valley Propane Co. (If granted: Delaware Valley Propane Co. would be assigned a new, lower priced supplier to replace its base period supplier, Petrolane Northeast Gas Service.)	FEE-2250	Exception to change suppliers.
Do	Empire Gas Corp. (Waynesville), Waynesville, Mo. (If granted: Empire Gas Corp. would be assigned a new, lower priced supplier of propane at Waynesville, Mo., to replace its base period supplier, Phillips Petroleum Co.)	FEE-2251	Do.
Do	Empire Gas Corp., Strasburg, Colo. (If granted: Empire Gas Corp. would be assigned a new, lower priced supplier of propane.)	FEE-2252	Do.
Do	James L. Flinn, Midland, Tex. (If granted: Crude oil produced from the C. W. Popnoe A Lease would be sold at prices above the ceiling price.)	FEE-2249	Price exception (sec. 212.72).

[FR Doc.76-6615 Filed 3-4-76;10:37 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311 (p) (1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/Operator and vessels*
01015	A/S Rederiet Odfjell: *Bow Spring, Humber Arm.*
01105	Tschudi & Eitzen: *Sinni, TEO-393-10.*
01326	Sabine Towing & Transportation Co., Inc.: *STCO 222, STCO 223, STCO 224, STCO 225.*
01354	H. E. Hansen-Tangen: *Sagona.*
01428	Ocean Transport & Trading Limited: *Rhexenor.*
01465	Scottish Ship Management Limited: *Cape Ortegal.*
01891	Canal Barge Co., Inc.: Mary Jayne.
02040	Odra—Swinoujscie: *Wlocznik.*
02341	Koninklijke Nederlandsche Stoomboot—Maatschappij B.V.: *Breda, Baarn.*
02358	A/S Ganger Rolf—A/S Bonheur—A/S Borga Den Norske Middelhavslinje A/S—A/S Jelolinjen: *Sea Bruin.*
02436	Alexander Shipping Company, Limited: *Banbury.*
02453	The Turnbull Scott Shipping Co., Ltd.: *Baxtergate, Skeldergate.*
02877	Nippon Yusen Kabushiki Kaisha: *Takasaka Maru, Tokitsu Maru.*
02918	Tokyo Tanker Co., Ltd.: *World Hitachizosen.*
03124	Florvik Compania Naviera S.A.: *Florentia.*
03878	Ingram Barge Co.: *Hines 264, J & 4000.*
04052	Ugland Shipping Co. A/S: *Lovinda.*
04136	Thomas Marine Company: *Ellis 1302.*
04150	Jan C. Uiterwyk Company, Inc.: *Laurie U.*
04558	Daiei Gyogyo Kabushiki Kaisha: *Daiei Maru No. 32.*
04562	Okada Kaiun Kabushiki Kaisha: *Maighty.*
04674	Pescanova, S.A.: *Noguerosa.*
05406	Coronet Shipping Limited: *Ettrick.*
05537	Empresa Navegacion Mambisa: *Carlos Manuel de Cespedes.*
05577	Far Eastern Shipping Company: *Khudozhnik Saryan, Orenburg.*
05607	Hannah Inland Waterways Corporation: Daryl C. Hannah.
06114	Masahei Yamamoto: Seishu Maru No. 8.
06129	Azov Shipping Co.: *Leninskiye Iskry, Komsomolets Adzharii, Victor Kurnatovskiy, Leon Popov, Skvortsov Stepanov, Polotsk.*

Certificate No.	Owner/Operator and vessel
06146	The Nippon Salvage Company, Limited: *Seiha Maru.*
06399	Tokumaru Kaiun K.K.: Hiroshima Maru, Haruna Maru No. 2.
06409	India Steamship Co., Ltd.: *Indian Faith, Indian Freedom.*
07640	Exxon Company U.S.A.: *Exxon Barge No. 311, Exxon Barge No. 314, Exxon Barge No. 321.*
07816	Kabushiki Kaisha Kyodugumi: *Sumi Maru 7001.*
07838	Marneptunia Armadora S.A. Panama: *Makron.*
08145	Nigerian Green Lines Ltd.: *Salamat Ambi.*
08530	Prompt Shipping Corporation, Ltd.: *Celebes Career.*
08615	Dong Sue Shipping Co., Ltd.: *Sharon.*
09047	R. A. Hadrian: *Cyprian.*
09589	Union Heung San Co., Ltd.: *Il Woo No. 3, Il Woo No. 7, Il Woo No. 51.*
09785	San Diego Transportation Company: *450–1.*
09238	Monrovia Carriers Company: *K. Z. Michalos.*
09971	Dong Il Shipping Co., Ltd.: *Ocean Ace, No. 16 Daitoku Maru.*
0997	Robinia Shipping Co., S.A.: *Mars Bell.*
10066	Suruga Kaiji Kabushiki Kaisha: *Silver Cardinal.*
10096	Ruys Bulk Transport N.V.: *Maaskerk, Maaskroon.*
10239	The Soo River Company: *George G. Henderson, Joan McCullough, E. J. Newberry.*
10472	J. & D. Damhof: *Wendy, Antares.*
10537	"Alfa" Fisser KG & Co.: *Bertha Fisser.*
10648	Freeport Cruise Lines Panama, Inc.: *Veracruz 1.*
10873	Packer Marine, Incorporated: *Doro 900.*
10878	Abundance Shipping Inc.: *Continental Monarch.*
10903	Romen Inc.: Irazu.
10913	Adrimar Compania Naviera S.A.: *Chloe.*
10947	Hope Bay Shipping Co., Ltd.: Agioi Victores.
10950	Birdie Maritime Inc.: *Toyota No. 22.*
10952	Transworld No. 6 Tanker Services, Inc.: Cys Fortune.
10961	Reading & Bates Exploration Co.: Leo M. Clark.
10963	Kusuji Kato: *Seiyu Maru No. 2.*
10967	Explorer Shipping Co., Ltd.: *Athina Zafirakis.*
10973	Lezina Shipping Company S.A.: *Paralos.*
10980	Parnis Shipping Enterprises Limited: Mimis N. Papalios.
10990	Silver Coast Second Compania Naviera S.A.: *Kandelfels.*
10992	Palm Star Lines Private Limited: *Palmstar Orchid.*
10994	Mr. H. Damhof: *Jan.*
10996	Hisaji Hamaguchi: *Kaiun Maru No. 8, Kaiun Maru No. 18.*
10997	Spanocean Line Ltd.: *British Wasa, Finnish Wasa, Scottish Wasa, Swedish Wasa, Cayman.*
10998	Schiffahrtsgesellschaft Jacob & Co. K.G.: *Olga Jacob.*
11003	Partenreederei MS "Carl Fisser": *Sunvreeland.*
11004	Oy Torlines AB: *Finnoak.*
11007	Sea Containers Limited: *Isbrit.*
11008	Anangel Triumph Compania Naviera S.A.: *Anangel Triumph.*
11010	Seven Seas Transport, Inc.: *Sevenseas Conqueror.*
11012	Dolphin Steamship Co. Ltd.: *Calliopi Carras.*
11013	Bay Transport Corporation: *Lica Maersk.*
11014	Berth Transport Corporation: *Marit Maersk.*
11015	Mitsui & Company Europe (Netherlands) B.V.: *Hermes 1.*
11016	Uiterwyk Lines Ltd.: *Johanna U, Drucilla U.*
11018	Phoenix Shipping Limited: *White Gardenia.*
11020	Leo Compania Naviera S.A.: *Scapwill.*
11021	Anchor Marine Enterprises Ltd.: *Joy.*
11022	Thales Shipping Inc.: *Eurosky.*
11024	Fern Shipping Company Limited: *Eastern Unity.*
11025	Tanaka Sangyo K. K.: *Shiga Maru.*
11027	Marbasa S.A.: *Kantzope.*
11028	Ermis Shipping Enterprises Inc.: *Ermis.*
11029	Stolt Pride Inc.: *Stolt Pride.*
11030	Golar Gas Carriers, Inc.: *Hill.*
11031	Puget Chip Carriers S.A.: *Sendai.*
11033	Olnavi S.P.A. Di Navigazione: Aralda.
11034	Tithis Shipping Co. S.A.: *Scaptrust.*
11036	Continental Steamship Company: *New Day.*
11037	Laconicos Gulf Shipping Co. S.A.: *Laconicos Gulf.*
11041	Bernhard Hanseen & Co.: *Varamis.*
11044	Jupiter Shipping Co., Ltd.: *Jupiter No. 1.*
11045	Euro Shipping Corp. *Euro Pride, Euro Priority.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-6667 Filed 3-8-76;8:45 am]

FAR EAST CONFERENCE ET AL.

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, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 19, 1976. 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:

Edward D. Ransom, Esq., Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Agreement No. 10110–4 is an application on behalf of the member lines of the Far East Conference, Pacific Westbound Conference, Trans-Pacific Freight Conference of Japan/Korea and the Japan/Korea-Atlantic & Gulf Freight Conference to extend the terms and conditions of the presently approved agreement through June 30, 1976. The terms and conditions of the arrangement remain unchanged and provide that the conference lines may cooperate and coordinate actions for the voluntary disposition of interrelated matters concerning the conferences at issue in Dockets Nos. 73-28 and 73-29, involving alleged rate disparities in the trades between Japan and the Pacific Coast, and the Atlantic and Gulf Coasts, respectively, of the United States.

Dated: March 3, 1976.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-6664 Filed 3-8-76;8:45 am]

[Docket No. 76–13]

LYKES BROS. STEAMSHIP CO., INC. VS. FAR EAST CONFERENCE, ET AL.

Filing of Complaint

MARCH 4, 1976.

Notice is hereby given that a complaint filed by Lykes Bros. Steamship Co., Inc. against the Far East Conference and its member lines was served March 4, 1976. The complaint alleges that respondent conference and its members have violated sections 14(b); 14 Third, 15 and 16 First of the Shipping Act, 1916 by permitting certain respondents to maintain minibridge tariffs in contravention of the basic conference agreement and the conference's dual rate merchants contract. The complaint further alleges that respondent minibridge carriers have additionally violated section 16 First of the Act by publishing and maintaining said minibridge tariffs.

Hearing on this matter shall commence on or before September 4, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-6665 Filed 3-8-76;8:45 a.m.]

PORT OF SEATTLE ET AL.

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, NW., 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 March 29, 1976. 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:

H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Agreement No. T-2323-6, between Port of Seattle (Port) and Japan Line, Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha, Ltd.; Showa Line, Ltd., and Yamashita-Shinnihon Steamship Co., Ltd., (the Lines), modifies the parties' basic agreement providing for the preferential use of certain property at the Port's Terminal 18. The purpose of the modification is to confirm extension of the term of the agreement for an additional two-year period. The maximum added annual compensation has been set at $10,557.23. Pending a court decision, Lines is withholding a one percent Business and Occupation Tax until such time as the tax is determined to be valid.

Dated: March 4, 1976.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-6663 Filed 3-8-76;8:45 am]

[Docket No. 75-8]

PUERTO RICAN FORWARDING CO., ET AL.

Adoption of Environmental Negative Declaration

By publication in the FEDERAL REGISTER of January 29, 1976, (41 FR 4356), notice was given that the Federal Maritime Commission's Office of Environmental Analysis had determined that environmental issues relative to the above referenced proceeding did not constitute major Federal actions 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 the preparation of a detailed environmental impact statement was not required under section 4332(2)(C) of NEPA.

Ten days were permitted for filing exceptions to the Negative Declaration. No exceptions have been filed.

Notice is hereby given that the Federal Maritime Commission has this date adopted the Environmental Negative Declaration.

By the Commission, March 1, 1976.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-6666 Filed 3-8-76;8:45 am]

OFFICE OF THE FEDERAL REGISTER

LIST OF ACTS REQUIRING PUBLICATION IN THE FEDERAL REGISTER

The basic provisions requiring or authorizing publication of documents in the FEDERAL REGISTER are contained in 5 U.S.C. 551-559 and 44 U.S.C. 1501-1511. The list of acts contemplated by 44 U.S.C. 1505(a)(3) beginning in 1936 are in Table III of the Finding Aids Volume of the Code of Federal Regulations. Notice is hereby given that the Office of the Federal Register is adding to the list the following acts enacted in 1975:

Description of act	*Citation*
Family Medicine and Malnutrition (Became law without approval of President on Dec. 25, 1970 in accordance with decision of U.S. Court of Appeals for District of Columbia Circuit, Aug. 14, 1974.)	Public Law 91-696; 84 Stat. 2081-1; 42 U.S.C. 295.
Tax Reduction Act of 1975	Public Law 94-12; 89 Stat. 34; 26 U.S.C. 1 et seq.
Summer Food Program for Children	Public Law 94-20; 89 Stat. 82; 42 U.S.C. 1731.
Travel Expense Amendments Act of 1975	Public Law 94-22; 89 Stat. 84; 5 U.S.C. 5701.
Securities Acts Amendments of 1975	Public Law 94-29; 89 Stat. 97; 15 U.S.C. 78a.
Emergency Compensation and Special Unemployment Assistance Extension Act of 1975.	Public Law 94-45; 89 Stat. 236; 26 U.S.C. 3304.
Emergency Housing Act of 1975	Public Law 94-50; 89 Stat. 249; 12 U.S.C. 2701.
Special Health Revenue Sharing Act of 1975	Public Law 94-63; 89 Stat. 304; 42 U.S.C. 246.
Atlantic Tunas Convention Act of 1975	Public Law 94-70; 89 Stat. 385; 16 U.S.C. 971.
Voting Rights Act of 1965, amendments	Public Law 94-73; 89 Stat. 400; 42 U.S.C. 1973b.
Railroad Unemployment Insurance Act amendments.	Public Law 94-92; 89 Stat. 461; 45 U.S.C. 351.
Developmentally Disabled Assistance and Bill of Rights Act.	Public Law 94-103; 89 Stat. 486; 42 U.S.C. 6062.
National School Lunch Act and Child Nutrition Act of 1966, amendment of 1975.	Public Law 94-105; 89 Stat. 511; 42 U.S.C. 1751 note.
Indians, certain tribes, lands in trust	Public Law 94-114; 89 Stat. 577; 25 U.S.C. 459.
Japan-United States Friendship Act	Public Law 95-118; 89 Stat. 603; 22 U.S.C. 2901.
National Guard technicians, civil service retirement.	Public Law 94-126; 89 Stat. 679; 5 U.S.C. 8334.
Older Americans Act amendments of 1975	Public Law 94-135; 89 Stat. 713; 42 U.S.C. 3056.
Federal Insecticide, Fungicide, and Rodenticide Act, extension.	Public Law 94-140; 89 Stat. 751; 7 U.S.C. 136d.
Education for All Handicapped Children Act of 1975.	Public Law 94-142; 89 Stat. 773; 20 U.S.C. 1401.
Defense Production Act Amendments of 1975	Public Law 94-152; 89 Stat. 810; 50 U.S.C. app. 2061 note.
Arts and Artifacts Indemnity Act	Public Law 94-158; 89 Stat. 844; 20 U.S.C. 971 note.
Father Marquette National Memorial, Mich., establishment.	Public Law 94-160; 89 Stat. 848; 16 U.S.C. 431 note.
Foreign assistance, discrimination against U.S. personnel.	Public Law 94-161; 89 Stat. 849; 22 U.S.C. 2292.
Energy Policy and Conservation Act	Public Law 94-163; 89 Stat. 871; 42 U.S.C. 6201 note.
International Women's Year, conference	Public Law 94-167; 89 Stat. 1003.
Appalachian Regional Development Act amendments of 1975.	Public Law 94-188; 89 Stat. 1079; 40 U.S.C. app. 1 note.
Sac and Fox Indians judgment funds	Public Law 94-189; 89 Stat. 1093.
Hells Canyon National Recreation Area, establishment.	Public Law 94-199; 89 Stat. 1117; 16 U.S.C. 460gg.
Home Mortgage Disclosure Act of 1975	Public Law 94-200; 89 Stat. 1125; 12 U.S.C. 2801.

FEDERAL RESERVE SYSTEM

AMERIBANC, INC.

Order Approving Merger of Bank Holding Companies

Ameribanc, Inc., St. Joseph, Missouri ("Ameribanc"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(5) of the Act (12 U.S.C. 1842(a)(5)) to merge with First American Bancshares, Inc., St. Joseph, Missouri ("First American"), under the charter and title of Ameribanc, Inc.

By Order dated December 31, 1974, the Board of Governors denied the subject application (40 FR 1568). Thereafter, on August 25, 1975, the Board granted a Request for Reconsideration filed by Applicant, pursuant to § 262.3(g)(5) of the Board's Rules of Procedure (12 CFR 262.3(g)(5)), whereby the Board agreed to reconsider the application.

Notice of the Board's action agreeing to reconsider the application to acquire First American and providing an opportunity for interested persons to submit comments and views has been given (40 FR 40213). The time for filing comments and views with respect to the application has expired. The Board has considered the application, together with all comments received, and the supplemental material submitted by Applicant in connection therewith, in light of the factors set forth in section 3(c) of the Act.

Ameribanc controls seven banks with aggregate deposits of approximately $208.3 million, representing 1.3 per cent of the deposits in commercial banks in Missouri, and is the tenth largest banking organization in the State.[1] First American controls five banks with aggregate deposits of $27.6 million, representing 0.2 per cent of the total commercial bank deposits in the State. Consummation of the proposed merger would increase Ameribanc's share of total deposits in the State to 1.5 per cent and would have no significant adverse effect upon the concentration of banking resources in Missouri.

Ameribanc and First American are each regional bank holding companies serving portions of northwestern Missouri. In its earlier Order denying the application of Ameribanc to merge with First American, the Board indicated that three of First American's five subsidiary banks (i.e., Bank of Edgerton, The First National Bank of Plattsburg, and First American Bank of Skidmore) were located in markets in which Ameribanc had no banking subsidiaries and, with respect to those subsidiaries, the Board concluded that the proposed merger would have no adverse effects on existing or potential competition. However, with respect to First American's other two subsidiary banks (The First National Bank of Stewartville and First American Bank of Union Star), the Board concluded generally that consummation of the proposal would have adverse effects on competition in the St. Joseph market.[2] Upon reconsideration of the entire record on the application, including the additional submissions by Applicant, the Board is of the view that the facts of record support approval of the subject application.

The Board continues to believe that consummation of the subject proposal insofar as it relates to First American's banking subsidiaries competing outside the St. Joseph banking market would have no adverse effects on competition. In regard to the St. Joseph market, the competitive effects are not as serious as they originally appeared. As noted above, First American has two subsidiaries in the St. Joseph market. Applicant, in an effort to rebut the Board's earlier conclusion, has argued that these two banks are outside the St. Joseph market. The Board does not agree; however, it appears that the amount of competition that exists between these banks and the subsidiaries of Ameribanc in the St. Joseph market is not significant. Both of Ameribanc's subsidiaries are located in the city of St. Joseph, while First American's subsidiaries are located on the periphery of the market some 19 and 18 miles, respectively, from Ameribanc's nearest subsidiary in St. Joseph. In view of the distances involved and the fact that Stewartsville Bank and Union Star Bank are relatively small banks primarily serving small, rural communities, it does not appear likely that significant competition would develop in the future between these banks and Applicant's subsidiaries in the St. Joseph market.

While consummation of the proposal would increase the concentration of banking resources in the St. Joseph market and foreclose the possibility that First American would develop as a more effective competitor in the St. Joseph market, it does not appear, in the Board's view, that the proposal would seriously affect the competitive structure in that market. Ameribanc would continue to face competitive pressure from four multibank holding companies, including subsidiaries of the State's largest, third largest, and sixth largest banking organizations. Moreover, even after consummation of the proposal, four other independent banks would remain available for acquisition by organizations not presently represented in the St. Joseph market. On the other hand, it appears that consummation of the proposal may have some beneficial effects on competition in that it would enhance the development of Applicant as a regional holding company serving the northwestern portion of Missouri. Thus, Applicant would be better able to compete with the larger holding companies that are now in the area or will enter it in the future. The Board regards such a development as favorable as it relates to fostering competition in this portion of Missouri.

On the basis of the foregoing and other facts of record, the Board concludes that consummation of the subject proposal would not have significantly adverse effects on existing competition nor would it foreclose the development of significant potential competition. Although the Board believes that the proposal may have some slight adverse effects on competition in the St. Joseph market, those effects when viewed in light of the other considerations reflected in the record are not so serious, in the Board's view, as to require denial of the subject proposal.

In regard to the other factors considered by the Board, it appears that the financial and managerial resources of Ameribanc and its subsidiaries are satisfactory and consistent with approval of the application. While the same conclusions generally apply with respect to those factors as they pertain to First American, the proposal would result in some positive benefits. Applicant has committed itself to supplying a total of $270,000 in additional capital to the subsidiaries of First American. Moreover, there is a need to provide for management succession and greater management depth at some of First American's subsidiaries, and Ameribanc appears to possess the resources to fulfill such needs. The Board regards such banking factor considerations as lending some weight toward approval of the application.

Considerations relating to convenience and needs also lend weight toward approval of the application. First American has limited capabilities in terms of the banking services that it is able to offer the residents of the areas in which its subsidiaries are located. However, as subsidiaries of Ameribanc, these banks will be able to expand and improve their services by drawing on the expertise and resources that Ameribanc possesses. In this regard, Ameribanc proposes to make various trust services available and to broaden agricultural lending and management services at these banks. In addition, Ameribanc plans to establish other banking services at First American's subsidiaries, including overdraft checking accounts, check guarantee cards, and individual retirement accounts, which should serve to benefit the residents of the areas served by these banks. In the Board's view, these considerations relating to convenience and needs lend weight toward approval of the proposal and are sufficient to outweigh any slight adverse competitive effects that may result from the consummation thereof. Accordingly, it is the Board's judgement that the proposal is in the public interest and that the application should be approved.

On the basis of the record in the case,[4] the application is approved for the rea-

[1] All banking data, unless otherwise indicated, are as of June 30, 1975, and reflect bank holding company formations and acquisitions approved as of February 6, 1976.

[2] The St. Joseph banking market is approximated by Buchanan County (less Rush and Bloomington townships), Andrew County, and western DeKalb County, all in Missouri, and northern Doniphan County in Kansas.

[4] In its consideration of the subject application, the Board also considered the comments of Mr. John F. Schoenfelder, a shareholder of Ameribanc. Having examined his submission, the Board is of the view that they do not warrant denial of the application.

sons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors, effective[5] March 1, 1976.[6]

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-6610 Filed 3-8-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

SUBPANEL ON SCIENCE AND ENGINEERING TECHNICIAN EDUCATION

Meeting

In accordance with the Federal Advisory Committee Act. P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Science and Engineering Technician Education of the Advisory Panel for Science Education Projects.

Date: March 29 and 30, 1976.

Time: 9 a.m. to 4 p.m. each day.

Place: Rm. 651, National Science Foundation, 5225 Wisconsin Avenue, NW., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. William H. Adams, Program Manager, Science and Engineering Technician Education Program, Rm. 620-W, National Science Foundation, Washington, D.C. 20550, telephone 202-282-7910.

Purpose of subpanel: To provide advice and recommendations concerning support in the Science and Engineering Technician Education Program.

Agenda: To review and evaluate specific education proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4), (5), and (6) of 5 U.S.C. 552(b), Freedom of Information Act.

Authority to close meeting: The determination made by the Committee Management Officer, pursuant to provisions of Section 10(d) of Public Law 92-463.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MARCH 4, 1976.

[FR Doc.76-6623 Filed 3-8-76;8:45 am]

[5] Voting for this action: Chairman Burns and Governors Mitchell, Holland, Wallich, Coldwell, Jackson, and Partee.

[6] Board action was taken before Governor Gardner became a Board Member.

SUBPANEL ON COMPREHENSIVE ASSISTANCE TO UNDERGRADUATE SCIENCE EDUCATION (CAUSE)

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Comprehensive Assistance to Undergraduate Science Education (CAUSE), Advisory Panel for Science Education Projects.

Dates and times: March 18, 1976—7:30 p.m. to 10:00 p.m. March 19 and 20—9 a.m. to 5 p.m. each day.

Place: Sheraton Park Hotel, Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. John A. Maccini, Program Manager, CAUSE, Rm. W-408, National Science Foundation, Washington, D.C. 20550, tel: (202) 282-7736.

Purpose of subpanel: To provide advice and recommendations concerning support in the CAUSE Program.

Agenda: To review and evaluate specific education proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a properietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4), (5), and (6) of 5 U.S.C. 552(b), Freedom of Information Act.

Authority to close meeting: The determination made by the Committee Management Officer pursuant to provisions of Section 10(d) of Public Law 92-463.

Reason for late notice: Two Subpanel meetings were scheduled for March 10-12, 1976, to review and evaluate proposals submitted to the CAUSE Program and the meeting notice was published in the FEDERAL REGISTER on February 23. These meetings were planned well in advance of the closing date for proposals being submitted and it was felt that two meetings would be sufficient to review the number of proposals that were expected. However, because of the actual number of proposals that were received, a third meeting is necessary in order to have all of the proposals reviewed. With the imminence of the end of the fiscal year, it is necessary that the third meeting be held as soon after the March 10-12 meetings as possible.

FRED K. MURAKAMI,
Committee Management Officer.

MARCH 4, 1976.

[FR Doc.76-6773 Filed 3-8-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

CANADIAN JAVELIN, LTD.

Suspension of Trading

MARCH 3, 1976.

The common stock of Canadian Javelin, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from March 4, 1976 through March 13, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-6663 Filed 3-8-76;8:45 am]

[Rel. No. 9187; 812-3905]

FUND RESEARCH AND MANAGEMENT, INC.

Filing of Application for an Order Exempting Proposed Transactions

MARCH 3, 1976.

Notice is hereby given that Fund Research and Management, Inc., "(Applicant"), 28 State Street, Boston, Massachuetts 02109, filed an application on February 2, 1976, and an amendment thereto on February 23, 1976, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting from the provisions of section 22(d) of the Act a proposal to sell redeemable securities of Pioneer Fund, Inc., and Pioneer II, Inc. (the "Funds"), both open-end, diversified management investment companies registered under the Act, in the Federal Republic of Germany ("Germany") at a price below the current public offering price described in the prospectus. 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.

Applicant, a broker-dealer registered under the Securities Exchange Act of 1934, is said to be the sole underwriter for the Funds. It is stated that Applicant offers and sells shares of the Funds not only in the United States but also, through local banks and dealers in Germany, to citizens of that country ("German Nationals"). Under the Applicant's proposal, shares of each of the Funds would be sold in Germany, to German Nationals, for a period of 60 days commencing on April 1, 1976 (or, if the order requested by the Applicant has not then been issued, as soon as possible after the issuance of said order) at the sales charges indicated on the following table:

Amount of purchase	Sales charges as a percent of offering prices	
	Current	Proposed
Less than $12,500	8.50	4.00
$12,500 but less than $25,000	7.50	4.00
$25,000 but less than $50,000	6.00	4.00
$50,000 but less than $100,000	4.50	4.00
$100,000 but less than $200,000	3.50	3.50
$200,000 but less than $400,000	2.50	2.50
$400,000 but less than $600,000	2.00	2.00
$600,000 or more	1.00	1.00

As the table indicates, the proposed reductions would apply only to purchases of shares at aggregate offering prices of less than $100,000.

Section 22(d) of the Act, in part, prohibits a principal underwriter or dealer from selling any redeemable security which is being currently offered to the public by or through an underwriter to any person except a dealer, principal underwriter or the issuer, except at a current public offering price described in the prospectus relating to such security.

Applicant asserts that a certain 1969 German law has resulted in adverse tax consequences to German Nationals holding shares in United States investment companies which are not registered under German laws. It is said that, since most United States investment companies which at one time sold shares in Germany no longer do so and have not registered under said German law, many German Nationals holding shares in such investment companies have become subject to such adverse tax consequences with respect to such shares; and that, accordingly, many German Nationals are being advised to liquidate their investments in shares of unregistered United States investment companies.

The Funds are said to be registered foreign investment companies under the applicable laws of Germany.

Applicant states that its proposed reduction of sales charges is intended to afford such German Nationals an opportunity to reinvest the proceeds of such liquidations in shares of the Funds at a reduced sales charge for a limited period of time in order to attract investors who had previously paid a substantial sales charge on investments which have become impractical because of changes in the German laws. Applicant asserts that sales charges on purchases of shares of German investment companies are usually between 3 percent and 5 percent of the offering price and that German Nationals may transfer their investments from unregistered United States investment companies to German investment companies unless afforded the opportunity to purchase shares of United States investment companies at reduced sales charges.

In support of its proposal, Applicant asserts that foreign investment companies selling shares in Germany are subject to regulation by the Federal Office for Supervision of Banks. Among the requirements said to be imposed upon such companies are (1) that a prospectus printed in German be delivered to purchasers of such shares; (2) that annual and semi-annual reports, and dividend and capital gains information, relating to such companies and shares, be published in the German Federal Gazette; and (3) that certified financial statements of any such company's investment adviser be filed annually.

Applicant represents that it has requested an opinion of German counsel that the proposed reduction in sales charges would be in compliance with applicable German laws and would meet the requirements of the appropriate German authorities; and that such opinion will be forwarded to the Commission.

Applicant asserts further that investments by Germans in shares of United States investment companies are in the interest of the United States, since such investments improve the international balance of payments of the United States and since German Nationals pay nonresident United States income taxes on dividend distributions of United States investment companies. If German Nationals were to liquidate their investments in shares of unregistered United States investment companies, and reinvest the proceeds in shares of German investment companies, it is said that the United States balance of payments would be adversely affected and that the flow of income tax payments from German Nationals would be diminished.

Applicant submits that additional sales of shares of the Funds to German Nationals may benefit United States holders of such shares by increasing the Net Investment Income per share. Net Investment Income per share is the difference between Gross Investment Income per share and Operating Expenses per share. It is asserted that, as additional shares of the Funds are sold, Gross Investment Income per share will remain substantially unchanged if the proceeds of such sales are invested at a rate of return comparable to previous investments of the Funds; that as fixed expenses are spread over a greater number of shares, Operating Expenses per share will decrease, Net Investment Income per share will increase and additional amounts will therefore be made available for payment as dividends to shareholders of each of the Funds.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, exempt any transaction or class of transactions from any provision or provisions of the Act if it finds that 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 March 26, 1976 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 shall 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 Applicant 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 application 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 A. FITZSIMMONS,
Secretary.

[FR Doc.76-6669 Filed 3-8-76;8:45 am]

[Rel. No. 19415; 70-5754]

OHIO EDISON CO.

Proposed Issue and Sale of Common Stock Pursuant to Dividend Reinvestment and Stock Purchase Plan; Request for Exception From Competitive Bidding

MARCH 2, 1976.

Notice is hereby given that Ohio Edison Company ("Ohio Edison"), 47 North Main Street, Akron, Ohio 44308, an electric utility company and a registered holding company, has filed with this Commission a post-effective amendment to its declaration, previously filed in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration as amended by the post-effective amendment, summarized below, for a complete statement of the proposed transaction.

By order dated December 19, 1975 (HCAR No. 19306), this Commission permitted the declaration previously filed by Ohio Edison in this matter to become effective and thereby authorized Ohio Edison to amend its Articles of Incorporation to eliminate the preemptive rights of shareholders whenever common stock is issued to any Ohio Edison shareholders pursuant to a plan under which such shareholders can reinvest their dividends or amounts of cash in Ohio Edison common stock. This amendment was approved by Ohio Edison shareholders at a special meeting on December 19, 1975.

Ohio Edison now proposes to issue and sell, from time to time through April 30, 1977, up to 250,000 shares of its authorized but unissued common stock, par values $9 per share ("additional common stock"), pursuant to a Dividend Reinvestment and Stock Purchase Plan

("Plan") open to all of Ohio Edison's common stockholders. It is stated that the purchase price of the additional common stock will at no time be less than par, and otherwise will be the average of the closing sale price for Ohio Edison common stock on the New York Stock Exchange during the five trading days ending with the investment date, which will be the last business day of each month (or ending with the next preceding day on which the New York Stock Exchange is open, if it is closed on the investment date). Under the Plan, participating shareholders will be able to acquire shares of the additional common stock at the prevailing purchase price by (1) having the cash dividends on their shares of stock automatically reinvested, (2) continuing to receive the cash dividends and making optional cash payments of not less than $25 per payment up to maximum of $3,000 per quarter, or (3) investing both the cash dividends and such optional cash payments.

It is anticipated that the Plan will be administered by Ohio Edison, which will hold the shares purchased through the Plan in its own name as agent for each participating stockholder until such time as a certificate or certificates representing the shares credited to his Plan account are issued (either upon withdrawal from the Plan or upon demand without withdrawal) in the stockholder's name. Participating stockholders will retain all voting rights relating to shares credited to their Plan accounts, and whole shares will only be voted in accordance with the instructions of each stockholder whose account they are credited.

Ohio Edison intends that the Plan will replace the Systematic Investment Service ("existing plan") of Bankers Trust Company, pursuant to which cash dividends and/or optional cash payments of participating stockholders are reinvested, through open market purchases, in Ohio Edison common stock.

It is stated that the purposes of the Plan are to provide Ohio Edison stockholders with a method of acquiring additional shares of common stock at a price equal to market value without payment of any brokerage commissions or service charges, which are necessarily incurred under the existing plan, and to provide Ohio Edison with additional funds, since the proceeds from purchases under the Plan will flow directly to Ohio Edison rather than into the open market as under the existing plan. It is anticipated that the proceeds from the issuance of the additional common stock will be applied to (i) construct, complete, extend, renew or improve Ohio Edison's facilities, (ii) improve its services, (iii) reduce its unsecured short-term debt, or (iv) reimburse its treasury for expenditures made for such purposes.

Ohio Edison considers that the issue and sale of the additional common stock through the reinvestment of dividends is excepted from the competitive bidding requirements of Rule 50 by virtue of paragraph (a)(1) of that rule. Also, Ohio Edison requests that the issue and sale of the additional common stock pursuant to the optional cash payment of the Plan be excepted from the competitive bidding requirement by virtue of a finding by this Commission under Rule 50 (a)(5).

The fees and expenses to be incurred by Ohio Edison in connection with the proposed transaction will be supplied by amendment. It is stated that the Public Utilities Commission of Ohio has jurisdiction over the proposed issue and sale of the additional common stock and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 25, 1976, 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, as amended by said post-effective amendment, 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 applicant 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 amended by said post-effective amendment, or as it may be further 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.76-6670 Filed 3-8-76;8:45 am]

[Rel. No. 19416; 70-5812]

OHIO EDISON CO. AND PENNSYLVANIA POWER CO.

Proposed Issue and Sale of Preferred Stock by Subsidiary Through Competitive Bidding and Issue and Sale of Common Stock by Subsidiary to Holding Company

Notice is hereby given that Ohio Edison Company ("Ohio Edison"), 47 North Main Street, Akron, Ohio 44308, an electric utility company and a registered holding company, and its electric utility subsidiary company, Pennsylvania Power Company ("Penn Power"), 1 East Washington Street, New Castle, Pennsylvania 16103, have filed an application-declaration, and an amendment thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b), 9(a), 10, 12(c) and 12(f) of the Act and Rules 42, 43 and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

Penn Power proposes to issue and sell up to 80,000 shares of a new series of preferred stock, $100 par value ("preferred stock"), by competitive bidding. The bids to be solicited will specify (i) the price of the preferred stock, which shall not be less than $100 nor more than $102.75 per share, (ii) the dividend rate, which shall be a multiple of .04 percent and (iii) the amount to be paid as underwriting compensation if the purchaser or purchasers of the preferred stock propose to make a public offering thereof.

Terms of the preferred stock may include provisions for a mandatory sinking fund to retire a certain number of shares annually beginning in 1981, subject to certain conditions. Terms of the sinking fund may also permit Penn Power, at its option, to retire an additional number of shares annually. Terms of the preferred stock will include a prohibition, until April 1, 1981, against refunding the issue with the proceeds of funds borrowed at a lower effective interest cost or derived from the issuance of other stock ranking, as to dividends or assets, prior to or on a parity with the preferred stock at a lower effective dividend cost.

Penn Power also proposes to issue and sell to Ohio Edison, and Ohio Edison proposes to purchase from Penn Power, 280,000 shares of its authorized but unissued common stock ("common stock"), par value $30 per share, for its aggregate par value of $8,400,000.

Penn Power proposes to apply the proceeds from the sales of the preferred and common stock to pay for construction and acquisition of new facilities, to repay a portion of bank loans (estimated to aggregate $8,400,000 at the time of the sale of the common and preferred stock in April 1976) which were incurred for such purposes and to reimburse its treasury in part for funds expended for such purposes.

It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed transactions and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed sale of the common stock are estimated at $2,200, including legal expenses of $1,000. Fees and expenses to be incurred in connection with the proposed sale of preferred stock are estimated at

$100,000, including legal fees of $18,500, accountants' fees of $16,000 and printing expenses at $39,000. Fees of counsel to the successful bidder will be supplied by amendment.

Notice is further given that any interested person may, not later than March 29, 1976, 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 application-declaration, as amended, 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 applicants-declarants at the above-stated addresses, 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 application-declaration, as amended, or as it may be further amended, may be granted and 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.76-6671 Filed 3-8-76;8:45 am]

[File No. 500-1]

OMEGA-ALPHA, INC.

Suspension of Trading

FEBRUARY 19, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, the 4¾ percent convertible subordinated debentures due 1992, the 6½ percent subordinated due 1988 and all other securities of Omega-Alpha, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from February 20, 1976 through February 29, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-6672 Filed 3-8-76;8:45 am]

[File No. 500-1]

OMEGA-ALPHA, INC.

Suspension of Trading

FEBRUARY 27, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, the 4¾ percent convertible subordinated debentures due 1992, the 6½ percent subordinated due 1988 and all other securities of Omega-Alpha, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from March 1, 1976 through March 10, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-6673 Filed 3-8-76;8:45 am]

[Rel. No. 9186; 812-3899]

PRUDENTIAL INSURANCE COMPANY OF AMERICA ET AL.

Filing of Application for Modification of Order

MARCH 2, 1976.

Notice is hereby given that the Prudential Insurance Company of America ("Prudential"), Prudential Plaza, Newark, New Jersey 07101, a New Jersey Mutual Life insurance company, on its own behalf and as sponsor and depositor of Prudential's Investment Plan Account ("IPA"), a separate account of Prudential registered as a unit investment trust under the Investment Company Act of 1940 ("Act") and Prudential's Gibraltar Fund ("Fund"), The Prudential Insurance Company of America, Financial Security Program Office, P.O. Box 2925, Phoenix, Arizona 85062, registered as an open-end management investment company under the Act, together with IPA and Fund (hereinafter collectively referred to as "Applicants") filed an application on January 20, 1976, and an amendment thereto on February 18, 1976, for an order modifying an order of the Commission dated August 6, 1969, as amended on August 27, 1969, and modified on May 18, 1973, (Investment Company Act Release Nos. 5767, 5796 and 7822). All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below. IPA is a separate account of Prudential established to fund variable annuities during their accumulation period by the issuance of Systematic Investment Plan Contracts ("Contracts"). The assets of IPA consist entirely of shares of the Fund. The Fund does not offer shares to the public. It sells shares only to Prudential and to separate accounts of Prudential.

The Commission's order of August 9, 1969, exempted Applicants from various provisions of the Act and approved an offer of exchange. Under the terms of the order, all of the exemptions granted by the Commission and its approval of the offer of exchange remain in effect only so long as there is no increase in the charges made in connection with IPA, Prudential's Annuity Plan Account (APA) and the Fund.

The costs of administering IPA and the Contracts are borne entirely by Prudential. Prudential represents that, when the administrative charges described above were initially fixed, it was anticipated that they would be approximately equal to the actual cost of administering IPA and the Contracts, but, in fact, the actual costs incurred for this purpose have been substantially higher than the aggregate charges. As a result, Prudential suffered substantial losses in 1974 and 1975. Prudential represents that unless the charges are increased it will continue to suffer substantial losses.

The Contracts do not provide for a guarantee of expenses by Prudential, but they do provide that changes may be made in the administrative and custodial charges upon 90 days' written notice to existing participants. Prudential and IPA propose to make changes in the administrative and annual custodial charges. They propose to increase the annual administrative charge as follows:

[In percent]

	Current	Proposed
1st $250,000,000	0.375	0.750
Next $250,000,000	.325	.550
Next $500,000,000	.275	.375
Over $1,000,000,000	.225	.225

They propose to reduce the annual custodial charge from $1.25 to $0.95 per quarter. The effect of these changes will be to increase the relative share of the administrative costs borne by participants who hold a larger number of shares and, correspondingly, to decrease the portion of those costs borne by the participants with a lesser number of shares, although, except for those persons holding a very small number of shares, the effect will be to increase the amount of the annual charge. Prudential represents that the proposed change in charges will decrease its anticipated losses but will not eliminate them entirely.

Prudential states that on the basis of a comparison with the charges made under several other variable annuity contracts, constituting a representative sample of contracts offered, if the application is granted, the aggregate charges made by Prudential under the Contracts will compare favorably with the aggregate charges made by such other issuers. Prudential further states that net asset values under the Contracts will compare favorably with net asset values under variable annuity contracts offered by other issuers, assuming identical periodic purchase payments and investment results.

The prospectus describing the Contracts states that the administrative and

annual custodial charges are intended to reimburse Prudential for development, administrative and modification costs and that it intends to maintain these charges at a level not in excess of the amount required to achieve this purpose. If the proposed changes are put into effect, Prudential states that this representation will continue to be true, that it will continue to monitor its experience in connection with the administration of IPA, and that, if it should be possible to reduce these charges, it will do so. Prudential also represents that it will inform all participants, in connection with the written notice that must be given at least 90 days prior to the effective date of the increase in charges, that it will waive the $1 liquidation fee for all redemptions that are made during this 90-day period.

On the basis of the foregoing facts and representations, Applicants request modification of the Commission's order of August 6, 1969, as previously amended and modified, so that approval of the exchange offer and the exemptions granted therein will remain in effect after the administrative charges made against the net assets of IPA are increased in the manner set forth above. Section 6(c) of the Act provides, in pertinent part that the Commission may conditionally or unconditionally exempt any transaction from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that 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 March 30, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this 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 thereunder. 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 first-class mail upon the Applicants at the address stated above. Proof of such service (by affidavit, or in the 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 application will be issued as of course following March 30, 1976, unless the Commission 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.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–6674;Filed 3–8–76;8:45 a.m.]

[Rel. No. 19417; 70–5741]

SOUTHWESTERN ELECTRIC POWER CO.

Proposed Acquisition of Unit Train Repair Shop

MARCH 3, 1976.

Notice is hereby given that Southwestern Electric Power Company ("SWEPCO"), P.O. Box 1106, Shreveport, Louisiana 71156, an electric utility subsidiary company of Central and South West Corporation, a registered holding company, has filed an application and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 9(a) and 10 of the Act as applicable to the following proposed transaction. All interested persons are referred to the application, as amended, which is summarized below, for a complete statement of the proposed transaction.

SWEPCO proposes to acquire, construct and operate a unit train repair shop ("shop") near Alliance, Nebraska. The shop will be used for the maintenance and repair of railroad cars which SWEPCO plans to use for transportation of coal to SWEPCO generating plants.

SWEPCO presently has no generating plants which are coal fired, but SWEPCO states that it has under construction or in planning four 528 MW coal fired units ("units"). The first unit, at SWEPCO's Welsh plant near Daingerfield, Texas, is scheduled for service in 1977. The second unit, Flint Creek (which is to be 50 percent owned by Arkansas Electric Cooperative, Inc.) will be near Siloam Springs in northwest Arkansas and is scheduled for operation in 1978. The third and fourth units are to be installed at the Welsh plant in 1981 and 1983.

To secure an adequate supply of low sulfur coal for these units, SWEPCO states that it has entered into a contract with Amax Coal Company to supply its coal requirements for the first 25 years of operation for each of the units. The coal is expected to come from an Amax mine near Gilette, Wyoming, a distance of about 1,500 and 1,100 rail miles from the Welsh and Flint Creek plants, respectively.

SWEPCO states that transportation for the coal will have to be provided by unit trains. Accordingly, SWEPCO has concluded a letter of understanding with certain railroads to haul the coal by unit train and has ordered 605 gondola rail cars to be required by SWEPCO and used for the unit trains to serve the first 2 coal fired units. SWEPCO further states that acquisition and financing of the rail cars will be the subject of further filings with this Commission.

SWEPCO states it has been advised by its rail carriers that the railroads will not have facilities to perform the necessary maintenance on the coal cars in the foreseeable future and that SWEPCO should therefore make other arrangements for this service. SWEPCO states it has received and analyzed maintenance proposals from two leading rail equipment suppliers and operators which resulted in estimated average maintenance costs of $4,360 and $4,380 per car per year, respectively. SWEPCO has studied the possibility of performing repairs and maintenance on the cars in a shop owned and operated by SWEPCO itself and has estimated that it could perform such services at a cost of approximately $450 per car per year less than the independent operators.

It is stated that the shop would initially be designed to service only SWEPCO's cars, although it could also be capable of use on a regular basis by SWEPCO's affiliated company, Public Service Company of Oklahoma, which expects to have unit trains beginning in 1979. Use of the shop by an affiliate of SWEPCO would be the subject of a further filing with this Commission. No use of the shop by non-affiliates of SWEPCO is planned.

The cost of the shop, including the land, building and equipment, is estimated at $3,430,000. Any financing, leasing or conditional purchase arrangements of the shop will be subject of further amendments filed in this proceeding and will be the subject of a further notice to be issued by the Commission.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses to be incurred in connection with the proposed transaction are estimated at $4,500, including legal fees of $2,500.

Notice is further given that any interested person may, not later than March 31, 1976, 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 application, as amended, 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 applicant 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 application, as amended, or as it may be further amended, may be granted 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.76–6675 Filed 3–8–76;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V-76-3]

TURNER CONSTRUCTION CO.

Application for Variance and Interim Order; Grant of Interim Order

I. *Notice of application.* Notice is hereby given that Turner Construction Company, 150 East 42nd Street, New York, New York 07921 has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1926.154 (d) which prohibits the use of solid fuel salamanders in buildings and on scaffolds.

The address of the place of employment that will be affected by the application is as follows:

A T & T Long Line, Headquarters Construction Project, Bedminster, New Jersey.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1926.154(d) which prohibits the use of solid fuel salamanders in buildings or on scaffolds.

The applicant states that a heating device is needed in temperature below 50° F in order that the concrete be properly cured. Therefore, the applicant requests a variance to allow the use of coal or coke-fired salamanders in accordance with ANSI A10.10–1970 pp. 4 and the following conditions:

(a) *Coverage.* Solid fuel salamanders may be used only as temporary heating devices for the curing of concrete in the construction of multistoried fireproof structures.

(b) *General requirements.* (1) All solid fuel salamanders shall be designed and constructed for use with solid fuel, that is coal or coke.

(2) Solid fuel salamanders shall be equipped with a cover, designed as part of the unit, to prevent spillage or burning material in case of tipovers.

(3) Salamanders shall be assembled in accordance with the instructions issued by the manufacturer.

(4) The safe guards engineered into the product shall be maintained and any requirement shall be equivalent thereto.

(5) Salamanders shall be stored in such a manner as to prevent deterioration or damage to the unit.

(c) *Operation.* (1) Manufacturer's instructions shall be followed by the user.

(2) Each time a salamander is placed in operation it shall be checked to insure that it is functioning properly. Its operation shall be checked periodically thereafter.

(3) When concentrations of carbon monoxide attain quantities greater than 50 parts per million (0.005 percent) to air volume at employee breathing levels the salamander shall be extinguished, unless additional natural or mechanical ventilation is provided to reduce the carbon monoxide content to permissible limits.

(4) Tests for presence of carbon monoxide shall be made by a qualified person within one hour after the start of each shift and at least every 3 hours thereafter. If concentrations of carbon monoxide reach 30 parts per million to air volume, test shall be made more frequently to determine if there is a continuing increase of carbon monoxide concentration.

(5) Records of all tests, including the date, time, results obtained, and person making tests, shall be maintained.

(6) No persons shall be permitted to be within the area being heated by the salamanders except under the following circumstances: When tending the salamanders; when testing the atmosphere; or in emergency situations.

(7) No employee shall be permitted to enter the heated area until notification is given to another person located outside. Periodic checks shall be made to insure the health and safety of employees entering the heated area.

(8) When a salamander is being used, the responsibility for its operation and maintenance shall be assigned to a qualified employee.

(9) Salamanders shall not be moved, handled, or serviced while hot or burning, or while component parts are hot to the touch.

(10) Salamanders, when in use, shall be set level with the horizontal unless otherwise permitted by the manufacturer's markings. Salamanders shall be designed so as not to tip over when placed on a surface inclined 25° to the horizontal.

(11) If equivalent protection and safety is afforded by alternative design, the 25° limitation may be reduced.

(12) Salamanders not suitable for use on wood floors shall not be set directly upon them or other combustible materials. When such salamanders are used they shall rest on suitable heat insulating material or at least 1-inch concrete or equivalent. The insulating material shall extend beyond the salamander 2 feet or more in all directions.

(13) Salamanders used in the vicinity of tarpoulius, canvas, or similar coverings shall be located a safe distance from coverings and other combustible materials. The coverings shall be securely fastened to prevent ignition of the covering or upsetting of the salamanders due to wind action on the covering or other material.

(14) Salamanders in use shall be protected to prevent flame extinguishment.

(d) *Ventilation.* (1) Fresh air shall be supplied in sufficient quantities to maintain the health and safety of employees. Where natural means for fresh air supply is inadequate, mechanical ventilation shall be provided. Particular attention shall be given to confined spaces and pockets where heat and fumes may accumulate and employees may be present (roof areas, peaks, basements).

(2) When salamanders are used in confined spaces, special care shall be taken to provide sufficient ventilation in order to assure proper combustion, maintain the health and safety of employees, and limit temperature rise in the area.

(e) *Fueling.* (1) Salamanders shall be refueled only by a person trained in such operations.

(2) Only a 1 days supply of heater fuel shall be stored inside a building in the vicinity of the salamander. General fuel storage shall be outside the structure.

(3) All fuel storage shall be maintained a minimum of 25 feet from the source of ignition.

(f) *Maintenance.* (1) The user shall comply with the maintenance instructions as provided by the manufacturer.

(2) Equipment showing evidence of deterioration or damage that constitutes a safety or health hazard shall be removed from service.

(3) Salamander repairs shall be performed in accordance with the manufacturer's recommendations, and replacement parts shall be equal to, the equivalent of, or the same as the original salamander equipment.

A copy of the application will be made available for inspection and copying upon request at the Office of Compliance Programming, U.S. Department of Labor, 200 Constitution Ave, N.W., Room N3603, Washington, D.C. 20210, and at the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036.

U.S. Department of Labor, Occupational Safety and Health Administration, Building T3, Belle Mead GSA Depot, Belle Mead, New York 08502.

U.S. Department of Labor, Occupational Safety and Health Administration, 90 Church Street, Room 1405, New York, New York 10007.

All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views and arguments relating to the pertinent application no longer than April 8, 1976. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than April 8, 1976, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Compliance Programming at the above address.

II. *Interim Order.* It appears from the application for a variance and interim order and from supporting data filed by

Turner Construction that by using solid fuel salamanders under the conditions stated the applicant could provide employment and places of employment as safe and healthful as that which would prevail if liquid fuel salamanders were used. It further appears that an interim order is necessary to prevent undue hardship to the applicant and the employers pending a decision on the variance. Therefore, it is ordered, pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, 29 CFR 1926.2, and 29 CFR 1905.11(c) that Turner Construction Company be, and it is hereby authorized to use solid fuel salamanders, while following the conditions listed in its application at the jobsite located in Bedminster, New Jersey notwithstanding the prohibition in 29 CFR 1926.154(d).

The Turner Construction Company shall give notice of this interim order to employees affected thereby, by the same means required to be used to inform them of the application for a variance.

Effective date. This interim order shall be effective as of March 9, 1976, and shall remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C., this 2d day of March 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-6690 Filed 3-8-76;8:45 am]

Office of the Secretary

[TA-W-350]

INTERNATIONAL SHOE CO., ST. CLAIR, MISSOURI

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-350; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 21, 1975 in response to a worker petition received on November 21, 1975 which was filed by the United Shoe Workers of America on behalf of workers and former workers producing wood heel coverings, platform coverings, bottom stockfitting, outsoles, and box toes at the St. Clair, Missouri plant of the International Shoe Company, St. Louis, Missouri.

The notice of investigation was published in the Federal Register on December 4, 1975 (40 FR 56747). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of The International Shoe Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales, production, or both, of such firm or subdivsion have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers at the St. Clair plant of the International Shoe Company began to decline in November, 1974. The average number of production workers declined 26 percent in the first eleven months of 1975 compared to the first eleven months of 1974.

Sales or Production, or Both, Have Decreased Absolutely. Production at the St. Clair plant of the International Shoe Company is part of an integrated operation. All products are used by other plants of the International Shoe Company in the production of finished shoes.

Total sales of men's shoes by International Shoe declined 16 percent from 1973 to 1974 and declined 15.1 percent from 1974 to 1975.

Total sales of women's shoes by International Shoe increased 1 percent from 1973 to 1974 and declined 29.6 percent from 1974 to 1975.

Increased Imports Contributed Importantly. Imports of women's and misses' nonrubber footwear increased their share of the market in each year from 1971 to 1974. The ratio of imports to domestic production rose from 109.8 percent in 1973 to 110.1 percent in 1974 while the ratio of imports to domestic consumption was 52.4 percent in 1973 and 1974. The ratios of imports to domestic production and consumption rose from 105.0 percent and 52.4 percent respectively in the first eight months of 1974 to 115.5 percent and 53.6 percent respectively in the first eight months of 1975.

Imports of men's nonrubber footwear increased in each year from 1971 to 1974. Imports increased 10 percent from 1973 to 1974 and increased 2 percent in the first seven months of 1975 from the same period in 1974.

The evidence developed during the Department's investigation indicated that production and employment at the St. Clair plant of the International Shoe Company were adversely affected by imports of men's and women's shoes.

Production at the St. Clair plant is part of an integrated operation. All products of the St. Clair plant are used by other plants of International Shoe in the production of finished men's and women's shoes. Retail customers of International Shoe indicated that they had decreased purchases of women's and men's shoes produced by International while increasing purchases of imported goods.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's and women's shoes produced by the International Shoe Company contributed importantly to the total or partial separation of the workers at the St. Clair plant. In accordance with the provisions of the Act, I make the following certification:

"All employees at the St. Clair, Missouri, plant of the International Shoe Company, St. Louis, Missouri who became totally or partially separated from employment on or after November 13, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974"

Signed at Washington, D.C. this 25th day of February 1976.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-6591 Filed 3-8-76;8:45 am]

[TA-W-363]

MODA CONTRACTING CORP., NEW YORK, NEW YORK

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-363: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 28, 1975 in response to a worker petition received on November 28, 1975 which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's suits and sportcoats at Moda Contracting division of Petrocelli Clothes, Inc., New York, New York. The investigation was expanded to include Petrocelli Clothes itself and its Emkay Trouser Shop, producing men's suit pants and trousers.

The notice of investigation was published in the FEDERAL REGISTER on December 18, 1975 (40 FR 58704-58705). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Petrocelli Clothes, its customers, the Clothing Mnaufacturers Association of the U.S.A., the U.S. Department of Commerce, the U.S. International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragaph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers at Petrocelli Clothes and its division, Moda Contracting and Emkay Trouser, declined 24 percent in 1974 compared to 1973. The average number of production workers declined 9 percent in the first nine months of 1975 compared to the first nine months of 1974.

Sales or Production, or Both, Have Decreased Absolutely. Petrocelli sells all clothing produced by itself and its Moda and Emkay divisions. Sales declined 19 percent in 1974 compared to 1973 and declined 17 percent in the first nine months of 1974 compared to the first nine months of 1973.

Total production at Petrocelli and its two divisions declined 32 percent in 1974 compared to 1973. Production declined 1 percent in the first nine months of 1975 compared to the first nine months of 1974.

Increased Imports Contributed Importantly. Imports of men's and boys' suits increased relative to domestic production and consumption in each year from 1971 to 1973. While imports of men's and boys' suits fell slightly in 1974 compared to 1973, the ratios of imports to domestic production and consumption in 1974 of 9.9 percent and 9.0 percent, respectively, were well above the 1971–1973 average of 8.6 percent and 7.8 percent, respectively. In the first 9 months of 1975, imports of men's and boys' suits increased 86 percent compared to the first 9 months of 1974. The ratio of imports to domestic production increased from 8.7 percent in the first 9 months of 1974 to 19.9 percent in the first 9 months of 1975.

Imports of men's and boys' sportcoats increased their share of the domestic market each year from 1971 through 1974. The ratio of imports to domestic production increased from 24.6 percent in the first 9 months of 1974 to 41.9 percent in the first 9 months of 1975.

Imports of men's and boys' tailored trousers increased 37 percent in the first nine months of 1974 compared to the first 9 months of 1974.

The evidence developed during the Department's investigation indicated that production and employment at Petrocelli Clothes, Moda Contracting and Emkay Trouser have been adversely affected by increased imports. Petrocelli sells all clothing produced by itself and its Moda and Emkay divisions primarily to large retail stores. These retail stores have decreased purchases in favor of imported men's clothing in response to consumer demand for less expensive clothing.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suits and sportcoats and trousers produced by Petrocelli Clothes and its Moda and Emkay divisions contributed importantly to the total or partial separation of the workers of that firm. In accordance with the provision of the Act, I make the following certification:

All employees of Petrocelli Clothes and its Moda Contracting Corporation and Emkay Trouser Shop, New York, New York who became totally or partially separated from employment on or after December 6, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of February 1976.

GLORIA G. PRATT,
Director,
Office of Foreign Economic Policy.

[FR Doc.76-6592 Filed 3-8-76;8:45 am]

[TA-W-381]

UNIVERSAL-CYCLOPS SPECIALTY STEEL, BRIDGEVILLE, PENNSYLVANIA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-381: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 5, 1975 in response to a worker petition received on December 5, 1975 which was filed by the United Steel Workers of America on behalf of workers and former workers at the Bridgeville plant of Universal-Cyclops.

The notice of investigation was published in the FEDERAL REGISTER on December 22, 1975 (40 FR 59279). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Universal-Cyclops, the U.S. Department of Commerce, the U.S. International Trade Commission, the Iron and Steel Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers decreased 52.4 percent in 1975 compared to 1974. Average weekly hours decreased 3.6 percent in 1975 compared to 1974.

Sales or Production, or Both, Have Decreased Absolutely. Production at the Bridgeville plant declined 57.6 percent in quantity in 1975 compared to 1974. Sales declined 59.1 percent in value in 1975 compared to 1974.

Increased Imports Contributed Importantly. Imports of articles like or directly competitive with those produced at the Bridgeville plant increased 198.9 percent from the second quarter of 1974 to the fourth quarter of 1974. The ratios of imports to domestic consumption and shipments increased from 7.6 percent and 7.4 percent, respectively in the second quarter of 1974 to 27.6 percent and 33.3 percent in the fourth quarter of 1974.

Imports of articles like or directly competitive with those produced at the Bridgeville plant increased from from 120.9 thousand tons in the first 3 quarters of 1974 to 142.9 thousand tons in the first 3 quarters of 1975. The ratios of imports to domestic consumption and shipments increased from 11.0 percent and 10.8 percent, respectively in the first 3 quarters of 1974 to 20.3 percent and 23.2 percent in the first 3 quarters of 1975.

Major customers indicated that in 1975 they reduced their purchases of specialty steel from Universal-Cyclops and switched to imported specialty steel. Imports of specialty steel enjoyed a price advantage compared to the domestic product and it was this competitive advantage that caused customers to alter their preferences from Universal-Cyclops' product to the lower-priced imported product.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with specialty steel produced at the Bridgeville plant contributed importantly to the total or partial separation of the workers of the plant. In accordance with the provisions of the Act, I make the following certification:

All hourly, piecework, and salaried workers engaged in employment related to the production of specialty steel at Universal-Cyclops Specialty Steel Division of Cyclops Corporation, Bridgeville plant, located in Bridgeville, Pennsylvania who became totally or partially separated from employment on or after November 20, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of February 1976.

JAMES F. TAYLOR,
Director,
Planning and Evaluation Staff.

[FR Doc.76-6593 Filed 3-8-76;8:45 am]

Office of the Secretary

STAINLESS STEEL AND TOOL STEEL

Adjustment Assistance Report

On January 16, 1976, the International Trade Commission determined that increased imports of certain stainless steel and alloy tool steel products are a substantial cause of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (41 FR 3786).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry sutdy whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on stainless steel and tool steel. The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the Department of Labor has received 14 petitions for certification of eligibility to apply for worker adjustment assistance from the stainless steel and tool steel industry. To date, the Department has certified three of these petitions and has not denied any. Investigations are currently in progress in the remaining cases. The Labor Department has estimated a potential caseload of 2,500 workers resulting from the 3 certifications. Of these workers, 432 had applied for program benefits as of December 15, 1975. The remaining 11 petitions that have been received cover approximately 5,000 workers. If certified, a large proportion of the displaced workers is likely to draw maximum trade allowances.

2. Over the next 12 months, six groups totaling about 3,000 workers may apply for certification of eligibility to apply for adjustment assistance and may be certified by the Department of Labor. If the current pace of economic activity continues, no additional workers are likely to apply for certification of eligibility and most of the approximately 8,500 workers currently on layoff status are likely to be gradually recalled.

3. The unemployed workers are located primarily in western Pennsylvania, New York, and Ohio. Local unemployment rates in nearly all of the impacted areas (generally in or near medium or large sized cities) were above the national average and were frequently close to 10 percent or higher. Since many of these workers possess highly specialized skills, their immediate reemployment prospects are largely dependent on the fortunes of the speciality steel industry. Even if the recent upturn continues, a substantial number of the displaced workers are still likely to remain unemployed over the next few months. Consequently, a number of workers may enroll in training programs and consider relocating, especially if the pace of economic recovery slows.

4. The Comprehensive Employment and Training Act (CETA) programs in the impacted areas are not capable of meeting the needs of the displaced workers in view of the high local rates of general unemployment. The actual levels of enrollment in many of these programs exceed the expected levels, indicating no current vacancies. The Employment and Training Administration through its State Employment Service has the authority to purchase additional training when CETA funds are not available.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (phone 202-523-7665).

Signed at Washington, D.C., this 3d day of March 1976.

HERBERT N. BLACKMAN,
Acting Deputy Under Secretary
International Affairs.

[FR Doc.76-6693 Filed 3-8-76;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

Population

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on relationship to the head of the household, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the Decennial Census.

Summary results of special censuses are published semiannually in the *Current Population Reports*—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following tables are the result of special censuses conducted since July 1, 1975, for which tabulations were completed between February 1, 1976, and February 29, 1976.

Table 1 provides data for counties and municipalities which contracted with the Bureau, while Table 2 provides data for special censuses of selected counties which were taken at Bureau expense to provide an evaluation of the Bureau's post 1970 census population estimates program for small counties.

Dated: March 3, 1976.

VINCENT P. BARABBA,
Director, Bureau of the Census.

TABLE 1

State/place or special area	County	Date of census	Population
Alabama: Irondale, city	Jefferson	Oct. 29, 1975	5,200
Arizona:			
Avondale, city	Maricopa	Oct. 15, 1975	6,526
Cottonwood, town	Yavapai	Nov. 4, 1975	3,590
El Mirage, town	Maricopa	Oct. 15, 1975	3,909
Guadalupe, town	do	Oct. 29, 1975	4,285
Kingman, city	Mohave	Oct. 24, 1975	7,397
Mesa, city and vicinity	Maricopa	Oct. 15, 1975	113,098
Mesa	do	do	100,763
Vicinity	do	do	12,335
Peoria, city	do	do	7,758
Scottsdale, city	do	do	78,065
Show Low, city	Navajo	Oct. 16, 1975	3,378
St. Johns, city	Apache	Nov. 18, 1975	1,838
Surprise, town	Maricopa	Oct. 15, 1975	3,322
Arkansas:			
Lavaca, city	Sebastian	Nov. 6, 1975	738
Russellville	Pope	Oct. 21, 1975	13,909
Ward, city	Lonoke	Nov. 12, 1975	873
Florida: Port St. Lucie, city	St. Lucie	Nov. 6, 1975	4,000
Idaho:			
Bonneville, county	Bonneville	Nov. 5, 1975	58,499
Pocatello, city	Bannock	Oct. 7, 1975	42,565
Illinois:			
Addieville, village	Washington	Nov. 21, 1975	277
Burr Ridge, village	Cook and Du Page	Nov. 19, 1975	2,228
Columbia, city	Monroe	Nov. 26, 1975	4,268
Glen Carbon, village	Madison	Oct. 24, 1975	3,682
Hamilton, city	Hancock	Nov. 17, 1975	3,001
Itasca, village	Du Page	Nov. 12, 1975	6,148
Oakbrook Terrace, city	do	Oct. 23, 1975	1,692
Oakwood Hills, village	McHenry	Nov. 12, 1975	887
Steeleville, village	Randolph	Nov. 11, 1975	2,256
Valmeyer, village	Monroe	Nov. 21, 1975	875
West Chicago, city	Du Page	Nov. 20, 1975	12,686
Iowa:			
Denver, city	Bremer	Aug. 25, 1975	1,358
Dunkerton, city	Black Hawk	do	588
Elk Run Heights, city	do	do	1,060
Forest City, city	Hancock and Winnebago	Dec. 8, 1975	4,506
Gilbertville, city	Black Hawk	Aug. 25, 1975	673
La Porte City, city	do	do	2,304
Orange City, city	Sioux	Nov. 17, 1975	4,017
Osceola, city	Clarke	Nov. 10, 1975	3,375
Waterloo, city	Black Hawk	Aug. 25, 1975	73,964
Waverly, city	Bremer	Sept. 9, 1975	7,351
Minnesota: Eden Prairie, city	Hennepin	Oct. 30, 1975	9,109
Missouri: Holts Summit, city	Callaway	Nov. 17, 1975	2,318
New Jersey: Freehold, township	Monmouth	Dec. 2, 1975	17,388
Pennsylvania:			
Bensalem, township	Bucks	Oct. 1, 1975	45,627
Penn, township	York	Oct. 29, 1975	8,560
Tennessee: Clarksville, city	Montgomery	Nov. 13, 1975	52,621
Utah: Clinton, city	Davis	Nov. 7, 1975	3,954
Wisconsin: Browntown, village	Green	Nov. 12, 1975	297

TABLE 2

State/county	Date of census	Population
Montana:		
Goldman Valley	Sept. 30, 1975	927
Petroleum	do	658
Treasure	do	1,228
Wibaux	Oct. 30, 1975	1,456
Nebraska:		
Banner	Oct. 3, 1975	935
Keya Paha	Sept. 19, 1975	1,319
Wheeler	do	1,070
Nevada: Esmeralda	Sept. 8, 1975	752
North Dakota:		
Billings	Oct. 30, 1975	1,150
Slope	do	1,353
Utah:		
Daggett	Oct. 14, 1975	782
Piute	Oct. 7, 1975	1,250

[FR Doc.76-6639 Filed 3-8-76;8:45 am]

MARITIME ADMINISTRATION, U.S. MERCHANT MARINE ACADEMY ADVISORY BOARD

Notice of Public Meeting

Notice is hereby given of a meeting of the U.S. Merchant Marine Academy Advisory Board (the Board) on April 7, 1976, from 9:30 a.m. to 5:00 p.m., on the Barge J. S. McDERMOTT, in St. Louis, Missouri.

The Advisory Board to the United States Merchant Marine Academy was established by the Secretary of Commerce under the authority of 46 U.S.C. 1126d to examine the course of instruction and the overall management of the U.S. Merchant Marine Academy (the Academy) and advise the Assistant Secretary of Commerce for Maritime Affairs with respect thereto.

The Board consists of not more than seven members appointed by the Secretary of Commerce, selected from segments of the Maritime industry, labor, educational institutions, and other fields relating to the objectives of the Academy.

The agenda for the meeting is:

1. Call meeting to order.

2. Approval of the minutes of meeting of December 10, 1975.

3. Report of advisory board members on project assignments.

4. Budget problems for fiscal year 1977.

5. Report of superintendent on current academy activities.

6. Setting of date for next board meeting.

This meeting is open to public observation, and a period will be set aside for oral comments or questions. Public statements may be submitted at any time before or after the scheduled meeting. Approximately 10 seats will be available for the public on a first-come, first-served basis.

Copies of the minutes will be available upon request.

Inquiries may be addressed to the Committee Control Officer, Kathleen A. Shelter, Office of the Assistant Secretary for Maritime Affairs, Room 3731, Main Commerce Building, telephone A/C 202/967-2851.

Dated: March 4, 1976.

So ordered by Assistant Secretary of Commerce for Maritime Affairs Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMITS

Official Action

Notice is hereby given that the U.S. Fish and Wildlife Service has taken the following action with regard to permit applications received under section 10 of the Endangered Species Act of 1973, 16 U.S.C. 1539. Each permit was issued only after it was determined that it was applied for in good faith; that by granting the permit it will not be to the disadvantage of the endangered species; and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973.

NOTICE OF APPLICATION

PUBLISHED IN "FEDERAL REGISTER"

OCTOBER 8, 1975 (40 FR 47159-60-61)

Applicant: Kings Dominion, Post Office Box 166, Doswell, Virginia 23047. Dudley S. Taft, Executive Vice President.

Official Action: Issued permit December 1, 1975: "Authorized to ship interstate as specified in Block 10 (from the Rare Feline Breeding Compound, Inc., Center Hill, Florida, to Kings Dominion, Doswell, Virginia), ten (10) BENGAL TIGERS (*Panthera tigris*), in the course of a commercial activity for the purpose of propagation and public display."

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" OCTOBER 10, 1975, (40 FR 47810-11-12)

Applicant: American Museum of Natural History, Central Park West at 79th Street, New York, N.Y. 10024. Dr. Lester L. Short, Curator.

Official Action: Issued permit December 1, 1975: "Authorized to import through the port as specified in Block 10 (from Canberra, Australia, to New York City Port of Entry) two (2) specimens of GROUND PARROTS

(*Pezoporus wallicus*), for the purpose of scientific research."

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" OCTOBER 10, 1975 (40 FR 47809-10)

Applicant: Blue Pike Recovery Team, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Arlen J. Trandahl, Team Leader.

Official Action: Issued permit December 1, 1975: "Authorized to collect in locations specified in Block 10 (States of Michigan, New York, Ohio, and Pennsylvania), BLUE PIKE (*Stizostedion vitreum glaucum*), for purposes of scientific research and propagation."

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" SEPTEMBER 23, 1975 (40 FR 43747-48)

Applicant: Indiana Bat Recovery Team, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. James M. Engel, Team Leader.

Official Action: Issued permit December 3, 1975: "May conduct scientific research with the INDIANA BAT (*Myotis sodalis*), including harassment of live bats and the taking of both live and dead specimens by capturing and collecting, using mist nets and lights. Tagging and banding (as authorized by the appropriate Federal Marking and Salvage Permit) and the taking of blood samples are also permitted."

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" NOVEMBER 13, 1974 (39 FR 40044-48), DECEMBER 23, 1974 (39 FR 44258)—CORRECTION OF APPLICATION, AUGUST 4, 1975 (40 FR 32766-71)—ADDENDUM TO APPLICATION

Applicant: Patuxent Wildlife Research Center, U.S. Fish & Wildlife Service, Department of the Interior, Laurel, Maryland 20810. Dr. Lucille F. Stickel, Director.

Official Action: Issued permit December 3, 1975: "May conduct scientific research as outlined with the following species:

1. May harass the following species in the course of conducting surveys or censuses, recording calls, photographing, or making observations:

Puerto Rican Boa	(*Epicrates inornatus*).
Hawaiian Dark-Rumped Petrel	(*Pterodroma phaeopygia sandwichensis*).
Hawaiian Duck	(*Anas wyvilliana*).
Peregrine Falcon	(*Falco peregrinus anatum*).
Hawaiian Coot	(*Fulica americana alai*).
California Clapper Rail	(*Rallus longirostris obsoletus*).
Light-Footed Clapper Rail	(*Rallus longirostris levipes*).
Yuma Clapper Rail	(*Rallus longirostris yumanensis*).
Puerto Rican Plain Pigeon	(*Columba inornata wetmorei*).
Cape Sable Sparrows	(*Ammospiza maritima mirabilis*).
Dusky Seaside Sparrow	(*Ammospiza maritima nigrescens*).
Hawaiian Hoary Bat	(*Lasiurus cinereus semotus*).
Morro Bay Kangaroo Rat	(*Dipodomys heermanni morroensis*).
Salt Marsh Harvest Mouse	(*Reithrodontomys raviventris*).
Key Deer	(*Odocoileus virginianus clavium*).

2. May capture, and tag or band, the following species provided they are released at or near the capture site:

Hawaiian Stilt	(*Himantopus himantopus knudseni*).
California Least Tern	(*Sterna albifrons browni*).
Hawaiian Crow	(*Corvus tropicus*).
Hawaiian Forest Birds	(As per application).

3. May observe, photograph, record calls, survey, including nest surveys, census, band or tag, take eggs, capture and remove from the wild, and transplant the following species with the noted individual exceptions:

ALEUTIAN CANADA GOOSE (*Branta canadensis leucopareia*), 20 goslings per year, may be taken from Buldir Island; captive-bred birds transplanted to Buldir and other islands in the Aleutian NWR.

HAWAIIAN GOOSE (*Branta sandvicensis*) no capture or removal from the wild is permitted.

CALIFORNIA CONDOR (*Gymnogyps californianus*) no capture or removal from the wild of live birds permitted; active nest may be visited to determine the fate of eggs or nestlings. These visits are not to be conducted within one month of hatching; any non-viable eggs may be collected.

MASKED BOBWHITE QUAIL (*Colinus virginianus ridgwayi*).

MISSISSIPPI SANDHILL CRANE (*Grus canadensis pulla*) no live birds may be taken; only eggs may be taken and there must be at least two (2) eggs in a nest before one may be removed. No more than a total of 6 eggs may be taken per year.

WHOOPING CRANE (*Grus americana*) no live birds may be taken. May only take eggs and these can only be removed from nests containing two or more eggs. One egg must be left in the nest.

PUERTO RICAN PARROT (*Amazona vittata*) only eggs may be taken, no live birds; two-thirds of the hatched chicks must be returned for brooding by wild parents.

BLACK-FOOTED-FERRET (*Mustela nigripes*) may take only one female ferret.

EASTERN TIMBER WOLF (*Canis lupus lycaon*) may also anesthetize, draw blood samples, radio tag, examine, and weigh live-trapped wolves.

BROWN PELICANS (*Pelecanus occidentalis*) may take up to 100 viable eggs, no live birds; any number of non-viable eggs and dead birds may be taken.

BALD EAGLE (*Haliaeetus leucocephalus leucocephalus*) may only take non-viable eggs and dead birds; no viable eggs or live birds may be taken."

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" SEPTEMBER 26, 1975 (40 FR 44342-43)

Applicant: Seabird Research, Inc., 11008 Teegreen Drive, Tampa, Florida 33612. Dr. Ralph W. Schreiber, Founder.

Official Action: Issued permit December 8, 1975: "Authorized to collect not to exceed 25 BROWN PELICAN (*Pelecanus occidentalis*) eggs." For scientific research.

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" SEPTEMBER 22, 1975 (40 FR 43521)

Applicant: University of Connecticut, The Biological Sciences Group, Storrs, Connecticut 06268. Dr. Ralph M. Wetzel, Professor.

Official Action: Issued permit December 8, 1975: "Authorized to import from Paraguay through the port as shown in Block 10 (New York), eight (8) skulls of BRAZILIAN TAPIRS (*Tapirus terrestris*), and—one (1) CROCODYLUS skull, for the purpose of scientific research."

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" AUGUST 29, 1975 (40 FR 39908-09)

Applicant: Charles Sivelle, 41 Westcliff Drive, Dix Hills, New York 11746.

Official Action: Issued permit December 8, 1975: "Authorized, for purposes of propagation, to:

1. EXPORT through the port as designated in Block 10 (New York), to Japan: Two (2) pairs of WHITE-EARED PHEASANTS (*Crossoptilon crossoptilon*); Five (5) pairs of EDWARD'S PHEASANTS (*Lophura edwardsi*); Three (3) pairs of MIKADO PHEASANTS (*Syrmaticus mikado*).

2. EXPORT through the port as designated in Block 10 (New York), to Canada: One (1) pair of WHITE-EARED PHEASANTS (*Crossoptilon crossoptilon*);

3. IMPORT through the port as designated in Block 10 (New York) One (1) male and Two (2) female WHITE-EARED PHEASANTS (*Crossoptilon crossptilon*)."

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" OCTOBER 8, 1975 (40 FR 47156-57)

Applicant: Bob Elgas, Post Office Box 168, Big Timber, Montana 59011.

Official Action: Issued permit December 18, 1975: "Authorized to receive in interstate commerce, as designated in Block 10 (from Long Island, New York, to Big Timber, Montana), one (1) HAWAIIAN GOOSE (*Branta sandvicensis*), for the purpose of propagation."

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" SEPTEMBER 11, 1975 (40 FR 42225-26-27)

Applicant: Soco Gardens Zoo, Route 1, Box 355, Maggie Valley, North Carolina 28751. Thomas P. Ritter, Owner.

Official Action: Issued permit December 29, 1975: "Authorized to receive in interstate commerce in the course of a commercial activity, from the zoos specified in Block 10 (from the Louisiana Purchase Garden and Zoo, and from the Knoxville Zoological Park, to the Soco Gardens Zoo, Maggie Valley, North Carolina), one (1) male, and one (1) female JAGUAR (*Panthera onca*), for the purpose of propagation."

Each permit is available for public inspection during normal business hours at the U.S. Fish and Wildlife Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Dated: March 4, 1976.

BERTRAM S. FALBAUM,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-6697 Filed 3-8-76;8:45 am]

Geological Survey

GULF OF ALASKA

Final OCS Orders

Notice is hereby given that pursuant to 30 CFR 250.11, the Chief, Conservation Division, Geological Survey, proposes to approve Outer Continental Shelf (OCS) Orders for the Gulf of Alaska as set forth below. These OCS Orders for oil and gas drilling and producing operations were published in the FEDERAL REGISTER, Vol. 40, No. 3, January 6, 1975, with a solicitation for comments and suggestions. All comments were reviewed and have been included as appropriate in the final version of these Orders. As a result of the comments, discussions with the Council of Environmental Quality, the Environmental Protection Agency, and additional staff input, the Orders listed below have been revised and as published will be effective March 1, 1976:

Order No. 1—"Marking of Wells, Platforms, and Structures."
Order No. 2—"Drilling Procedures."
Order No. 3—"Plugging and Abandonment of Wells."
Order No. 4—"Suspensions and Determination of Well Producibility."
Order No. 5—"Subsurface Safety Devices."
Order No. 7—"Pollution and Waste Disposal."
Order No. 12—"Public Inspection of Records."

OCS Orders No. 6, 8, 9, 11, and 13 concerning lease development and production are being drafted and will be proposed for publication at a later date.

For the purpose of these Orders, the Gulf of Alaska shall include those lands subject to Federal OCS oil and gas leasing in that portion of the North Pacific Ocean from the southernmost seaward boundary between Alaska and Canada to the westernmost point of the Alaska Peninsula including the lower Cook Inlet.

V. E. MCKELVEY,
Director.

MARCH 3, 1976.

UNITED STATES DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY CONSERVATION DIVISION,
WESTERN REGION ALASKA AREA

GULF OF ALASKA

(OCS Order No. 1)

Effective March 1, 1976

Marking of wells, platforms, and structures

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.37. Section 250.37 provides as follows:

Well designations. The lessee shall mark promptly each drilling platform or structure in a conspicuous place, showing his name or the name of the operator, the serial number of the lease, the identification of the wells, and shall take all necessary means and precautions to preserve these markings.

The operator shall comply with the following requirements. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

1. *Identification of Fixed Platforms and Structures.* Platforms and structures shall be identified at two diagonal corners of the platform or structure by a sign with letters and figures not less than 12 inches (30.5 cm) in height with the name of the operator, the OCS lease number, the name of the area, the block number, and the platform or structure designation. The information may be abbreviated as in the following example:

"The Blank Oil Company operates 'C' platform on lease OCS–A 1000 in Block 108 of the Icy Bay Area."

The identifying sign on the platform would show: "BOC—OCS–A 1000—I.B.—108—C."

2. *Identification of Mobile Platforms and Structures.* Floating semi-submersible platforms, bottom-setting mobile and floating drilling ships shall be identified by one sign with letters and figures not less than 12 inches (30.5 cm) in height affixed to the derrick to be visible from off the vessel with the name of the lease operator, the OCS lease number, and the name of the area, and the block number.

3. *Identification of Individual Wells.* The OCS lease and well number shall be painted on, or a sign affixed to, each singly completed well. In multiple completed wells, each completion shall be individually identified at the wellhead. All identifying signs shall be maintained in a legible condition.

RODNEY A. SMITH,
Oil and Gas Supervisor Alaska Area.

RUSSELL G. WAYLAND,
Chief, Conservation Division.

(OCS Order No. 2)

Effective March 1, 1976

Drilling procedures

This Order is established pursuant to the authority prescribed in 30 CFR 250.11. All exploratory and development wells drilled for oil and gas shall be drilled in accordance with 30 CFR 250.34, 250.41, 250.91, and the provisions of this Order which shall continue in effect until field drilling rules are issued. When sufficient geological and engineering information is obtained through exploratory drilling, operators may make application or the Supervisor may require an application for the establishment of field drilling rules. After field drilling rules have been established by the Supervisor, development wells shall be drilled in accordance with such rules.

All wells drilled under the provisions of this Order shall have been included in an exploratory or development plan for the lease as required under 30 CFR 250.34. Each Application for Permit to Drill (Form 9–331C) shall include all information required under 30 CFR 250.91, and shall include a notation of any proposed departures from the requirements of this Order. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

The Operator shall comply with the following requirements. All applications for approval under the provisions of the Order shall be submitted to the Supervisor.

1. *Drilling Platforms and Vessels.* A. All drilling platforms and drilling vessels shall be capable of withstanding the oceanographic and meteorological conditions for the proposed area of operation. The operator must furnish evidence of the fitness of the drilling platform or vessel to perform the planned drilling operation at the proposed drilling location. Exploratory drilling for oil and gas shall be conducted by semi-submersible drilling vessels unless there are sufficient data to permit reliable analyses of the fitness of other type of drilling platforms and drilling vessels. The Director's approval of any drilling platform or any vessel shall be required before drilling operations will be permitted. Applications for drilling from mobile drilling platforms and drilling vessels shall include the following:

(1) Design, drawings, equipment specifications and performance data.

(2) Operational criteria and a critical operations plan as described in Section 8 of this Order.

(3) Environmental conditions expected.

(4) Current classification or certification of fitnes with operational limitations.

B. Prior to commencing operations, all drilling platforms and drilling vessels shall be given a complete inspection by a representative of the U.S. Geological Survey to insure compliance with OCS Orders and regulations.

C. Operators shall collect and report oceanographic, meteorological, and performance data during the period of operations. The type of information and the method of collecting shall be set forth in the proposed plan of operations.

2. *Well Casing and Cementing.* All wells shall be cased and cemented in accordance with the requirements of 30 CFR 250.41(a)(1), and the Application for Permit to Drill shall include the casing design safety factors for collapse, tension, and shear failure due to earthquakes. In cases where cement has filled the anular space back to the ocean floor, the cement may be washed out or displaced to a depth not exceeding 40 feet (12.2 metres) below the ocean floor to facilitate casing removal upon well abandonment. For the purpose of this Order, the casing strings in order of normal installation are drive or structural, conductor, surface, intermediate, and production casing.

A temperature or cement bond survey shall be run following cementing of the surface, intermediate, and production casing strings if there are indications of improper cementing such as lost returns, cement channeling, or mechanical failure of equipment, to verify that the casing has been adequately cemented.

The design criteria for all wells shall consider all pertinent factors for well control, including formation fracture gradients, formation pressures and casing setting depths. All casing except drive or structural casing shall be new pipe which meets API standards or reconditioned used pipe that has been tested to insure that it will meet API standards for new pipe. In addition, the surface casing and subsequent casing strings shall be inspected to detect transverse and longitudinal defects, determine wall thickness, pipe eccentricity and grade uniformity, and include a check of all exposed threads. Casing inspection reports shall be maintained and made available to the United States Geological Survey upon request.

A. *Drive or Structural Casing.* This casing shall be set by drilling, driving, or jetting to a minimum depth of 100 feet (30.5 metres) below the ocean floor or to such depth, approved by the Supervisor, required to support unconsolidated deposits and to provide hole stability for initial drilling operations. If this portion of the hole is drilled, the drilling fluid shall be of a type that is in compliance with the liquid disposal requirements of OCS Order No. 7, and a quantity of cement sufficient to fill the annular space back to the ocean floor shall be used.

B. *Conductor and Surface Casing.* Casing design and setting depths shall be based upon all engineering and geologic factors, including the presence or absence of hydrocarbons or other potential hazards and water depths.

(1) *Conductor Casing.* This casing shall be set at a depth in accordance with paragraph 2B(3) below. A quantity of cement sufficient to fill the annular space back to the ocean floor shall be used.

(2) *Surface Casing.* This casing shall be set at a depth in accordance with paragraph 2B(3) below and cemented in a manner

necessary to protect all freshwater sands and provide well control until the next string of casing is set.

This casing shall be cemented with a quantity sufficient to fill the calculated annular space to the ocean floor or at least 1,500 (457.2 metres) above the surface casing shoe and at least 200 feet (61.0 metres) inside the conductor casing. When there are indications of improper cementing, such as lost returns, cement channeling or mechanical failure of equipment, the operator shall recement or make the necessary repairs. After drilling a maximum of 100 feet (30.5 metres) below the surface casing shoe, a pressure test shall be obtained to aid in determining a formation fracture gradient either by testing to formation leak-off or by testing to a predetermined equivalent mud weight. The results of this test and any subsequent tests of the formation shall be recorded on the driller's log and used to determine the depth of and maximum mud weight to be used in the intermediate hole.

(3) *Conductor and Surface Casing Setting Depths.* These strings of casing shall be set at the depth specified below, subject to approved variation to permit the casing to be set in a competent bed, or through formations determined desirable to be isolated from the well by pipe for safer drilling operations, provided, however, that the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if known, upon encountering such formations. These casing strings shall be run and cemented prior to drilling below the specified setting depths. For those wells which may encounter abnormal pressure conditions, the Supervisor may prescribe the exact setting depth. Conductor casing setting depths shall be between 300 (91.4 metres) and 1,000 feet (304.8 metres) TVD below ocean floor, and surface casing setting depths shall be between 1,000 (304.8 metres) and 4,500 feet (1,371.6 metres) TVD below ocean floor.

Engineering, geophysical, and geologic data used to substantiate the proposed setting depths of the conductor and surface casing (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with the Application for Permit to Drill.

C. *Intermediate Casing.* This string of casing shall be set when required by anticipated abnormal pressure, mud weight, sediment, and other well conditions. The proposed setting depth for intermediate casing will be based on the pressure tests of the exposed formation immediately below the surface casing shoe or on subsequent pressure tests. Drilling may continue until the mud weight has been increased to a point not exceeding 0.5 ppg (0.06 Kg/L) less than the equivalent mud weight of the most recent pressure test of the formation below the surface casing shoe. A quantity of cement sufficient to cover and isolate all hydrocarbon zones and to isolate abnormal pressure intervals from normal pressure intervals shall be used. Sufficient cement shall be used to provide annular fill-up a minimum of 500 feet (152.4 metres) above the zones to be isolated or 500 feet (152.4 metres) above the casing shoe in cases where zonal coverage is not required. If a liner is used as an intermediate string, the cement shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and next larger string has been achieved. The test shall be recorded on the driller's log. When such liner is used as production casing, it shall be extended to the surface and cemented to avoid surface casing being used as production casing.

D. *Production Casing.* This string of casing shall be set before completing the well for production. It shall be cemented in a manner necessary to cover or isolate all zones which contain hydrocarbons, but in any case, a calculated volume sufficient to fill the annular space at least 500 feet (152.4 metres) above the uppermost producible hydrocarbon zone must be used. When a liner is used as production casing, the testing of the seal between the liner top and the next larger string shall be conducted as in the case of intermediate liners. This test shall be recorded on the driller's log.

E. *Pressure Testing of Casing.* Prior to drilling the plug after cementing, all casing strings, except the drive or structural casing, shall be pressured-tested as shown in the table below. The test pressure shall not exceed the internal yield pressure of the casing. If the pressure declines more than 10 percent in 30 minutes, or if there are other indications of a leak, corrective measures shall be taken until a satisfactory test is obtained.

Casing
Conductor, 200 psi (14.06 Kg/cm²).
Surface, 1,000 psi (70.31 Kg/cm²).
Intermediate Liner and Production, 1,500 psi (105.45 Kg/cm²) or 0.2 psi/ft. (0.046 Kg/cm²/m) whichever is greater.

After cementing any of the above strings, drilling shall not be commenced until a time lapse of eight hours under pressure for conductor casing strings or 12 hours under pressure for all other strings. Cement is considered under pressure if one or more float valves are employed and are shown to be holding the cement in place or when other means of holding pressure are used. All casing pressure tests shall be recorded on the driller's log.

3. *Directional Surveys.* Wells are considered vertical if inclination does not exceed three degrees from the vertical. Inclination surveys shall be obtained on all vertical wells at intervals not exceeding 500 feet (152.4 metres) during the normal course of drilling.

Wells are considered directional if inclination exceeds three degrees from the vertical. Directional surveys giving both inclination and azimuth shall be obtained on all directional wells at intervals not exceeding 500 feet (152.4 metres) during the normal course of drilling and at intervals not exceeding 100 feet (30.5 metres) in all angle change portions of the hole.

Composite directional surveys shall be filed with the Supervisor. The interval shown will be from the bottom of conductor casing, or, in the absence of conductor casing, from the bottom of drive or structural casing to total depth. In calculating all surveys, a correction from true north to Lambert-Grid north shall be made after making the magnetic to true north correction.

4. *Blowout Prevention Equipment.* Blowout preventers and related well-control equipment shall be installed, used, and tested in a manner necessary to insure well control. The working pressure of any blowout preventer shall exceed the maximum anticipated surface pressure to which it may be subjected. Information submitted with the Application for Permit to Drill shall include the maximum anticipated surface pressure and the criteria used to determine this pressure. A fail safe design shall be incorporated into the blowout prevention system and shall include dual control systems and fail safe valving on critical lines and outlets, and subsea accumulator system to provide fast closure of preventers and for cycling all critical functions in case of loss of connection to the surface. Prior to drilling below the drive pipe or structural casing and until drilling operations are completed, blowout prevention equipment shall be installed and maintained ready for use as follows:

A. *Drive Pipe or Structural Casing.* Before drilling below this string, at least one remotely controlled annular-type blowout preventer and equipment for circulating the drilling fluid to the drilling structure or vessel shall be installed. When the blowout preventer system is on the ocean floor, an annular preventer installed on top of the marine riser shall be utilized to permit the diversion of hydrocarbons and other fluids. This low-pressure, high-capacity diverter system shall be installed on the drilling structure or vessel to provide as a minimum the equivalent of two 6-inch (15.2 cm) diameter lines [28 square inches (180.6 cm) internal cross-sectional area, each] and is equipped with full-open or butterfly type valves to accomplish downwind diversion. The diverter system shall be equipped with remotely controlled valves which open, prior to shutting in the well. Lines venting in different directions shall be provided to ensure downwind diversion. A schematic diagram and operational procedure for the diverter system shall be submitted with the Application for Permit to Drill (Form 9–331C) to the Supervisor for approval.

In drilling operations where a floating or semi-submersible type of drilling vessel is used and formation competency at the structural casing setting depth is not adequate to permit circulation of drilling fluids to the vessel while drilling conductor hole, a program which provides for safety in these operations shall be described and submitted to the Supervisor for approval. This program shall include all known pertinent and relevant information, including seismic and geologic data, water depth, drilling-fluid hydrostatic pressure, schematic diagram from rotary table to proposed conductor casing seat, and contingency plan for moving off location. At all exploratory well locations, seismic data shall be obtained to determine the presence or absence of geologic hazards or shallow hydrocarbons. All seismic data shall be made available to the Supervisor, and an analysis of the geologic hazards shall be furnished with the Application for Permit to Drill.

B. *Conductor Casing.* Before drilling below this string, at least one remotely controlled, annular-type blowout preventer and equipment for circulating the drilling fluid to the drilling structure or vessel shall be installed. A diverter system as described in paragraph 4A above shall be installed.

C. *Surface Casing.* Before drilling below this string, the blowout prevention equipment shall include a minimum of: (1) four remotely controlled, hydraulically operated blowout preventers with a working pressure which exceeds the maximum anticipated surface pressure, including two equipped with pipe rams, one with blind-shear rams, and one annular type; (2) a drilling spool with side outlets, if side outlets are not provided in the blowout preventer body; (3) a choke line and manifold; (4) a kill line separate from choke line; and (5) a fill-up line. Subsea blowout preventer stack used with floating drilling vessels shall be equipped with one set of blind-shear rams.

D. *Testing.* (1) *Pressure Tests.* Ram-type blowout preventers and related control equipment shall be tested at the related working pressure of the stack assembly, or at 70.0 percent of the minimum internal yield pressure of the casing, whichever is the lesser. Annular-type preventers shall be tested at 70 percent of these pressure requirements. All preventers shall first be tested at a low pressure of 200 to 300 psi (14.1 to 21.1 Kg/cm²). These tests shall be performed when equipment is installed, before drilling out after each string of casing is set, not less than once each week while conducting drilling operations, and following repairs that require disconnecting a pressure seal in the assembly.

The operator shall notify the Supervisor when initial pressure testing of the blowout prevention equipment that is installed on each string of casing is to be conducted, so that a Geological Survey representative may witness the test.

(2) *Actuation.* While drill pipe is in use, the ram-type blowout preventers equipped with pipe rams shall be actuated at least daily; the blind-shear rams shall be actuated while out of the hole, once each trip. If a tapered drill string is in use, the smaller size pipe rams shall be actuated on the appropriate size pipe, once each trip. The annular-type blowout preventers shall be actuated on the drill pipe at least once each week in conjunction with the pressure test. Accumulators or accumulators and pumps shall maintain a pressure capacity reserve at all times to provide for repeated operation of hydraulic preventers. An operable remote blowout-preventer control station shall be provided, in addition to the one on the drilling floor. Each control station will be tested for proper operation each time the pipe is out of the hole, but not more than once each day.

Each control system shall alternately be tested to ensure proper functioning. If either system is not functional, further drilling operations shall be suspended until that system becomes operable.

(3) *Drills.* All drilling personnel shall be indoctrinated in blowout-prevention procedures and be familiar with the blowout-prevention equipment before starting work on the well. A blowout-prevention drill shall be conducted weekly for each drilling crew to insure that all equipment is operational and that crews are properly trained to carry out emergency duties.

(4) *Records.* All blowout-preventer tests and crew drills shall be recorded on the driller's log.

E. *Other Equipment.* An inside blowout-preventer assembly (back-pressure valve) and an essentially full-opening drill-string safety valve in the open position shall be maintained on the rig floor to fit all pipe in the drill string. A kelly cock shall be installed below the swivel, and an essentially full-opening kelly cock of such design that it can be run through the blowout preventers shall be installed at the bottom of the kelly.

5. *Mud Program.* The characteristics, use, and testing of drilling mud and the conduct of related drilling procedures shall be such as are necessary to prevent the blowout of any well. Quantities of mud materials sufficient to insure well control shall be maintained readily accessible for use at all times.

A. *Mud Control.* Before starting out of the hole with drill pipe, the mud shall be properly conditioned by circulating with the drill pipe just off bottom until the annular volume is displaced, unless it is documented in the driller's log that: (1) there was no indication of influx of formation fluids prior to starting to pull the drill pipe from the hole, (2) the weight of the returning mud is not less than the weight of the mud entering the hole, and (3) other mud properties recorded on the daily drilling log are within the specified ranges at the stage of drilling the hole to perform their required functions. In those cases when the hole is circulated, the driller's log shall be so noted.

The hole shall be filled by accurately measured volumes of mud. The number of stands of drill pipe and drill collars that may be pulled between the times of filling the hole shall be calculated and posted. The number of barrels and pump strokes required to fill the hole for this designated number of stands of drill pipe and drill collars shall be posted. For each casing string, the maximum pressure which may be applied to the blowout preventer before controlling excess pressure by bleeding through the choke shall be posted at the driller's station. Drill pipe pressure shall be monitored during the bleeding procedure for well control.

An operable degasser shall be installed in the mud system prior to the commencement of drilling operations and shall be maintained for use throughout the drilling and completion of the well.

B. *Mud System Equipment.* Mud testing equipment shall be maintained on the drilling rig at all times, and mud tests shall be performed at least once every tour, or more frequently as conditions warrant. Mud testing shall be conducted to determine the physical and chemical properties necessary to assure proper well control. Such tests shall be conducted in accordance with procedures outlined in API RP 13B, "Recommended Practice for Standard Procedure for Testing Drilling Fluids," February 1974 and Supplement 1, January 1975, and the results recorded and maintained at the drill site. The following mud system monitoring equipment shall be installed (with derrick floor indicators) and used at that time in the drilling operation when mud returns are first established and throughout subsequent drilling operations:

(1) Recording mud pit level indicator to determine mud pit volume gains and losses. This indicator shall be set to reflect 1-bbl changes visually and a 5 bbl change by audio warning.

(2) Mud volume measuring device for accurately determining mud volumes required to fill the hole on trips.

(3) Mud return indicator to determine that returns essentially equal the pump discharge rate.

(4) Gas-detecting equipment to monitor the drilling mud returns.

(5) Hydrogen sulfide (H_2S) sensing equipment capable of sensing a minimum of 5 parts per million H_2S in air to monitor the drilling mud returns. This sensing equipment shall activate audible and visual alarms before the concentration of H_2S exceeds its threshold limit value of 10 parts per million in air.

C. *Mud Quantities.* The operator shall state in the Application for Permit to Drill, the minimum quantities of mud material, including weighting material, to be maintained at the drill site, for emergency use. The quantity shall not be less than the amount necessary to make a mud volume equal to twice the calculated capacity of the active downhole and surface mud system. The minimum quantity to be maintained at the drill site shall be sufficient to overcome the highest anticipated formation pressure with a mud weight required to overcome such formation pressure. Daily inventories shall be recorded and maintained at the drill site. Drilling operations shall be suspended in the absence of approved minimum quantities of mud materials.

6. *Supervision, Surveillance, and Training.*

A. *Supervision.* A representative of the operator shall provide, on site, supervision of drilling operations on a 24-hour basis.

B. *Surveillance.* From the time drilling operations are initiated and until the well is completed or abandoned, a member of the drilling crew or the toolpusher shall maintain rig floor surveillance continuously, unless the well is secured with blowout preventers or cement plugs.

C. *Training.* Company and drilling contractor supervisory personnel including drillers shall be trained in and qualified for present-day well control. Records of such training and qualification shall be maintained at the drill site. Training shall include but is not limited to:

(1) Abnormal pressure detection methods.

(2) Well-control methods and procedures.

The operator shall additionally require well-control training for drillers in addition to the required weekly blowout prevention drills. Written verification of compliance with these provisions shall be filed with the Supervisor. As standards for training are developed for all members of the drilling crew, they will be incorporated into this Order. Compliance shall be considered a prerequisite to approval of any drilling operation.

7. *Hydrogen Sulfide.* When drilling operations are undertaken to penetrate reservoirs known or expected to contain hydrogen sulfide (H_2S), or, if unknown upon encountering H_2S, the preventive measures and operating practices set forth in GSS-OCS-1, "Safety Requirements for Drilling Operations in a Hydrogen Sulfide Environment," February 1976, shall be followed.

8. *Critical Operations and Curtailment Plans.* Certain operations performed in drilling are more critical than others with respect to well control, fire, explosion, oil spills, and other discharge or emissions. These operations may occur during drilling, running casing, logging, drill-stem testing, well completion, or wireline operations.

Each operator shall file with the Supervisor for approval of a Critical Operations and Curtailment Plan for the lease, which shall contain:

A. A list or description of the critical drilling operations that are or are likely to be conducted on the lease. Such list or description shall specify the operations to be ceased, limited, or not to be commenced under given circumstances or conditions. The list shall include operations such as:

(1) Drilling in close proximity to another producing well.

(2) Drill-stem testing.

(3) Running and cementing casing.

(4) Cutting and recovering casing.

(5) Logging or wireline operations.

(6) Well-completion operations.

(7) Provision for moving drilling vessel off location in an emergency to reposition vessel on location and reestablish entry into the well.

B. A list or description of circumstances or conditions under which such critical operations shall be curtailed. This list or description shall be developed from all the factors and conditions relating to the conduct of operations on the lease, and shall consider but necessarily not be limited to the following:

(1) Whether the drilling operations are to be conducted from mobile or fixed platforms.

(2) The availability and capability of containment and cleanup equipment.

(3) Abnormal or unusual characteristics expected to be encountered during drilling operations.

(4) Spill control system response time.

(5) Known or anticipated meteorological or oceanographical conditions.

(6) Availability of personnel and equipment for the particular operation to be conducted.

(7) Other factors peculiar to the particular lease under consideration.

C. When any such circumstance or condition listed or described in the plan occurs or other operational limits are encountered, the operator shall notify the Supervisor and shall curtail the critical operations as set forth under A above. In the conduct of the critical operations, full consideration shall be given to pertinent factors such as supply of well control materials, subsurface conditions, inventory of spill-containment equipment, weather conditions, particular esthetic conditions, fire hazards, available transportation equipment, spill-control response time, and nature of work planned.

D. Any deviations in the plan shall require prior approval by the Supervisor except in case of an emergency in which event the Supervisor shall be notified as soon as possible.

E. The operator shall review the plan at least annually. Notification of the review and any amendments or modifications to the plan shall be filed with the Supervisor.

RODNEY A. SMITH,
Oil and Gas Supervisor, Alaska Area.
RUSSELL G. WAYLAND,
Chief, Conservation Division.

(OCS Order No. 3)

Effective March 1, 1976

Plugging and abandonment of wells

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.15. The operator shall comply with the following minimum plugging and abandonment procedures which have general application to all wells drilled for oil and gas. Plugging and abandonment operations shall not be commenced prior to obtaining approval from an authorized representative of the Geological Survey. Oral approvals shall be in accordance with 30 CFR 250.13. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12 (b).

1. *Permanent Abandonment.*

A. *Isolation in Uncased Hole.* In uncased portions of wells, cement plugs shall be spaced to extend 100 feet (30.5 metres) below the bottom to 100 feet (30.5 metres) above the top of any oil, gas, and fresh water zones so as to isolate them in the strata in which they are found and to prevent them from escaping into other strata. Additional cement plugs may be required to protect other minerals, or to prevent migration of fluids in the wellbore. No more than 2,500 feet (762.5 metres) of uncased hole shall be left without a cement plug of at least 100 feet (30.5 metres) in length in wells requiring a mud weight in excess of 12.0 ppg (1.44 kg/L) for control.

B. *Isolation of Open Hole.* Where there is open hole (uncased and open into the casing string above) below the casing, a cement plug shall be placed in the deepest casing string by (1) or (2) below. In the event lost circulation conditions exist or are anticipated, the plug may be placed in accordance with (3) below:

(1) A cement plug placed by displacement method so as to extend a minimum of 100 feet (30.5 metres) above and 100 feet (30.5 metres) below the casing shoe.

(2) A cement retainer with effective back prssure control set not less than 50 feet (15.2 metres) nor more than 100 feet (30.5 metres) above the casing shoe with a cement plug calculated to extend at least 100 feet (30.5 metres) below the casing shoe and 50 feet (15.2 metres) above the retainer.

(3) A permanent type birdge plug set within 150 feet (45.7 metres) above the casing shoe with 50 feet (15.2 metres) of cement on top of the bridge plug. This plug shall be tested prior to placing subsequent plugs.

C. *Plugging or Isolating Perforated Intervals.* A cement plug shall be placed opposite all open perforations (perforations not squeezed with cement) extending a minimum of 100 feet (30.5 metres) above and 100 feet (30.5 metres) below the perforated interval or down to a casing plug whichever is less. In lieu of the cement plug, the following two methods are acceptable provided the perforations are isolated from the hole below:

(1) A cement retainer with effective back pressure control set not les than 50 feet (15.2 metres) nor more than 100 feet (30.5 metres) above the top of the perforated interval with a cement plug calculated to extend at least 100 feet (30.5 metres) below the bottom of the perforated interval and 50 feet (15.2 metres) above the retainer.

(2) A permanent type bridge plug set within 150 feet (45.7 metres) above the top of the perforated interval with 50 feet (15.2 metres) of cement on top of the bridge plug.

D. *Plugging of Casing Stubs.* If casing is cut and recovered, a cement plug 200 feet (61.0 metres) in length shall be placed to extend 100 feet (30.5 metres) above and 100 feet (30.5 metres) below the stub. A retainer may be used in setting the required plug.

E. *Plugging of Annular Space.* No annular space that extends to the ocean floor shall be left open to drilled hole below. If this condition exists, the annulus shall be plugged with cement.

F. *Surface Plug Requirement.* A cement plug of at least 150 feet (45.7 metres) with the top of the plug 150 feet (45.7 metres) or less below the ocean floor shall be placed in the smallest string of casing which extends to the surface.

G. *Testing of Plugs.* The setting and location of the first plug below the top 150-foot (45.7 metres) surface plug shall be verified by placing a minimum pipe weight of 15,000 pounds (6,800.0 kilograms) on the plug. Where this plug is placed utilizing a cement retainer or bridge plug, it is only necessary that the setting of the retainer or bridge plug be verified by placing at least 15,000 pounds (6,800.0 kilograms) on it prior to placing cement on top.

H. *Mud.* Each of the respective intervals of the hole between the various plugs shall be filled with mud fluid of sufficient density to exert hydrostatic pressure exceeding the greatest formation pressure encountered while drilling such interval.

I. *Clearance of Location.* All casing and piling shall be severed and removed to at least 15 feet (4.6 metres) below the ocean floor and the ocean floor shall be cleared of any obstructions.

2. *Temporary Abandonment.* Any drilling well which is to be temporarily abandoned shall be mudded and cemented as required for permanent abandonment except for requirements F and I of paragraph 1 above. When casing extends above the ocean floor, a mechanical bridge plug (retrievable or permanent) shall be set in the casing between 15 feet (4.6 metres) and 200 feet (61.0 metres) below the ocean floor.

RODNEY A. SMITH,
Oil and Gas Supervisor
Alaska Area.
RUSSELL G. WAYLAND,
Chief, Conservation Division.

(OCS Order No. 4)

Effective March 1, 1976

Suspensions and Determination of Well Producibility

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.12(d)(1). An OCS lease provides for extension beyond its primary term for as long as oil and gas may be produced from the lease in paying quantities. The term "paying quantities" as used herein means production in quantities sufficient to yield a return in excess of operating costs. An OCS lease may be maintained beyond the primary term, in the absence of actual production, when a suspension of production has been approved. Any application for suspension of production for an initial period shall be submitted prior to the expiration of the term of a lease. The Supervisor may approve a suspension of production provided at least one well has been drilled on the lease and he determines it to be capable of being produced in paying quantities. The temporary or permanent abandonment of a well will not preclude approval of a suspension of production as provided in 30 CFR 250.12(d)(1). All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

To provide data necessary to determine that a well may be capable of production in paying quantities the following are minimum requirements:

1. *Oil Wells.* A production test of at least two (2) hours duration after the well flow has stabilized.

2. *Gas Wells.* A deliverability test of at least two (2) hours duration after the well flow has stabilized.

3. *Well Data.* All pertinent engineering, geologic, and economic data shall be submitted to the Supervisor and will be considered in determining whether a well is capable of being produced in paying quantities.

4. *Witnessing and Results.* All tests must be witnessed by an authorized representative of the Geological Survey. Test data accompanied by operator's affidavit, or third-party test data, may be accepted in lieu of a witnessed test provided prior approval is obtained.

RODNEY A. SMITH,
Oil and Gas Supervisor, Alaska Area.

RUSSELL G. WAYLAND,
Chief, Conservation Division.

OCS Order No. 5

Effective March 1, 1976

Subsurface safety devices

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.41(b). Section 250.41(b) provides as follows:

(b) *Completed Wells.* In the conduct of all its operations, the lessee shall take all steps necessary to prevent blowouts, and the lessee shall immediately take whatever action is required to bring under control any well over which control has been lost. The lessee shall: (1) in wells capable of flowing oil or gas, when required by the supervisor, install and maintain in operating condition storm chokes or similar subsurface safety devices; (2) for producing wells not capable of flowing oil or gas, install and maintain surface safety valves with automatic shut-down controls; and (3) periodically test or inspect such devices or equipment as prescribed by the supervisor.

The operator shall comply with the following requirements. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b). All applications for approval under the provisions of this Order shall be submitted to the Supervisor's office. References in this Order to approvals, determinations, or requirements are to those given or made by the Supervisor or his delegated representative.

1. *Installation.* All tubing installations open to hydrocarbon-bearing zones shall be equipped with a surface or other remotely controlled subsurface safety device installed at a depth of 100 feet (30.5 metres) or more below the ocean floor unless, after application and justification, the well is determined to be incapable of flowing oil or gas. These installations shall be made within two (2) days after stabilized production is established, and during this period of time the well shall not be left unattended while open to production.

A. *Shut-in Wells.* A tubing plug may be installed in lieu of, or in addition to, a subsurface safety device. Such plugs shall be set at least 100 feet (30.5 metres) below the ocean floor and shall be of the pump-through

type. All wells perforated and completed, but not placed on production, shall be equipped with a subsurface device or tubing plug within two (2) days after completion.

B. *Injection Wells.* Surface controlled subsurface safety devices shall be installed in all injection wells unless, after application and justification, it is determined that the well is incapable of flowing oil or gas, which condition shall be verified annually.

2. *Design, Testing, and Inspection.* Subsurface safety devices shall be designed, adjusted, installed, and maintained to insure reliable operation. During testing and inspection procedures, the well shall not be left unattended while open to production unless a properly operating subsurface safety device has been installed in the well.

A. *Surface-Controlled Subsurface Safety Devices*

(1) *Quality Assurance and Performance.* The operator shall use subsurface safety devices that comply with the minimum standards set forth in API Spec. 14 A, October 1973, Subsurface Safety Valves, for quality assurance including design, material, and functional test requirements, and for verification of independent party performance testing and manufacturer functional testing of such valves. The subsurface safety devices selected for use shall be approved by the Supervisor.

(2) *Installation and Testing.* The operator shall comply with the minimum recommended practices set forth in API RP 14 B, October 1973, Design, Installation, and Operation of Subsurface Safety Valve Systems, which contain procedures for design calculations, safe installation, and operating and testing. Each surface-controlled subsurface safety device installed in a well shall be tested in place for proper operation when installed, or reinstalled, at least monthly for the next six (6) months and quarterly thereafter. If the device does not operate properly, it shall be removed, repaired, and reinstalled or replaced and tested to insure proper operation.

B. *Tubing Plugs.* A shut-in well equipped with a tubing plug shall be inspected for leakage by opening the well to possible flow at intervals not exceeding six (6) months. If sustained liquid flow exceeds 400 cc/min., or gas flow exceeds 15 cu. ft./min. (425 L/min.), the plug shall be removed, repaired, and reinstalled or an additional tubing plug installed to prevent leakage.

3. *Temporary Removal.* Each wireline- or pumpdown-retrievable subsurface safety device may be removed for a routine operation which does not require approval of a Sundry Notice and Report on Wells (Form 9-331) for a period not to exceed fifteen (15) days, provided notice is given with an indication of the reason for removal. The well shall be clearly identified as being without a subsurface safety device and shall not be left unattended while open to production.

4. *Additional Protective Equipment.* All tubing installations in which a wireline- or pumpdown-retrievable subsurface safety device is to be installed shall be equipped with a landing nipple, with flow couplings or other protective equipment above and below, to provide for setting of the subsurface safety device. All wells in which a subsurface safety device or tubing plug is installed shall have the tubing-casing annulus packed off above the uppermost open casing perforations. The control system for all surface-controlled subsurface safety devices shall be an integral part of the platform shut-in system.

5. *Emergency Action.* All tubing installations open to hydrocarbon-bearing zones capable of flowing oil or gas and not equipped with a subsurface safety device as permitted by this Order shall be clearly identified as not being so equipped and shall not be left unattended while open to production. A subsurface safety device or tubing plug shall be available at the field location. In the event of an emergency, such device or plug shall be promptly installed with due consideration being given to personnel safety.

6. *Records.* The operator shall maintain the following records for a minimum period of one (1) year for each subsurface safety device and tubing plug installed, which records shall be available to any authorized representative of the Geological Survey.

A. *Field Records.* Individual well records shall be maintained at or near the field and shall include, as a minimum, the following information:

(1) A record which will give design and other information; i.e., make, model, size, etc.

(2) Verification of assembly by a qualified person in charge of installing the device and installation date.

(3) Verification of setting depth and all operational tests as required in this Order.

(4) Removal date, reason for removal, and reinstallation date.

(5) A record of all modifications of design in the field.

(6) All mechanical failures or malfunctions, including sandcutting, of such devices, with notation as to cause or probable cause.

(7) Verification that a failure report was submitted.

B. *Other Records.* The following records, as a minimum, shall be maintained at the operator's office:

(1) Verified design information of subsurface safety devices for the individual well.

(2) Verification of assembly and installation according to design information.

(3) All failure reports.

(4) All laboratory analysis reports of failed or damaged parts.

(5) Quarterly failure-analysis report.

7. *Reports.* Well completion reports (Form 9-330) and any subsequent reports of workover (Form 9-331) shall include the type and the depth of the subsurface safety devices and tubing plugs installed.

To establish a failure-reporting and corrective-action program as a basis for reliability and quality control, each operator shall submit a quarterly failure-analysis report to the office of the Supervisor, indentifying mechanical failures by lease and well, make and model, cause or probable cause of failure, and action taken to correct the failure. The reports shall be submitted within thirty (30) days following the periods ending December 31, March 31, June 30, and September 30 of each year.

RODNEY A. SMITH,
Oil and Gas Supervisor,
Alaska Area.

RUSSELL G. WAYLAND,
Chief, Conservation Division.

(OCS Order No. 7)

Effective March 1, 1976

Pollution and waste disposal

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.43. The operator shall comply with the requirements contained herein as may be modified by Notices to Lessees issued to protect unique environmental conditions of specific locations. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

1. *Pollution Prevention.* The disposal of waste materials into the ocean shall not create conditions which will adversely affect the public health, life or property, aquatic life or wildlife, recreation, navigation, or other uses of the ocean.

A. *Liquid Disposal.*

(1) Drilling mud containing free oil shall not be disposed of into the ocean.

(2) The operator shall submit with the Application for Permit to Drill (Form 9-331C) a detailed list of drilling mud constituents and their concentrations, including the chemical composition of trade name components, and a list of the drilling mud additives which might be used to meet special drilling requirements. Disposal of drilling mud shall be conducted in a manner which will minimize the adverse effects to marine life and in accordance with all applicable Federal regulations. Approval of mud disposal will be site specific and on a case-by-case basis.

(3) Curbs, gutters, and drains on platforms and structures shall be installed and maintained in accordance with the provisions of OCS Order No. 8.

(4) Sanitary waste and produced waste water disposal systems shall be designed and maintained so that the effluent meets applicable requirements promulgated by the Environmental Protection Agency pursuant to the Federal Water Pollution Control Act as amended.

(a) A copy of the results of all analyses submitted to the Environmental Protection Agency shall be submitted to the Supervisor, and a copy of the most recent analysis shall be maintained at the discharge site or field production headquarters and be available for inspection by Geological Survey personnel.

(b) Should an analysis indicate that the effluent does not meet the above requirements, corrective action shall be taken immediately. Approval to continue operations to aid in the identificaton and remedy of the problem shall be obtained from the Supervisor. Such approval shall be contingent upon submittal of a follow-up report to the Supervisor within 10 days of identification and remedy of the problem.

(5) The disposal of produced waste water other than into the ocean shall have the method and location approved by the Supervisor.

B. *Solid Waste Disposal.*

(1) Drill cuttings, sand, and other solids containing oil shall not be disposed of into the ocean unless the oil has been removed.

(2) All solid waste generated during OCS operations shall be incinerated or transported to shore for disposal in accordance with Federal, State, or local requirements.

2. *Personnel, Inspections, and Reports.*

A. *Personnel.* The operator's personnel shall be thoroughly instructed in the techniques of equipment maintenance and operation for the prevention of pollution. Nonoperator personnel shall be informed in writing, prior to executing contracts, of the operator's obligations to prevent pollution.

B. *Pollution Inspections.*

(1) Manned facilities shall be inspected daily.

(2) Unattended facilities, including those equipped with remote control and monitoring systems, shall be inspected at frequent intervals. The Supervisor may prescribe the frequency of inspections for these facilities.

(3) All production facilities, such as separators, tanks, treaters, and other equipment shall be designed to prevent pollution. Maintenance or repairs necessary to prevent pollution of the ocean shall be undertaken immediately.

C. *Pollution Reports.* All pollution reports required shall be submitted on Form 9-1880, entitled, *Pollution Report.*

(1) All spills of oil and liquid pollutants shall be recorded showing the cause, size of spill, and action taken, and the record shall be maintained and available for inspection by the Supervisor. All spills of less than 7.9 cubic metres (50 barrels) shall be reported orally to the Supervisor immediately and shall be confirmed in writing.

(2) All spills of oil and liquid pollutants of a substantial size or quantity, which is defined as more than 7.9 cubic metres (50 barrels), and those of any size or quantity which cannot be immediately controlled, shall be reported orally without delay to the Supervisor, the Coast Guard, and the Regional Administrator, Environmental Protection Agency. All oral reports shall be confirmed in writing.

(3) Operators shall notify each other upon observation of equipment malfunction or pollution resulting from another's operation.

3. *Pollution Control Equipment and Oil Spill Contingency Plan.*

A. *Equipment.* Standby pollution-control equipment and materials shall be available to each operator at an offshore or onshore location. This shall include containment booms, skimming apparatus, cleanup materials, and chemical agents; and shall be available prior to the commencement of operations. The use of chemicals will be permitted only after approved by the Supervisor in accordance with Part 2003.2-1, Annex X National Oil and Hazardous Substances Pollution Contingency Plan. The equipment and materials shall be inspected monthly and maintained in good condition for use. The results of the inspections shall be recorded and maintained at the site.

B. *Oil Spill Contingency Plan.* The operator shall submit an oil spill contingency plan for approval by the Supervisor before consideration can be given to approval of an application for permit to conduct operations. This plan shall contain the following:

(1) Provisions to assure that full resource capability is known and can be committed during an oil discharge situation including the identification and inventory of applicable equipment, materials, and supplies which are available on site, locally and regionally, both committed and uncommitted, and the time required for deployment.

(2) Provisions for varying degrees of response effort depending on the severity of the oil discharge.

(3) Establishment of notification procedures for the purpose of early detection and timely notification of an oil discharge including a current list of names, telephone numbers, and addresses of the responsible persons and alternates on call to receive notification of an oil discharge, as well as the names, telephone numbers, and addresses of regulatory organizations and agencies to be notified when an oil discharge is discovered.

(4) Provisions for well defined and specific actions to be taken after discovery and notification of an oil discharge including:

(a) Specification of an oil discharge response operating team consisting of trained, prepared and available operating personnel.

(b) Predesignation of an oil discharge response coordinator who is charged with the responsibility and delegated commensurate authority for directing and coordinating response operations.

(c) A preplanned location for an oil discharge response operations center and a reliable communications system for directing the coordinated overall response operations.

4. *Spill Control and Removal.* Immediate corrective action shall be taken in all cases where pollution has occurred. Corrective action taken under the Oil Spill Contingency Plan shall be subject to modification when directed by the Supervisor. The primary jurisdiction to require corrective action to abate the source of pollution and to enforce the subsequent cleanup by the lessee or operator shall remain with the Supervisor pursuant to the provisions of this Order and the memorandum of understanding between the Department of Transportation (U.S. Coast Guard) and the Department of the Interior (U.S. Geological Survey) dated August 16, 1971.

5. *Contingency Plan Assessment.* At the time of a Plan of Development review is conducted, a contingency plan assessment shall be made. Upon request of the Supervisor, revised contingency plans reflecting changes in personnel, equipment, and methods shall be submitted.

RODNEY A. SMITH,
Area Oil and Gas Supervisor,
Alaska Area.
RUSSELL G. WAYLAND,
Chief, Conservation Division.

(OCS Order No. 12)

Effective March 1, 1976

Public inspection of records

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.97 and 43 CFR Part 2. Requests for information made under the Freedom of Information Act, 5 U.S.C. § 552, will be governed by the provisions of 43 CFR Part 2 (40 F.R. 7304, February 19, 1975). Section 2.13 of 43 CFR says:

It is the policy of the Department of the Interior to make the records of the Department available to the public to the greatest extent possible, in keeping with the spirit of the Freedom of Information Act.

Section 2.15(c) of 43 CFR says:

A request for a record may be denied only if it is determined that (1) the record is exempt from disclosure (under the Freedom of Information Act) and (2) that withholding of the record is required by statute or Executive Order or supported by sound grounds.

The operator shall comply with the following requirements. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

1. *Availability of Records.* It has been determined that certain records pertaining to leases and wells in the Outer Continental Shelf and submitted under 30 CFR 250 shall be made available for public inspection, as specified below, in the Area office. Certain other portions of these records have been determined to be exempt from disclosure. The reason for these exemptions is discussed in Section 4 of this Order.

A. *Form 9-152—Monthly Report of Operations.* All information contained on this form shall be available except the information required in the Remarks column.

B. *Form 9-330—Well Completion or Recompletion Report and Log.*

(1) Prior to commencement of production, all information contained on this form shall be available, except Item 1a, Type of Well; Item 4, Location of Well, at top production interval reported below; Item 22, if Multiple Completion, How many; Item 24, Producing Interval; Item 26, Type Electric and Other Logs Run; Item 28, Casing Record; Item 29, Liner Record; Item 30, Tubing Record; Item 31, Perforation Record; Item 32, Acid, Shot, Fracture, Cement Squeeze, etc.; Item 33, Production; Item 37, Summary of Porous Zones; and Item 38, Geologic Markers.

(2) After commencement of production, all information shall be available, except Item 37, Summary of Porous Zones; and Item 38, Geologic Markers.

(3) If production has not commenced after an elapsed time of five years from the date of filing Form 9-330 as required in 30 CFR 250.38(b), all information contained on this form shall be available, except Item 37, Summary of Porous Zones; and Item 38, Geologic Markers. Within 90 days prior to the end of the 5-year period, the lessee or operator shall file a Form 9-330 containing all information requested on the form, except Item 37, Summary of Porous Zones; and Item 38, Geologic Markers, to be made available for public inspection. Objections to the release of such information may be submitted with the completed Form 9-330.

C. *Form 9-331—Sundry Notices and Report on Wells.*

(1) When used as a "Notice of Intention to" conduct operations, all information contained on this form shall be available, except Item 4, Location of Well, at top production interval; and Item 17, Describe Proposed or Completed Operations.

(2) When used as a "Subsequent Report of" operations, and after commencement of production, all information contained on this form shall be available, except information under Item 17 as to subsurface locations and measured and true vertical depths for all markers and zones not placed on production.

D. *Form 9-331C—Application for Permit to Drill, Deepen or Plug Back.* All information contained on this form, and location plat attached thereto, shall be available, except Item 4, Location of Well, At Proposed Producing Zone; and Item 23, Proposed Casing and Cementing Program.

E. *Form 9-1869—Quarterly Oil Well Test Report.* All information contained on this form shall be available.

F. *Form 9-1870—Semi-Annual Gas Well Test Report.* All information contained on this form shall be available.

G. *Multi-point Back Pressure Test Report.* All information contained on this form used to report the results of required multi-point back pressure test of gas wells shall be available.

H. *Sales of Lease Production.* Information contained on monthly Geological Survey computer printout showing sales volumes, value, and royalty of production of oil, condensate, gas and liquid products, by lease, shall be made available.

2. *Filing of Reports.* All reports on Forms 9-152, 9-330, 9-331, 9-331C, 9-1869, 9-1870, and the forms used to report the results of multi-point back pressure tests, shall be filed in accordance with the following: All reports submitted on these forms shall include a copy with the words "Public Information" shown on the lower right-hand corner. All items on the form not marked "Public Information" shall be completed in full; and such forms, and all attachments thereto, shall not be available for public inspection. The copy marked "Public Information" shall be completed in full, except that the items described in 1(A), (B), (C), and (D) above, and the attachments relating to such items, may be excluded. The words "Public Information" shall be shown on the lower right-hand corner of this set. This copy of the form shall be made available for public inspection.

3. *Availability of Inspection Records.* All accident investigation reports, pollution incident reports, facilities inspection data, and records of enforcement actions are also available for public inspection.

4. *Information Exempt from Public Inspection.* It has been determined that certain information as discussed in paragraphs 1.A, 1.B, 1.C, 1.D, and 2 of this Order is exempt from disclosure under exemption 9 of the Freedom of Information Act (5 U.S.C. § 552

(b)(9)). This information has been determined to qualify as "geological and geophysical information and data including maps concerning wells."

RODNEY A. SMITH,
Area Oil and Gas Supervisor,
Alaska Area.

RUSSELL G. WAYLAND,
Chief, Conservation Division.

[FR Doc.76-6343 Filed 3-8-76;8:45 am]

Office of Hearings and Appeals

[Docket No. M 76-107]

CARBON FUEL 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), Carbon Fuel Company has filed a petition to modify the application of 30 CFR 75.1710 to its Mine No. 31, Mine No. 6A–23 Drift, and to its Mine No. 43 all located in Kanawha County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more,

(5) On and after January 1, 1976, in coal mines having mining heights of less than 24 inches. * * * The substance of Petition-mines having mining heights of 24 inches but less than 48 inches;

1. Petitioner's No. 31 Mine is located at Winifrede, Kanawha County, West Virginia. The mine employs approximately 98 union employees and 12 supervisory employees. The union employees are represented by Local Union No. 2236 of District 17 of the United Mine Workers of America. The No. 31 Mine is operating in the Winifrede Coal Seam which is approximately 36 inches high but the mining height in such seam may vary. The No. 31 Mine currently produces approximately 500 tons of coal per day on two coal producing shifts with two operating sections.

2. Petitioner's Mine No. 6A–23 Drift Mine is located at Winifrede, Kanawha County, West Virginia. The mine employs approximately 41 union employees and 4 supervisory employees. The union employees are represented by Local Union No. 2236 of District 17 of the United Mine Workers of America. The No. 6A–23 Drift Mine is operating in the No. 5-Block Coal Seam which is approximately 33 inches high but the mining height in such seam may vary. The No. 6A–23 Drift Mine currently produces approximately 250 tons of coal per day on two coal producing shifts with one operating section.

3. Petitioner Mine No. 43 is located at Winifrede, Kanawha County, West Virginia. The mine employs approximately 105 union employees and 17 supervisory employees. The union employees are represented by Local Union No 2102 District 17 of the United Mine Workers of America. The No. 43 Mine is operating in the No. 2 Eagle Coal Seam which is approximately 48 inches high but the mining height in such seam may vary. The No. 43 Mine currently produces approximately 670 tons of coal per day on two coal producing shifts with two operating sections.

4. This Petition for Modification relates only to the shuttle cars and scoops (sometimes called unatrac) being operated in Petitioner's No. 31 Mine, No. 6A–23 Drift Mine and No. 43 Mine.

5. The shuttle cars and scoops are operated in areas of Petitioner's mines where other personnel may be working. Such other personnel may include timbermen, general laborers, miner helpers, foremen, engineers, company safety personnel and electricians. Such other personnel work in the same areas as do the shuttle cars and scoops and such other personnel work without the protection of cabs or canopies.

6. After a thorough investigation by Petitioner, it has been determined that compliance with 30 CFR 75.1710–1 for shuttle cars and scoops at Petitioner's No. 31 Mine, No. 6A–23 Draft Mine and No. 43 Mine will result in a dimution of safety to the miners in each such mine because personnel who operate the shuttle cars and scoops in each mine must constantly be on the lookout for other personnel in each mine. Because of the restricted height in the areas in which such equipment operates, if cabs or canopies are provided for such equipment, the vision of the equipment operators is substantially restricted so that safety hazards to other personnel in each mine are increased. In addition to reduced vision, such equipment operators of shuttle cars and scoops equipped with cabs or canopies in mining height of less than 48 inches have difficulty reaching the controls of such equipment and cabs or canopies make it difficult for some of the equipment operators to get into and out of such equipment.

7. Attached hereto as Exhibit H, Exhibit I and Exhibit J are statements signed by the employees at Petitioner's No. 31 Mine, No. 6A–23 Drift Mine and No. 43 Mine, respectively, which statements show that the employees at each mine are of the opinion that the operation of shuttle cars and scoops with cabs or canopies where the mining height is less than 48 inches is more hazardous to the personnel in the mine than operation of such equipment without cabs or canopies.

8. No imminent danger is involved. The operation of shuttle cars and scoops with cabs or canopies in Petitioner's Mines where the mining heights is less than 48 inches is more hazardous to the personnel in such mines than operation of such equipment without cabs or canopies and results in a diminution of safety to the miners in each mine.

9. Petitioner requests that in lieu of the mandatory safety standard contained in 30 CFR 75.1710–1 it be permitted to continue to operate shuttle cars and scoops in such mines without cabs or canopies.

Request for Hearing or Comments. Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 8, 1976. 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 and the exhibits mentioned therein are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

MARCH 1, 1976.

[FR Doc.76-6634 Filed 3-8-76;8:45 am]

[Docket No. M 76-95]

ISLAND CREEK 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), Island Creek Coal Company has filed a petition to modify the application of 30 CFR 75.1100–3 to its Vail Mine located in Guernsey, Ohio.

30 CFR 75.1103–3 provides in pertinent part:

All firefighting equipment shall be maintained in a usable and operative condition.

The substance of Petitioner's statement is as follows:

1. The slope conveyor belt which extends underground at Petitioner's mine is approximately seven hundred forty (740) feet in length. A waterline which has the delivery capacity required by 30 CFR 75.1100(a) has been installed along this belt in the manner required by 30 CFR 75.1100–2(b).

2. This slope conveyor belt waterline is independent of the main water supply system for this mine and services only the length of the slope belt conveyor. This waterline is connected to a buried surface waterline at the mine portal. A manual cut-off value has been installed at this point on the surface.

3. At most times during the year the surface cut-off valve remains open and water is maintained throughout the slope belt waterline. However, at times during the winter months a section of waterline where the belt enters the portal will freeze if water is allowed to remain in the waterline. To prevent freezing and the resulting blockage of the waterline the Petitioner closes the surface valve and drains the slope belt waterline during those times freezing is likely to occur.

4. The automatic fire sensor and warning device monitoring location is within five hundred feet (500) of the surface cut-off valve. In the event of activation of the fire sensors along the slope conveyor belt, employees at the monitoring location can quickly open the surface cut-off valve and restore the water flow to the slope conveyor belt waterline.

5. Petitioner states that, to the extent any interpretation may be given to the language of 30 CFR 75.1100-3 that a belt conveyor waterline must at all times and under all conditions contain water to be considered in a "useable and operative condition," then the application of such standard to the slope conveyor belt waterline at Petitioner's mine will, at certain times, result in a diminution of safety to the miners. Petitioner further states that the method herein set forth for maintaining the slope conveyor belt waterline in a usable and operative condition will at all times guarantee the measure of protection afforded by the standard of 30 CFR 75.1100-3.

6. Petitioner respectfully requests that the Secretary modify the application of 30 CFR 75.1100-3 to the slope conveyor belt waterline at Petitioner's mine by allowing Petitioner to close the surface valve, drain said waterline, and maintain the same without water during times when freezing is likely to occur.

Request for Hearing or Comments. Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 8, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulecard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

MARCH 2, 1976.

[FR Doc.76-6635 Filed 3-8-76;8:45 am]

[Docket No. M 76-162]

3-B 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), 3-B Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Mine No. 1 located in Buchanan County, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantialy constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches, and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner 3-B Coal Company has not applied to the Assistant Administrator—Technical Support for approval of devices to be used in lieu of cabs or canopies as permitted by 30 CFR 75.1710-1(f) since the Petitioner is without knowledge of any alternate device which would be safe and otherwise suitable for use in its mine.

2. The Petitioner submits, however, that both canopies and cabs are incompatible with the operations in its mine (primarily because of the size of the equipment in relation to the seam height) and that installation of canopies, cabs or any similar device would result in such a serious diminution of safety that the mine would not be able to continue to operate.

3. The average height of the *coal seam* in this mine is between 36 and 38 inches.

4. For purposes of the regulation at 30 CFR 1710-1, the *mining height* in this mine (as measured in accordance with official instructions set forth in Exhibit A) is 24 inches.

5. The electric face equipment subject to the regulation in this mine consists of the following:

12 RB Joy Cutting Machine.
81 C Jeffrey Loading Machine.
300 Galis Roof Bolting Machine.
944 Kersey Four-Wheel Drive, Rubber Tire, Battery Operated Haulage Motors, (There are three of these vehicles in the mine).

6. This equipment operates in entries which are cut 18 to 20 feet wide; there are no adverse rib conditions and there is no history of roof falls in any of the face areas.

7. A full roof bolting plan is used employing 42-inch roof bolts on 4-foot centers in all working areas, and elsewhere as required.

8. The Petitioner has investigated various methods of installing canopies or cabs, without encountering a single method which would be safe in its mine.

9. There are 12 underground employees at Petitioner's mine; none of these employees are members of any labor union.

10. Each of the employees at the mine has been consulted regarding his ideas and feelings concerning operation of equipment in this particular mine with canopies or cabs installed and each of these employees has expressed strenuous objections for reasons of safety.

11. The Petitioner does not have an alternate method for achieving the safety results intended by 30 CFR 75.1710-1, but Petitioner maintains that application of 30 CFR 75.1710-1 to Petitioner's mine will result in a diminution of safety to the miners in the mine.

Request for Hearing or Comments. Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 8, 1976. Such requests or comments must be filed with the Office of Hearings and Apeals, 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.

MARCH 1, 1976.

[FR Doc.76-6636 Filed 3-8-76;8:45 am]

[Docket No. M 76-166]

WESTMORELAND 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), Westmoreland Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its East Gulf Mine and McAlpin located in Raleigh County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches, and

(6) On and after July 1, 1975, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner requests the modification of the application of the mandatory safety standard 30 CFR 75.1710-1(a) with respect to the subject mines for the reason that the application of such standard will result in a diminution of safety to the miners.

2. Westmoreland avers that technology does not presently exist to enable it to equip its self-propelled electric face equipment with suitable canopies to protect and provide for the safety of the operators of said equipment. Westmoreland further avers that based upon its recent experience with presently available canopies, the use of these canopies results in a diminution of safety to the miners in said mines. Westmoreland's experience indicated the following:

(a) While canopies of the type specified had the necessary height clearance most of the time during mining under normal conditions, the necessary clearance diminished to zero when either the bottom or the full seam undulated or when rolls in the coal seam were encountered. Several canopies were torn off when they became wedged against the roof. While in such instances the operators of the equipment quite miraculously escaped harm, the further use of these canopies inevitably will cause injuries to the operators.

(b) When operating with the available canopies, the operator's vision is severely impaired to the point that operation of the equipment becomes hazardous to the operator and to all other persons in the working area.

(c) Due to the combination of the severely limited vision and close confinement in the cab, appendages of the operator's body, such as his hands or feet or his buttocks or head, hang out in such manner that they are in jeopardy of being crushed between the equipment, posts or the coal rib.

(d) Ingress to and egress from the cab is so limited that the operator is held captive, and cannot escape when the action of the roof clearly would warrant such retreat.

(e) Because of close confinement in the cabs, severely limited ingress to and egress from the cab under the canopies, and lack of vision, operators attempt to manipulate the controls from outside the equipment while standing between the equipment and the rib, thus incurring the risk of being crushed.

(f) In case of machine malfunction, cable damage, or power failure of any kind, the operators of the equipment may be held captive by the canopies for an indefinite period, depending on the circumstances.

(g) The operators of this type of equipment are under fully supported roof at all times provided by an approved full-roof bolting plan or a combination of roof bolts and posts. Such roof support is deemed satisfactory for all other personnel in the mine, including helpers on self-propelled electric face equipment, such as the continuous miner and the bolter. The helpers and other supporting personnel freely move around adjacent to the equipment under the protection of the proper roof support. Hence the addition of canopies of the type presently available rather than providing additional safety for the operators, introduces an instrument capable of inflicting serious bodily harm or death when visibility and the necessary clearance are reduced to zero.

(h) Cutting machine operators and continuous miner operators cannot see the last row of roof bolts because the canopies impair their vision; such operators may, as a result, inadvertently go in by supported roof.

(i) Cutting machine operators and continuous miner operators cannot see the cutter lines nor the cutter bar or cutter head due to impaired vision, and places may be cut too wide and off center thus weakening the roof and creating roof fall hazards.

(j) Technical support personnel from MESA, representatives of the miners, equipment operators, mine health and safety committees, and representatives of Westmoreland have worked together to attempt to modify the canopies in order to comply with the regulation. Such modifications created additional hazards to the miners and resulted in a diminution in safety.

3. Westmoreland avers that the subject mines have not experienced roof falls in the face area nor rib and face rolls. Westmoreland avers that with respect to low-ceiling mines, the use of currently available canopies with mobile electrical face equipment severely diminishes rather than increases the overall safety of the miners.

4. Petitioner requests that pursuant to Section 301(c) of the Act, that Section 30 CFR 1710-1(a) of the Act be modified in its application to permit use of self-propelled electric face equipment at its East Gulf and McAlpin Mines without canopies or cabs.

Request for Hearing or Comments. Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 8, 1976. 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.

MARCH 2, 1976.

[FR Doc.76-6637 Filed 3-8-76;8:45 am]

Bureau of Indian Affairs

HOOPA VALLEY TRIBE OF CALIFORNIA

Ordinance Setting Forth Conditions for the Introduction, Possession, Transportation and Sale of Alcoholic Beverages

FEBRUARY 27, 1976.

In accordance with authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 and in accordance with the Act of August 15, 1953, Public Law 277, 83rd Congress, 1st Session (67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian Liquor Laws relative to the Hoopa Valley Indian Tribe of California, was adopted January 8, 1976 by the Hoopa Valley Business Council which has jurisdiction over the twelve mile square area of Indian country referred to in the Ordinance as the Hoopa Valley Reservation reading as follows:

That the introduction, possession, transportation, and sale of intoxicating beverages shall be lawful within the Indian country under the jurisdiction of the Tribe, provided:

Section 1. Conformity with laws of California and this Ordinance. That such introduction, possession, transport-

ation, and sale are in conformity both with the laws of the State of California and with this Ordinance.

Section 2. Corporate and tribal entity. The Hoopa Valley Business Council may form a corporation, or a subordinate tribal entity, or a tribal enterprise, to operate off-sale or packaged sale of intoxicating beverages, under such license or licenses as may be required by law.

Section 3. Tribal license required. No person shall engage in the sale of intoxicating beverages within the exterior boundaries of the Hoopa Valley Reservation unless duly licensed by the Tribe and the State of California.

Section 4. Application for tribal liquor license: Requirements. No tribal license shall issue under this Ordinance except upon a sworn application filed with the Business Council containing a full and complete showing of the following:

a. If the applicant is a nonIndian, satisfactory proof that the applicant is or will be duly licensed by the State of California.

b. Satisfactory proof that the applicant is of good character and reputation among the people of the Hoopa Valley Reservation, with particular reference to the Indian people, and that he is financially responsible.

c. The description of the premises in which the intoxicating beverages are to be sold, proof that the applicant is the owner of such premises, or lessee of such premises, for at least the term of the license, and a complete detailed, itemized inventory of all intoxicating beverages on and in the premises where the intoxicating beverages are to be sold.

d. Agreement by the applicant to accept and abide by the conditions of the tribal license.

e. Payment of a fee of not more than $1500 per annum.

f. Satisfactory proof that the applicant is not an officer, member, or employee of the Business Council.

Section 5. Conditions of the tribal license. Any tribal license issued under this Ordinance shall be subject to the following conditions:

a. The license shall be for a term of one year.

b. The licensee shall at all times maintain an orderly, clean and neat establishment, both inside and outside the licensed premises.

c. The licensed premises shall be subject to patrol by law enforcement officers having proper jurisdiction for the purpose of enforcing applicable federal, state, and tribal laws and the licensee shall cooperate with such police and law officers.

d. The licensed premises shall be open to inspection by any member of the Hoopa Business Council, or the duly authorized representative of the Council, at all times during the regular business hours.

e. All acts and transactions under authority of the tribal liquor license shall be in conformity with the laws of the State of California, and shall be in accordance with this Ordinance and any tribal license issued pursuant to this Ordinance.

f. No person under the age of 21 shall be admitted into the premises of any establishment licensed for the sale or consumption on or off sale premises of distilled spirits.

g. There shall be no discrimination in the operations under the tribal license by reason of race, color or creed.

Section 6. Cancellation and suspension. Any license issued hereunder may be suspended or cancelled by the Hoopa Business Council for the breach of any of the provisions of this Ordinance, or of the conditions of the tribal license, upon hearing before the Hoopa Business Council after ten days' notice to the licensee.

Section 7. Prior Tribal laws repealed. Ordinance No. 70–1 adopted October 8, 1970, by the Hoopa Valley Business Council, is hereby repealed.

Section 8. Effective Date. This Ordinance shall be effective March 9, 1976.

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.76–6632 Filed 3–8–76;8:45 am]

MISSISSIPPI BAND OF CHOCTAW INDIANS

Transfer of Federally Owned Lands

MARCH 1, 1976.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

On September 29, 1975, pursuant to authority contained in the Federal Property and Administrative Services Act of 1949, as amended by Public Law 93–599 dated January 2, 1975 (88 Stat. 1954), the below-described property was transferred by the Director, Real Property Division, Atlanta Regional Office, of the General Services Administration to the Secretary of the Interior, without reimbursement, to be held in trust for the benefit and use of the Mississippi Band of Choctaw Indians, Choctaw Reservation, Mississippi:

Beginning at the center of Section 25, T. 11 N., R. 10 E., Neshoba County, Mississippi, run North 75.90 feet to the South right-of-way line of Mississippi State Highway 16; thence N 79 degrees—06' W, 1,334.76 ft. along said South right-of-way line; thence, South 334.00 ft. to the SW corner of the SE¼, NW¼, said Section 25; thence N 89 degrees 45' E, 1,309.79 feet to the point of beginning, same being all that part of the SE¼, NW¼, Section 25 that lies south of said Mississippi Highway 16; and containing an area of 6.16 acres, more or less.

SE ¼ of NW ¼ of NW ¼ and S ½ of NE ¼ of NW ¼ Section 34, T. 10 N., R. 10 W., St. Stephens Meridian, Jones County, Mississippi, containing 30 acres, more or less.

These lands are to be treated as and receive the same benefits and protection as other trust lands held for the benefit and use of the Mississippi Band of Choctaw Indians. Appropriate notation will be made in the land records of the Bureau of Indian Affairs.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.76–6631 Filed 3–8–76;8:45 am]

MENOMINEE RESERVATION, WISCONSIN

Court of Indian Offenses Established March 1, 1976

FEBRUARY 27, 1976.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM2.

Notice is given that effective as of March 1, 1976, a Court of Indian Offenses is authorized to be established on the Menominee Indian Reservation in the State of Wisconsin.

RAYMOND V. BUTLER,
Acting Deputy Commissioner, of Indian Affairs.

[FR Doc.76–6630 Filed 3–8–76;8:45 am]

Bureau of Land Management

[ES 11592]

ARKANSAS

Proposed Withdrawal and Reservation of Lands

MARCH 3, 1976.

The National Park Service, Department of the Interior, has filed an application for the withdrawal of the lands described below from all forms of appropriation.

The applicant desires the land to administer it as part of the Buffalo National River area in accordance with the Act of March 1, 1972, 88 Stat. 44.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed action may present their views in writing to the undersigned officer of the Eastern States Land Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910.

The Department's regulations, 43 CFR 2351.4(c), provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. The office will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicants, and to reach agreement on the concurrent management of the land and its resources.

The authorized officer will also prepare for consideration by the Secretary

of the Interior who will determine whether or not the land will be further withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

FIFTH PRINCIPAL MERIDIAN, ALABAMA

T. 15 N., R. 17 W.,
Sec. 3: NE¼NE¼
T. 15 N., R. 18 W.,
Sec. 8: NW¼NW¼
Sec. 10: NW¼NE¼
T. 16 N., R. 19 W.,
Sec. 25: SW¼SE¼
T. 16 N., R. 22 W.,
Sec. 1: S½SW¼, SW¼SE¼, NE¼SE¼
Sec. 2: S½SE¼
Sec. 7: SE¼NW¼, SW¼NE¼
Sec. 12: NE¼NW¼, SW¼SE¼
Sec. 17: NW¼SE¼
T. 17 N., R. 14 W.,
Sec. 2: S½N½SW¼
T. 17 N., R. 21 W.,
Sec. 29: SW¼SW¼
T. 18 N., R. 14 W.,
Sec. 34: SE¼SE¼.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc.76-6633 Filed 3-8-76; 8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 25, 1975. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments, or a request for additional time to prepare comments, should be submitted by March 18, 1976.

JERRY L. ROGERS,
Acting Director, Office of Archeology and Historic Preservation.

ALABAMA

Calhoun County

Ohatchee vicinity, *Janney Furnace*, 1 mi. NW of Ohatchee.

Cleburne County

Heflin, *Cleburne County Courthouse*, Vickory St.

Dallas County

Selma vicinity, *Valley Creek Presbyterian Church*, N of Selma on Valley Creek Rd.

Lauderdale County

Florence, *Patton, Gov. Robert, House*, Sweetwater and Florence Blvd.

ALASKA

Kenai-Cook Inlet Division

Homer vicinity, *Chugachik Island Site*, Kachemak Bay.

Matanuska-Susitna Division

Palmer vicinity, *Long Lake Archeological Site*, E of Palmer on AK 1.

CALIFORNIA

Los Angeles County

Los Angeles, *Mooers, Frederick Mitchell, House*, 818 S. Bonnie Brae St.

Marin County

Tiburon, *Lyford's Stone Tower*, 2034 Paradise Dr.

Monterey County

Jolon vicinity, *San Antonio de Padua Mission*, NW of Jolon off Del Venturi Rd.

Ventura County

Oxnard vicinity, (*CA–Ven–110*), SE of Oxnard.

COLORADO

Grand County

Grand Lake vicinity, *North Inlet Shelter Cabin*, about 6 mi. E of Grand Lake on Rocky Mountain National Park.

Larimer County

Estes Park vicinity, *Historic Trail (Ute Trail)*, W of Estes Park, Trail Ridge Rd.

IDAHO

Shosone County

Wallace, *Northern Pacific Railway Depot*, off U.S. 10.

INDIANA

Wayne County

Cambridge City, *Lackey-Overbeck House*, 520 E. Church St.

KANSAS

Pottawatomie County

Olsburg vicinity, *Coffey Site*, N of Olsburg.

KENTUCKY

Franklin County

Frankfort, *Zeigler, Rev. Jesse R., House*. 500 Shelby St.

MASSACHUSETTS

Worcester County

Shrewsbury, *Shrewsbury Historic District*, Main and Grafton Sts. N to Loring St.

MICHIGAN

Wayne County

Detroit, *Ste. Anne Roman Catholic Church Complex*, Howard and Sts. Anne Sts.
Detroit, *Thompson Home*, 4756 Cass Ave.
Detroit, *Trowbridge, Charles, House*, 1380 E. Jefferson Ave.

NEW JERSEY

Burlington County

Medford vicinity, *Haines, Jonathan, House*, NE of Medford on Fostertown Rd.

Monmouth County

Red Bank, *Red Bank Passenger Station*, Ridge and Monmouth Sts.

Passaic County

Newfoundland vicinity, *Clinton Furance*, off NJ 23 at Clinton Reservoir.

NEW YORK

Montgomery County

Fonda vicinity, *Butler, Walter, Homestead*, NE of Fonda on Old Trail Rd.

PENNSYLVANIA

Bucks County

Cornwells Heights, *Trevose Manor (Joseph Growden House)*, 5408 Old Trevose Rd.

SOUTH CAROLINA

Dorchester County

Summerville, *Summerville Historic District*, roughly bounded by S. Railroad Ave., Magnolia, Main, and town boundary.

SOUTH DAKOTA

Clay County

Vermillion, *University of South Dakota* Historic Buildings, University St.

Deuel County

Gary, *Odd Fellow's Hall*, Main St.

Pennington County

Rapid City, *Pennington County Courthouse* 301 St. Joseph St.

TENNESSEE

Davidson County

Nashville vicinity, *Newsom's Mill*, W of Nashville off I40 on Big Harpeth River.

UTAH

Salt Lake County

Salt Lake City, *Oregon Shortline Railroad Company Building*, 126–140 Pierpont Ave.

VIRGINIA

Albemarle County

Charlottesville vicinity, *Blenheim*, VA 727 S of Charlottesville.

[FR Doc.76-6321 Filed 3-8-76;8:45 am]

Office of the Secretary

NATIONAL PETROLEUM COUNCIL

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

The National Petroleum Council will meet at 9:00 a.m. on March 31, 1976 in the Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C. The agenda will include:

1. Progress report of the Committee on Future Energy Prospects.

2. Progress report of the Committee on Enhanced Recovery Techniques for Oil and Gas in the United States.

The meeting will be open to the public to the extent that space and facilities permit. Any member of the public may file a written statement with the Council either before or after the meeting. Interested persons who wish to speak at the meeting must apply to the Council and obtain approval in accordance with its established procedure.

The purpose of the National Petroleum Council is to provide advice, information and recommendations to the Secretary of the Interior, upon request, on any matter relating to petroleum or the petroleum industry.

Further information with respect to this meeting may be obtained from Ben Tafoya, Office of the Assistant Secretary-Energy and Minerals, Department

of the Interior, Washington, D.C., telephone number (202) 343–6226.

Dated: March 3, 1976.

WILLIAM L. FISHER,
Deputy Assistant Secretary of the Interior.

[FR Doc.76–6629 Filed 3–8–76;8:45 am]

[INT FES 76–13]

OIL AND GAS DEVELOPMENT IN SANTA BARBARA CHANNEL OUTER CONTINENTAL SHELF, OFF CALIFORNIA

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement on existing and potential oil and gas development of the Outer Continental Shelf, Santa Barbara Channel, off the coast of California. The various potentials of further development would require additional drilling and production platforms, pipelines, and additional onshore treating and storage facilities.

The final environmental statement is available for public review in the following U.S. Geological Survey Public Inquiries Offices: Room 7638, Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012; Room 504, Custom House, 555 Battery Street, San Francisco, California 94111; and Room IC402, National Center (303), Reston, Virginia 22092, and the U.S.G.S. Libraries; 345 Middlefield Road, Menlo Park, California 94025; Federal Center (914), Denver, Colorado 80225; National Center (950), Reston, Virginia 22092.

In addition, the statement will be available at the following California library locations:

Universities. California Institute of Technology, Pasadena; University of California campuses, Los Angeles, Irvine, La Jolla, Santa Barbara, and Riverside; University of Southern California, Los Angeles; Stanford University, Palo Alto; California State University campuses, Domingus Hills, Fullerton, Long Beach, and Los Angeles; and West Coast University, Los Angeles.

Colleges. California Lutheran College, Thousand Oaks; Moorpark College; Santa Barbara City College; Ventura College; and Westmont College, Montecito.

County Libraries. Los Angeles County, Ventura County.

City Libraries. Long Beach City Library; Los Angeles City Library; Santa Barbara City Library; Santa Monica City Library; Ventura City Library.

Miscellaneous. Los Angeles County Museum of Natural History Library; Palos Verdes Library District.

Upon written request individual copies may be obtained from the Area Oil and Gas Supervisor, 7744 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

Dated: March 4, 1976.

STANLEY D. DOREMUS,
Acting Assistant Secretary of the Interior.

[FR Doc.76–6681 Filed 3–8–76;8:45 am]

FRYINGPAN-ARKANSAS PROJECT

Notice of Proposed Method of Allocation of Generating Capacity in Two Pump-Turbine Units

Pursuant to Public Law 87–590, dated August 16, 1962, and by virtue of authority under the Reclamation Project Act of 1939, dated August 4, 1939 (53 Stat. 1187, 1194, and 1198), the Secretary of the Interior purposes to allocate the generating capacity in two Mt. Elbert Pumped-Storage Powerplant units of the Fryingpan-Arkansas Project.

There are 100 megawatts in Unit No. 1 scheduled for service by October 1977 and 100 megawatts in Unit No. 2 scheduled for service by February 1980.

Public comments on the proposed method of allocation to be made this year should be received in writing on or before April 1, 1976, at the following offices:

Chief, Division of Power, Bureau of Reclamation, Room 7612, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343–5337.

Regional Director, Attention: Code 600, Lower Missouri Region, Bureau of Reclamation, Department of the Interior, Bldg. 20, Denver Federal Center, Denver, Colorado 80225, Telephone: (303) 234–3745.

Each entity desiring to purchase capacity from the Mt. Elbert facility should state in writing, postmarked no later than May 15, 1976, the maximum amount of capacity in kilowatts in each summer and winter season it is willing to place under long-term contract and, in the event the total amount requested cannot be utilized when available, a schedule of planned utilization.

The proposed method of allocation, together with a statement of the principles involved, is reproduced below, and also is available for public inspection at the above offices.

Public comments on the proposed method of allocation and the requests for service will be considered in establishing the final allocation.

Dated: March 3, 1976.

DENNIS N. SACHS,
Deputy Assistant Secretary of the Interior.

PROPOSED METHOD OF ALLOCATION OF POWER FROM FRYINGPAN-ARKANSAS

I. *Description of Project.* The Fryingpan-Arkansas Project is located in south-central Colorado along both sides of the Continental Divide. The project provides for the transmountain diversion of water from the western slope of the Rocky Mountains to the eastern slope for the principal purposes of providing municipal, industrial, and supplemental irrigation water supplies.

The project power system will consist of 200 megawatts of installed capacity provided by the Mt. Elbert Pumped-Storage Powerplant and 11 megawatts by the Otero Powerplant. The Mt. Elbert Pumped-Storage Powerplant is now under construction. Start of construction of the Otero Powerplant, which will be a conventional hydroelectric plant, will be scheduled after 1980. Allocation of the Otero Powerplant will be made after construction has been initiated. Both plants are located south of Leadville, Colorado, and are a part of the project's eastern slope facilities.

The Mt. Elbert Pumped-Storage Powerplant will have two 100-begawatt units which are scheduled for service as follows: Unit No. 1, October 1977. Unit No. 2, February 1980. The powerplant is designed as an in-line pumped-storage facility; however, until completion of the Mt. Elbert Conduit, the plant will be operated as a pure pumped-storage plant.

After the Mt. Elbert Conduit is placed in service, about January 1980, approximately 164,500 acre-feet of direct flow water (that is, water not pumped into the forebay) will be routed through the plant. This water will produce electric energy conventionally. The energy will be included in the capacity allocation to reduce the pumping requirements. The average annual generation from the direct flow water will be about 62 million kilowatthours.

II. *Market Area.* The market area for the Fryingpan-Arkansas Project will be within the boundaries of the State of Colorado.

III. *Proposed Basis of Allocation.* This marketing plan sets forth the proposed disposition of the power from the Mt. Elbert Pumped-Storage Powerplant as follows:

A. The electrical capacity in the Fryingpan-Arkansas Project offered for sale initially will be capacity in the Mt. Elbert Units Nos. 1 and 2 (200 megawatts).

B. The customers will be required to furnish all the electrical energy for the pump-back cycle.

C. Allotments of capacity will be made first to preference customers. If the preference customers do not subscribe for all the capacity, the remaining capacity will be offered to others on a short-term basis, subject to withdrawal.

D. Project capacity will not be sold to a preference customer for sale or exchange to another electric utility.

E. If the total amount applied for by all qualified applicants exceeds the capacity available, the capacity will be apportioned among and allocated to the applicants in the ratio that each applicant's 1975 summer seasonal and 1975–76 winter seasonal peaks in Colorado bear to the sum of all applicants' 1975 summer seasonal and 1975–76 winter seasonal peaks in Colorado, respectively, but no applicant will be allocated more capacity than the amount it applied for.

F. The Bureau of Reclamation reserves the right to rescind any allotment, if, by December 31, 1976, the allottee has not entered into a contract to take and/or pay for his allotted capacity from and after the time specified in such contract.

G. Contract term will be 10 years.

H. The customers will be permitted to use the overload capacity in the units, when available, if they have water in their account available in the forebay.

I. Customers are required to provide operating reserves for their share of the capacity in the Mt. Elbert units.

IV. *Service Seasons.* The summer season shall include the April through September billing periods. The winter season shall include the October through next following March billing periods.

V. *Points of Delivery and Delivery Voltages.* The Mt. Elbert Switchyard will be connected to the Public Service Company of Colorado's Malta Substation 230-kV bus by a 230-kV transmission line. Except for that part of the Fryingpan-Arkansas Project power and pumping energy which is capable of being delivered to customers at the Mt. Elbert Switchyard and at the Malta Substation 230-kV bus, the Public Service Company of Colorado proposes to wheel the customers' power to the points of interconnection between the United States and the Public Service Company and proposes to wheel the pumping energy from these points of interconnection to the Malta Substation, all at the customers' expense. The Bureau of Reclamation is presently negotiating for this service. Initial points of interconnection are proposed as follows:

A. Malta Substation 230-kV bus.
B. Midway Substation 230-kV bus.
C. Weld Substation 230-kV bus.
D. Rifle Substation 230-kV bus.
E. Beaver Creek Substation 115-kV bus.
F. Greeley Substation 115-kV bus.
G. Erie Substation 115-kV bus.
H. Summit Substation 115-kV bus.
I. Poncha Substation 230-kV bus (future).

Other points of delivery may be established on the Public Service Company's system if mutually agreed among the customer, the Public Service Company, and the United States. Additional wheeling beyond these points of interconnection and points of delivery will be at the customers' expense.

VI. *Dates of Availability of Power.* Dates of availability of power to be allocated will be determined by the actual commercial operation date of each of the two generating units at the Mt. Elbert Pumped-Storage Powerplant. Amounts of capacity to be available and the scheduled in-service dates are shown in section I above.

VII. *Proposed Power and Energy Rate.* The tentative capacity rate of $12.90/kW season and an energy rate of 4.5 mills/kWh is currently under review. When the final rate is adopted, it will be implemented by a formal rate schedule.

VIII. *Proposed Customer Meeting.* Prospective customers will be informed of the time and location of a meeting to explain more of the details and mechanics of the sale of the pump-turbine capacity. Subsequent to the meeting, the Bureau will accept comments concerning the proposed allocation of generating capacity in the Mt. Elbert units until April 1, 1976. These comments will be considered in establishing the final allocation.

IX. *Contractual Agreements.* A. Term of Contracts: The term of contracts will be through the 1986–87 winter season.

B. Deadline: The Bureau of Reclamation reserves the right to rescind any allotment not under contract by December 31, 1976.

X. *Action Required by Customers.* Customers should state by letters postmarked no later than May 15, 1976, the maximum amount of capacity in kilowatts in each season they are willing to place under contract.

[FR Doc.76-6803 Filed 3-8-76;8:45 am]

EASTERN DIVISION, PICK-SLOAN MISSOURI BASIN PROGRAM

Notice of Proposed Completion of Additional Firm Power Assignment to "Total Requirements" Customers for Period After 1977

Pursuant to, and by virtue of authority under, the Reclamation Act of 1902 approved June 17, 1902 (32 Stat. 388), the Reclamation Project Act of 1939 approved August 4, 1939 (53 Stat. 1187), the Flood Control Act of 1944 approved December 22, 1944 (58 Stat. 887), and Acts amendatory thereof or supplementary thereto, the Secretary of the Interior proposes to complete the assignment of power from the Eastern Division, Pick-Sloan Missouri Basin Program, to 147 existing "total requirements" customers for the period from November 1977 through the remaining terms of their contracts (mid-1980's).

Amounts of power to be so assigned are 287,730 kilowatts in the winter season and 330,524 kilowatts in the summer season.

At the present time, the Eastern Division, Pick-Sloan Missouri Basin Program, is committed by contract to serve the total requirements of these customers through October 1977. Long-range marketing plans of the Eastern Division, Pick-Sloan Missouri Basin Program, have included the continuance of service to these customers after October 1977 at the load levels firm resources will permit. The above amounts of power added to existing long-term commitments will sustain deliveries of firm and additional firm power to these customers at levels slightly higher than their estimated 1976 seasonal loads.

Public comments on this proposed action should be submitted in writing on or before May 10, 1976 to one of the following offices:

Chief, Division of Power, Bureau of Reclamation, Room 7612, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343-5337.

Regional Supervisor of Power, Upper Missouri Region, Bureau of Reclamation, Room 2451, Department of the Interior, P.O. Box 2553, Billings, Montana 59103, Telephone: (406) 245-6532.

A detailed analysis of the proposed action and the principles involved is reproduced below and also is available for inspection at both of the above offices.

Dated: March 3, 1976.

DENNIS N. SACHS,
Deputy Assistant Secretary of the Interior.

PROPOSED COMPLETION OF ADDITIONAL FIRM POWER ASSIGNMENT TO "TOTAL REQUIREMENTS" CUSTOMERS FOR THE PERIOD AFTER 1977 FROM EASTERN DIVISION PICK-SLOAN MISSOURI BASIN PROGRAM

I. *Power Marketing Area.* The Eastern Division, Pick-Sloan Missouri Basin Program, marketing area includes central and eastern Montana, North and South Dakota, central and eastern Nebraska, western Iowa, and western Minnesota.

II. *Background.*—A. *1964 Firm Power Allocation.* The Eastern Division, Pick-Sloan Missouri Basin Program, power was last allocated in 1964. At that time, it was determined that saleable firm capability in the winter season (Eastern Division peak season) totaled 1,845,000 kilowatts of which at least 1,229,000 kilowatts could be supported as annual firm power with median-year energy available during the critical season of the year. Said determinations were made after proper consideration of adverse-year capability, median-year energy generation, diversity, reserves, and losses.

A total of 1,229,000 kilowatts of firm power was allocated to 236 allottees in July 1964.

At the same time, the Secretary of the Interior offered to sell a total of 616,000 kilowatts of Class II power to the 1964 allottees. It was originally offered as firm peaking power with or without energy and was divided equitably among the 236 allottees.

A large group of customers accepted all Class II power offered to them as firmed up power. This was subsequently put under contract as long-term "Additional Firm Power." Basin Electric Power Cooperative and Nebraska Public Power District desired peaking power without energy (return of energy required). This was subsequently put under contract as long-term "Firm Peaking Power."

The Eastern Division continued to study loads of its customers and resources available as water conditions improved and as plans of large customers for generation installation were completed. A group of about 150 small customers indicated a desire to purchase their total requirements from the Bureau of Reclamation for as long as possible. Other customers of the Eastern Division elected to utilize other sources. Those customers who elected to take total requirements from the Bureau of Reclamation were mostly small municipal systems, State institutions, and a few distribution cooperatives. Such customers did not have efficient generation of their own and were faced with complex problems in obtaining an alternate power supply.

Results of studies based on Class II power desired by customers, and on plans of customers with significant generation, indicated the Bureau could sustain total requirements sales to those customers who had elected to take their total requirements from the Bureau through 1977. On October 16, 1970, the Assistant Secretary of the Interior sent a letter to all Eastern Division preference customers stating that the Bureau would extend, through October 1977, existing commitments to supply total power requirements to preference customers in the Eastern Division. The commitment was limited to available transmission and transformation limits. Exact commitments were to be set by contract modifications. Such contract modifications were subsequently made. This action put

"total requirements" under contract through October 1977 to an established group of total requirements customers. It was the plan to carry the loads of these customers after October 1977 at as high a level as firm resources would allow, and such customers were so informed.

The Bureau did make short-term firm and firm peaking commitments to certain customers to utilize excess firm capability available during the period 1970–77 while loads of total requirements customers were growing. All such short-term arrangements will terminate prior to October 1977.

III. *Proposed Completion of Additional Firm Power Assignment to "Total Requirements" Customers for the Period After 1977.*

Long-term firm, additional firm, and firm peaking power is under contract to Eastern Division preference customers for the term of their contracts. In addition to the long-term power under contract, total requirements in excess of long-term power are committed to 147 customers through October 1977. These customers were informed in 1970 and again in 1974 that the Bureau of Reclamation would sustain deliveries to them after 1977 at the load levels that Eastern Division firm resources permit. Amounts were estimated at 1976 or 1977 load levels.

The purpose of this proposed action is to establish amounts that will be assigned to this group of customers for the remaining terms of their contracts after December 1977.

To date, all firm and additional firm power commitments by the Eastern Division are on an annual rather than seasonal basis. Customers receive their full contract rates of delivery in the month of their annual system peaks. Bureau commitments for offpeak months are determined by contract provisions on a load pattern basis.

To maximize the amount of additional firm power that can be committed to the 147 total requirements customers after October 1977, it is proposed that all contractual commitments to these customers be made on a seasonal basis. This would make it unnecessary to reserve an amount of power in each season to allow for fluctuating load patterns, such as changes from winner to summer peaks and changes in the relationship of offseason loads to peak-season loads. Trends of such fluctuations are observable at this time.

Studies completed in November 1975, based on estimates of individual customer loads, show that firm resources of the Eastern Division, Pick-Sloan Missouri Basin Program, can sustain loads of total requirements customers for the remaining terms of their contracts, under assumed load conditions, at levels slightly higher than estimated 1976 seasonal loads. However, since available energy resources could not sustain any substantial increase in load factor or load pattern energy requirements, it will be necessary to include a contractual provision whereby we can, upon not less than 3 years' advance notice, limit energy deliveries to a specified number of kilowatthours per kilowatt of Bureau obligation.

A tabulation follows that lists the 147 customers which are receiving their total requirements from the Bureau of Reclamation through October 1977. The tabulation shows: (1) existing long-term commitments, (2) seasonal load levels that firm resources can sustain proportioned on the basis of estimated 1976 load levels, (3) new additional firm power required to sustain these load levels, and (4) total commitments proposed for the period after October 1977. Columns 6 and 7 of the tabulation show the new "Additional Firm" power proposed for the "Completion of Additional Firm Power Assignment to "Total Requirements" Customers for the Period after 1977." Columns 12 and 13 show the proposed total firm commitment to these customers for the period November 1977 through the remaining terms of their contracts.

Public comments on this proposed assignment will be accepted on or before May 10, 1976, after which a final assignment will be made on the basis of these comments.

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	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
	UNDER LONG-TERM CONTRACT			SUSTAINABLE LOAD LEVELS		POST 1977 ADDITIONAL FIRM		TOTAL FIRM AND ADDITIONAL FIRM					
	Firm	Additional Firm	Total	Winter	Summer	Winter	Summer	FIRM Winter	FIRM Summer	ADDITIONAL FIRM Winter	ADDITIONAL FIRM Summer	TOTAL Winter	TOTAL Summer
					KILOWATTS								
SUMMARY													
Montana	52,790	26,699	79,489	90,898	67,518	11,409	8,123	52,790	38,658	38,108	28,860	90,898	67,518
North Dakota	20,179	4,570	24,749	45,797	38,150	21,616	17,404	19,642	17,074	26,155	21,076	45,797	38,150
South Dakota	80,443	53,880	134,323	164,375	196,205	51,482	64,949	67,299	78,754	97,076	117,451	164,375	196,205
Minnesota	86,912	24,652	113,564	222,356	243,749	118,914	133,800	81,033	86,331	141,323	157,418	222,356	243,749
Iowa	39,536	13,202	52,738	111,238	140,369	69,567	87,686	31,021	39,510	80,217	100,859	111,238	140,369
Nebraska	8,878	9,112	17,990	29,889	36,552	14,742	18,562	7,198	8,878	22,691	27,674	29,889	36,552
GRAND TOTAL	290,738	132,115	422,853	664,553	722,543	287,730	330,524	258,983	269,205	405,570	453,338	664,553	722,543

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	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
	UNDER LONG-TERM CONTRACT			SUSTAINABLE LOAD LEVELS		POST 1977 ADDITIONAL FIRM		TOTAL FIRM AND ADDITIONAL FIRM					
								FIRM		ADDITIONAL FIRM		TOTAL	
	Firm	Additional Firm	Total	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer
MONTANA				KILOWATTS									
COOPERATIVES													
Central Montana	41,326	9,493	50,819	62,036	44,218	11,217	7,995	41,326	29,456	20,710	14,762	62,036	44,218
Glacier	10,524	16,886 1/	27,410 1/	27,410	22,329	0	0	10,524	8,573	16,886	13,756	27,410	22,329
McCone (Mosby)	940	320	1,260	1,452	971	192	128	940	629	512	342	1,452	971
Subtotal - Cooperatives	52,790	26,699	79,489	90,898	67,518	11,409	8,123	52,790	38,658	38,108	28,860	90,898	67,518
TOTAL - MONTANA	52,790	26,699	79,489	90,898	67,518	11,409	8,123	52,790	38,658	38,108	28,860	90,898	67,518
NORTH DAKOTA													
MUNICIPALITIES													
Cavalier	1,328	386	1,714	5,664	3,570	3,950	2,490	1,328	837	4,336	2,733	5,664	3,570
Grafton	3,439	991	4,430	7,157	5,906	2,727	2,631	3,439	3,318	3,718	3,588	7,157	6,906
Hillsboro	986	272	1,258	3,295	2,056	2,037	1,271	986	615	2,309	1,441	3,295	2,056
Hope	335	87	422	628	471	206	155	335	251	293	220	628	471
Lakota	981	467	1,448	2,183	1,207	735	406	981	542	1,202	665	2,183	1,207
Northwood	982	363	1,345	2,183	1,790	838	687	982	805	1,201	985	2,183	1,790
Park River	1,240	390	1,630	3,182	2,271	1,552	1,108	1,240	885	1,942	1,386	3,182	2,271
Sharon	152	116	268	278	225	10	8	152	123	126	102	278	225
Subtotal - Municipalities	9,443	3,072	12,515	24,570	18,496	12,055	8,756	9,443	7,376	15,127	11,120	24,570	18,496
COOPERATIVES													
Central Power (Mohall and Foxholm)	1,867	524	2,391	4,644	2,998	2,253	1,454	1,867	1,205	2,777	1,793	4,644	2,998
Subtotal - Cooperatives	1,867	524	2,391	4,644	2,998	2,253	1,454	1,867	1,205	2,777	1,793	4,644	2,998

1/ CROD after October 1977 is highest CROD actually experienced in 12 months prior to November 1977.

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	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
	UNDER LONG-TERM CONTRACT			SUSTAINABLE LOAD LEVELS		POST 1977 ADDITIONAL FIRM		TOTAL FIRM AND ADDITIONAL FIRM					
								FIRM		ADDITIONAL FIRM		TOTAL	
	Firm	Additional Firm	Total	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer
NORTH DAKOTA (Continued)				KILOWATTS									
STATE AND FEDERAL													
BIA (Turtle Mountain-Ft. Totten)	0	0	0	855	593	855	593	0	0	855	593	855	593
Grafton State School	515	0	515	649	583	134	120	515	463	134	120	649	583
N.D. Mill and Elevator	1,640	0	1,640	4,634	4,235	2,994	2,736	1,640	1,499	2,994	2,736	4,634	4,235
N.D. School for the Deaf	105	0	105	124	113	19	17	105	96	19	17	124	113
N.D. School of Forestry	178	0	178	237	225	59	56	178	169	59	56	237	225
N.D. School of Science	1,190	739	1,929	2,111	2,128	197	199	1,180	1,190	931	938	2,111	2,128
T.B. Sanatorium-San Haven	226	0	226	309	256	83	69	226	187	83	69	309	256
State Hospital - Jamestown	915	35	950	950	819	0	0	915	789	35	30	950	819
University of N.D.-Grand Forks	4,100	200	4,300	6,714	7,704	2,967	3,404	3,573	4,100	3,141	3,604	6,714	7,704
Subtotal - State and Federal	8,869	974	9,843	16,583	16,656	7,308	7,194	8,332	8,493	8,251	8,163	16,583	16,656
TOTAL - NORTH DAKOTA	20,179	4,570	24,749	45,797	38,150	21,616	17,404	19,642	17,074	26,155	21,076	45,797	38,150
SOUTH DAKOTA													
MUNICIPALITIES													
Arlington	951	170	1,121	1,273	1,234	152	147	951	922	322	312	1,273	1,234
Aurora	60	198	258	313	257	55	45	60	49	253	208	313	257
Badger	277	91	368	368	315	0	0	277	237	91	78	368	315
Beresford	1,169	726	1,895	2,199	2,988	804	1,093	860	1,169	1,339	1,819	2,199	2,988
Big Stone City	392	224	616	1,668	1,898	1,127	1,282	344	392	1,324	1,506	1,668	1,898
Brookings	6,798	1,720	8,518	17,352	18,753	9,470	10,235	6,290	6,798	11,062	11,955	17,352	18,753
Bryant	420	0	420	628	588	208	195	420	393	208	195	628	588
Burke	692	473	1,165	1,277	1,448	250	283	610	692	667	756	1,277	1,448
Colman	515	48	563	915	908	352	349	515	511	400	397	915	908
Elk Point	674	242	916	1,576	1,934	830	1,018	549	674	1,027	1,260	1,576	1,934

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	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
	UNDER LONG-TERM CONTRACT			SUSTAINABLE LOAD LEVELS		POST 1977 ADDITIONAL FIRM		TOTAL FIRM AND ADDITIONAL FIRM					
								FIRM		ADDITIONAL FIRM		TOTAL	
	Firm	Additional Firm	Total	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer
SOUTH DAKOTA (Continued)					KILOWATTS								
MUNICIPALITIES (Continued)													
Estelline	655	314	969	1,134	792	165	115	655	457	479	335	1,134	792
Faith	797	752	1,549	1,549	984	0	0	797	506	752	478	1,549	984
Flandreau	1,997	655	2,652	3,019	3,150	477	498	1,914	1,997	1,105	1,153	3,019	3,150
Fort Pierre	1,407	521	1,928	2,692	3,043	986	1,115	1,245	1,407	1,447	1,636	2,692	3,043
Groton	836	451	1,287	2,059	1,923	772	723	836	783	1,223	1,145	2,059	1,928
Hecla	326	86	412	686	663	274	265	326	315	360	348	686	663
Howard	1,049	726	1,775	1,619	2,066	228	291	822	1,049	797	1,017	1,619	2,066
Langford	267	158	425	387	523	73	98	198	267	189	256	387	523
Madison	5,335	3,980	9,315	9,089	9,089	0	0	5,335	5,206	3,980	3,883	9,315	9,089
McLaughlin	401	1,333	1,734	1,734	1,655	0	0	401	383	1,333	1,272	1,734	1,655
Miller	1,939	1,453	3,392	4,482	4,500	1,104	1,108	1,931	1,939	2,551	2,561	4,482	4,500
Parker	1,049	993	2,042	1,911	2,042	0	0	982	1,049	929	993	1,911	2,042
Pierre	8,644	4,425	13,069	17,620	25,515	8,595	12,446	5,969	8,644	11,651	16,871	17,620	25,515
Plankinton	706	518	1,224	1,576	1,197	352	267	706	536	870	661	1,576	1,197
Sioux Falls	4,792	2,628	7,420	8,416	8,946	1,436	1,526	4,508	4,792	3,908	4,154	8,416	8,946
Tyndall	797	291	1,088	1,602	1,921	695	833	665	797	937	1,124	1,602	1,921
Vermillion	3,141	1,333	4,474	7,107	11,527	4,349	7,053	1,937	3,141	5,170	8,386	7,107	11,527
Volga	997	752	1,749	1,862	1,815	113	110	997	972	865	843	1,862	1,815
Watertown	10,396	5,161	15,557	18,833	25,302	7,253	9,745	7,738	10,396	11,095	14,906	18,833	25,302
Wessington Springs	894	678	1,572	1,739	1,820	237	248	854	894	885	926	1,739	1,820
Winner	3,351	2,689	6,040	6,607	7,380	1,200	1,340	3,000	3,351	3,607	4,029	6,607	7,380
Subtotal - Municipalities	61,724	33,789	95,513	123,518	146,181	41,557	52,428	52,692	60,718	70,826	85,463	123,518	146,181

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	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
	UNDER LONG-TERM CONTRACT			SUSTAINABLE LOAD LEVELS		POST 1977 ADDITIONAL FIRM		TOTAL FIRM AND ADDITIONAL FIRM					
								FIRM		ADDITIONAL FIRM		TOTAL	
	Firm	Additional Firm	Total	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer
SOUTH DAKOTA (Continued)					KILOWATTS								
COOPERATIVES													
Northern (Frederick)	843	374	1,217	2,214	1,432	997	645	843	545	1,371	887	2,214	1,432
Oahe	3,280	3,135	6,415	7,465	9,208	2,264	2,793	2,659	3,280	4,806	5,928	7,465	9,208
Subtotal - Cooperatives	4,123	3,509	7,632	9,679	10,640	3,261	3,438	3,502	3,825	6,177	6,815	9,679	10,640
STATE AND FEDERAL													
City of Aberdeen	641	302	943	400	943	0	0	272	641	128	302	400	943
State of South Dakota													
Northern State College	0	1,630	1,630	1,224	1,630	0	0	0	0	1,224	1,630	1,224	1,630
Redfield State Hospital	500	125	625	650	628	25	24	500	483	150	145	650	628
School of Mines and Tech.	0	1,500	1,500	1,648	1,944	376	444	0	0	1,648	1,944	1,648	1,944
State School - Plankinton	0	305	305	233	305	0	0	0	0	233	305	233	305
S.D. Cement Plant	6,500	3,300	9,800	13,388	18,415	6,263	8,615	4,726	6,500	8,662	11,915	13,388	18,415
Yankton State Hospital	1,015	80	1,495	1,193	1,495	0	0	810	1,015	383	480	1,193	1,495
S.D. State Penitentiary	0	540	540	510	540	0	0	0	0	510	540	510	540
S.D. State University-Brookings	3,250	4,310	7,560	7,560	6,704	0	0	3,250	2,882	4,310	3,822	7,560	6,704
University of S.D.-Springfield	0	1,120	1,120	1,116	1,120	0	0	0	0	1,116	1,120	1,116	1,120
University of S.D.-Vermillion	2,690	2,970	5,660	3,256	5,660	0	0	1,547	2,690	1,709	2,970	3,256	5,660
Subtotal - State of S.D.	13,955	16,280	30,235	30,778	38,441	6,664	9,083	10,833	13,570	19,945	24,871	30,778	38,441
Subtotal - State and Federal	14,596	16,582	31,178	31,178	39,384	6,664	9,083	11,105	14,211	20,073	25,173	31,178	39,384
TOTAL - SOUTH DAKOTA	80,443	53,880	134,323	164,375	196,205	51,482	64,949	67,299	78,754	97,076	117,451	164,375	196,205
MINNESOTA													
MUNICIPALITIES													
Ada	1,286	412	1,698	2,461	2,486	780	788	1,273	1,286	1,188	1,200	2,461	2,486
Adrian	1,020	141	1,161	1,754	1,735	593	587	1,020	1,009	734	726	1,754	1,735
Alexandria	3,228	1,192	4,360	17,297	17,570	13,008	13,210	3,178	3,228	14,119	14,342	17,297	17,570

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	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
	UNDER LONG-TERM CONTRACT			SUSTAINABLE LOAD LEVELS		POST 1977 ADDITIONAL FIRM		TOTAL FIRM AND ADDITIONAL FIRM					
								FIRM		ADDITIONAL FIRM		TOTAL	
	Firm	Additional Firm	Total	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer
						KILOWATTS							
MINNESOTA (Continued)													
MUNICIPALITIES (Continued)													
Barnesville	998	276	1,274	2,204	1,944	930	820	998	880	1,206	1,064	2,204	1,944
Benson	2,156	558	2,714	4,857	6,092	2,693	3,378	1,719	2,156	3,138	3,936	4,857	6,092
Breckenridge	2,692	791	3,483	4,428	5,146	1,431	1,663	2,316	2,692	2,112	2,454	4,428	5,146
Detroit Lakes	1,835	2,088	3,923	12,131	12,921	8,448	8,998	1,723	1,835	10,408	11,086	12,131	12,921
East Grand Forks	3,857	1,594	5,451	12,564	10,149	7,113	5,746	3,857	3,116	8,707	7,033	12,564	10,149
Elbow Lake	205	730	935	1,771	1,709	836	807	205	198	1,566	1,511	1,771	1,709
Fairfax	1,241	77	1,318	1,664	1,719	388	401	1,201	1,241	463	478	1,664	1,719
Fosston	1,428	812	2,240	2,956	2,547	716	617	1,428	1,230	1,528	1,317	2,956	2,547
Halstad	834	125	959	1,153	839	194	141	834	607	319	232	1,153	839
Hawley	810	0	810	1,524	1,483	714	695	810	788	714	695	1,524	1,483
Henning	619	103	722	1,050	911	328	285	619	537	431	374	1,050	911
Jackson	2,014	406	2,420	4,575	6,660	2,898	4,180	1,396	2,014	3,179	4,586	4,575	6,660
Kandiyohi	341	39	380	644	476	264	195	341	252	303	224	644	476
Lakefield	1,165	374	1,539	2,498	2,648	1,046	1,109	1,099	1,165	1,399	1,483	2,498	2,648
Lake Park	344	125	469	721	665	252	232	344	317	377	348	721	665
Litchfield	5,635	873	6,508	10,267	13,281	4,648	6,773	4,865	5,635	5,402	7,646	10,267	13,281
Madison	1,080	0	1,080	1,987	3,838	1,146	2,758	841	1,080	1,146	2,758	1,987	3,838
Marshall	2,956	1,946	4,902	13,114	23,891	9,808	18,989	1,994	2,956	11,120	20,935	13,114	23,891
Melrose	2,046	1,056	3,102	5,784	5,949	2,768	2,847	1,989	2,046	3,795	3,903	5,784	5,949
Moorhead	19,407	4,087	23,494	37,722	40,718	15,957	17,224	17,979	19,407	19,743	21,311	37,722	40,718
Newfolden	184	50	234	638	481	404	305	184	139	454	342	638	481
Nielsville	122	43	165	185	123	20	13	122	81	63	42	185	123
Olivia	1,825	802	2,627	4,243	4,569	1,803	1,942	1,695	1,825	2,548	2,744	4,243	4,569
Ortonville	2,017	739	2,756	3,889	5,368	1,892	2,612	1,461	2,017	2,428	3,351	3,889	5,368
Redwood Falls	2,980	444	3,424	7,170	9,221	4,508	5,797	2,317	2,980	4,853	6,241	7,170	9,221
St. James	3,025	552	3,577	5,403	6,879	2,594	3,302	2,376	3,025	3,027	3,854	5,403	6,879
Sauk Centre	2,072	647	2,719	4,229	4,598	1,728	1,879	1,906	2,072	2,323	2,526	4,229	4,598
Shelly	159	67	226	402	419	185	193	153	159	249	260	402	419

EASTERN DIVISION
PICK-SLOAN MISSOURI BASIN PROGRAM
PROPOSED COMPLETION OF ADDITIONAL FIRM POWER ASSIGNMENT
TO TOTAL REQUIREMENTS CUSTOMERS FOR PERIOD AFTER 1977

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	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
	UNDER LONG-TERM CONTRACT			SUSTAINABLE LOAD LEVELS		POST 1977 ADDITIONAL FIRM		TOTAL FIRM AND ADDITIONAL FIRM					
								FIRM		ADDITIONAL FIRM		TOTAL	
	Firm	Additional Firm	Total	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer
						KILOWATTS							
MINNESOTA (Continued)													
MUNICIPALITIES (Continued)													
Stephen	631	179	810	1,277	1,013	467	370	631	501	646	512	1,277	1,013
Thief River Falls	5,384	1,192	6,576	13,429	14,640	7,397	8,064	4,939	5,384	8,490	9,256	13,429	14,640
Tyler	886	269	1,155	1,508	1,553	386	398	860	886	648	667	1,508	1,553
Wadena	3,438	0	3,438	7,775	7,233	4,337	1,035	3,438	3,198	4,337	4,035	7,775	7,233
Warren	1,364	297	1,661	2,410	2,230	749	693	1,264	1,262	1,046	968	2,410	2,230
Westbrook	956	92	1,048	1,501	1,502	454	454	955	956	546	546	1,501	1,502
Windom	3,167	667	3,834	7,458	7,270	3,624	3,533	3,167	3,087	4,291	4,183	7,458	7,270
Subtotal - Municipalities	85,407	23,785	109,192	206,643	232,416	107,504	126,033	77,597	83,247	129,046	149,169	206,643	232,416
COOPERATIVES													
Itasca-Mantrap	1,262	0	1,262	4,811	4,461	3,549	3,291	1,262	1,170	3,549	3,291	4,811	4,461
Subtotal - Cooperatives	1,262	0	1,262	4,811	4,461	3,549	3,291	1,262	1,170	3,549	3,291	4,811	4,461
STATE AND FEDERAL													
Fergus Falls State Hospital	850	0	850	978	982	131	132	847	850	131	132	978	982
S.W. Minnesota State College	743	867	1,610	9,268	5,160	7,658	4,264	743	414	8,525	4,746	9,268	5,160
Willmar State Hospital	650	0	650	656	730	72	80	584	650	72	80	656	730
Subtotal - State and Federal	2,243	867	3,110	10,902	6,872	7,861	4,476	2,174	1,914	8,728	4,958	10,902	6,872
TOTAL - MINNESOTA	88,912	24,652	113,564	222,356	243,749	118,914	133,800	81,033	86,331	141,323	157,418	222,356	243,749

EASTERN DIVISION
PICK-SLOAN MISSOURI BASIN PROGRAM
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TO TOTAL REQUIREMENTS CUSTOMERS FOR PERIOD AFTER 1977

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	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
	UNDER LONG-TERM CONTRACT			SUSTAINABLE LOAD LEVELS		POST 1977 ADDITIONAL FIRM		TOTAL FIRM AND ADDITIONAL FIRM					
								FIRM		ADDITIONAL FIRM		TOTAL	
	Firm	Additional Firm	Total	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer
IOWA				KILOWATTS									
MUNICIPALITIES													
Akron	752	151	903	1,800	2,726	1,204	1,823	497	752	1,303	1,974	1,800	2,726
Alta	744	265	1,009	2,016	2,186	1,085	1,177	686	744	1,330	1,442	2,016	2,186
Alton	0	0	0	1,383	1,671	1,383	1,671	0	0	1,383	1,671	1,383	1,671
Anita	538	244	782	1,138	1,636	594	854	374	538	764	1,098	1,138	1,636
Breda	68	244	312	755	890	400	578	58	68	697	822	755	890
Coon Rapids	1,254	298	1,552	2,966	3,386	1,607	1,834	1,098	1,254	1,868	2,132	2,966	3,386
Corning	1,406	412	1,818	2,884	4,382	1,687	2,564	925	1,406	1,959	2,976	2,884	4,382
Denison	2,671	2,104	4,775	13,413	15,692	9,331	10,917	2,283	2,671	11,130	13,021	13,413	15,692
Fontanelle	93	331	424	976	1,195	630	771	76	93	900	1,102	976	1,195
Glidden	112	401	513	1,184	1,381	744	868	96	112	1,088	1,269	1,184	1,381
Graettinger	506	129	635	1,030	1,136	454	501	459	506	571	630	1,030	1,136
Harlan	3,561	644	4,205	6,974	11,961	4,522	7,756	2,076	3,561	4,898	8,400	6,974	11,961
Hartley	1,019	353	1,372	2,176	3,065	1,202	1,693	723	1,019	1,453	2,046	2,176	3,065
Hawarden	1,510	640	2,150	3,467	5,632	2,143	3,482	930	1,510	2,537	4,122	3,467	5,632
Hinton	89	314	403	843	874	454	471	86	89	757	785	843	874
Kimballton	269	65	334	465	622	215	288	201	269	264	353	465	622
Lake Park	1,112	114	1,226	1,421	1,692	391	466	934	1,112	487	560	1,421	1,692
Lake View	343	1,222	1,565	2,811	3,673	1,613	2,108	263	343	2,548	3,330	2,811	3,673
Laurens	1,150	537	1,687	2,966	3,734	1,626	2,047	913	1,150	2,053	2,584	2,966	3,734
Lenox	605	125	730	1,941	2,411	1,353	1,681	487	605	1,454	1,806	1,941	2,411
Manilla	540	141	681	1,215	1,261	559	580	520	540	695	721	1,215	1,261
Manning	1,299	320	1,619	2,441	2,742	1,000	1,123	1,156	1,299	1,285	1,443	2,441	2,742
Mapleton	798	276	1,074	1,936	2,680	1,160	1,606	576	798	1,360	1,882	1,936	2,680
Milford	796	521	1,317	2,257	2,459	1,048	1,142	731	796	1,526	1,663	2,257	2,459
Onawa	2,415	302	2,717	4,015	5,994	2,195	3,277	1,618	2,415	2,397	3,579	4,015	5,994
Orange City	1,654	694	2,348	6,301	7,221	4,252	4,873	1,443	1,654	4,858	5,567	6,301	7,221
Paullina	611	217	828	1,597	1,724	830	896	566	611	1,031	1,113	1,597	1,724

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	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
	UNDER LONG-TERM CONTRACT			SUSTAINABLE LOAD LEVELS		POST 1977 ADDITIONAL FIRM		TOTAL FIRM AND ADDITIONAL FIRM					
								FIRM		ADDITIONAL FIRM		TOTAL	
	Firm	Additional Firm	Total	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer	Winter	Summer
IOWA (Continued)				KILOWATTS									
MUNICIPALITIES (Continued)													
Primghar	830	0	830	1,152	1,421	479	591	673	830	479	591	1,152	1,421
Remsen	913	296	1,209	1,781	2,602	953	1,393	625	913	1,156	1,689	1,781	2,602
Rock Rapids	1,779	423	2,202	3,713	4,511	1,901	2,309	1,464	1,779	2,249	2,732	3,713	4,511
Sanborn	1,120	36	1,156	1,720	1,967	709	811	979	1,120	741	847	1,720	1,967
Shelby	160	0	160	660	894	542	734	118	160	542	734	660	894
Sioux Center	1,900	320	2,220	5,143	7,217	3,561	4,997	1,354	1,900	3,789	5,317	5,143	7,217
Spencer	4,150	0	4,150	17,841	20,002	14,139	15,852	3,702	4,150	14,139	15,852	17,841	20,002
Stanton	379	174	553	1,138	1,079	585	555	379	359	759	720	1,138	1,079
Villisca	1,290	0	1,290	2,080	2,680	1,079	1,390	1,001	1,290	1,079	1,390	2,080	2,680
Wall Lake	166	591	757	1,604	1,548	847	817	166	160	1,438	1,388	1,604	1,548
Woodbine	934	298	1,232	2,035	2,422	1,000	1,190	785	934	1,250	1,488	2,035	2,422
Subtotal - Municipalities	39,536	13 202	52,738	111,238	140,369	69,567	87,686	31,021	39,510	80,217	100,859	111,238	140,369
TOTAL - IOWA	39,536	13,202	52,738	111,238	140,369	69,567	87,686	31,021	39,510	80,217	100,859	111,238	140,369

EASTERN DIVISION
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	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
	UNDER LONG-TERM CONTRACT			SUSTAINABLE LOAD LEVELS		POST 1977 ADDITIONAL FIRM		TOTAL FIRM AND ADDITIONAL FIRM					
	Firm	Additional Firm	Total	Winter	Summer	Winter	Summer		FIRM		ADDITIONAL FIRM	TOTAL	
								Winter	Summer	Winter	Summer	Winter	Summer
NEBRASKA					KILOWATTS								
MUNICIPALITIES													
Arnold	658	101	759	1,078	1,257	427	498	564	658	514	599	1,078	1,257
Blue Hill	99	353	452	886	1,531	624	1,079	57	99	829	1,432	886	1,531
Callaway	364	49	413	695	921	383	508	275	364	420	557	695	921
Spalding	320	0	320	1,042	1,267	779	947	263	320	779	947	1,042	1,267
Wilber	0	0	0	1,565	2,785	1,565	2,785	0	0	1,565	2,785	1,565	2,785
Winside	202	43	245	496	646	308	401	155	202	341	444	496	646
Wisner	142	504	646	2,266	2,696	1,723	2,050	119	142	2,147	2,554	2,266	2,696
Subtotal - Municipalities	1,785	1,050	2,835	8,028	11,103	5,809	8,268	1,433	1,785	6,595	9,318	8,028	11,103
STATE AND FEDERAL													
Beatrice State Home	650	483	1,133	1,220	1,529	316	396	519	650	701	879	1,220	1,529
Hastings Regional Center	785	0	785	692	855	57	70	635	785	57	70	692	855
Nebraska State Penitentiary	2,070	0	2,070	2,118	3,128	716	1,058	1,402	2,070	716	1,058	2,118	3,128
University of Nebraska	3,588	7,579	11,167	17,831	19,937	7,844	8,770	3,209	3,588	14,622	16,349	17,831	19,937
Subtotal - State and Federal	7,093	8,062	15,155	21,861	25,449	8,933	10,294	5,765	7,093	16,096	18,356	21,861	25,449
TOTAL - NEBRASKA	8,878	9,112	17,990	29,889	36,552	14,742	18,562	7,198	8,878	22,691	27,674	29,889	36,552

[FR Doc.76-6804 Filed 3-8-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 995]

ASSIGNMENT OF HEARINGS

MARCH 4, 1976.

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 120098 Sub 28, Uintah Freightways, A corporation, now being assigned June 7, 1976 (2 weeks), at Salt Lake City, Utah, in a hearing room to be later designated.

MC 105813 Sub 206, Belford Trucking Co., Inc., now assigned March 15, 1976, (1 day) at New York, N.Y., will be held at Court Room No. 2, Customs Court, No. 1 Federal Plaza.

MC 141115 Sub 1, Pilcher Bus Service, Inc., now assigned March 16, 1976 (2 days), at New York, N.Y. will be held in Court room No. 2, Customs Court No. 1 Federal Plaza.

MC 141243 Sub 1, Jaymar Trucking Corp., now assigned March 18, 1976 (2 days), at New York, N.Y., will be held in Court Room No. 2, Customs Court, No. 1 Federal Plaza.

MC 119777 (Sub 321), Ligon Specialized Hauler, Inc. now assigned April 5, 1976, at Atlanta, Ga., is cancelled and application dismissed.

MC 2202 (Sub 478), Roadway Express, Inc. now being assigned June 8, 1976 (9 days) at Des Moines, Iowa in a hearing room to be later designated.

MC 114457 (Sub 247), Dart Transit Company, now being assigned May 20, 1976 (2 days) at St. Louis, Missouri in a hearing room to be later designated.

MC-C 8778, Hilt Truck Line, Inc.—Investigation and Revocation of Certificates, now being assigned April 20, 1976 (1 day), Omaha, Nebraska, in a hearing room to be later designated.

MC 135283 Sub 14, Grand Island Moving and Storage Co., Inc., now being assigned April 21, 1976 (1 day), at Omaha, Nebraska, in a hearing room to be later designated.

MC 114569 Sub 118, Shaffer Trucking, Inc.; MC 114569 Sub 125, Shaffer Trucking, Inc.; and MC 124211 Sub 258, Hilt Truck Line Inc., now being assigned April 22, 1976 (2 days), at Omaha, Nebraska, in a hearing room to be later designated.

AB 1 Sub 32, Chicago and North Western Transportation Company Abandonment Between Watertown and Doland, in Condington, Clark and Spink Counties, South Dakota, now being assigned for continued hearing April 26, 1976 (1 week), at Clark, South Dakota, in the Clark County Courthouse, Clark County Courthouse, Clark,

MC 139261 (Sub 3), Buckeye Express, Inc. now being assigned June 8, 1976 (1 day) at Columbus, Ohio in a hearing room to be later designated.

MC 105566 (Sub 109), Sam Tanksley Trucking, Inc. now being assigned June 9, 1976 (1 day) at Columbus, Ohio in a hearing room to be later designated.

MC 135739 (Sub 2), John J. Clark dba Double J. Machinery Transport now being assigned June 10, 1976 (2 days) at Columbus, Ohio in a hearing room to be later designated.

MC-C 8783, Swift Leasing Co., Airlift International & R-W Service System, Inc.—Investigation of Operations and Practices and Revocation of Certificates, now being assigned June 14, 1976 (1 day) at Columbus, Ohio in a hearing room to be later designated.

MC 119547 (Sub 42), Edgar W. Long, Inc. now being assigned June 15, 1976 (2 days) at Columbus, Ohio in a hearing room to be later designated.

MC 128273 (Sub 204), Midwestern Distribution, Inc. now being assigned June 17, 1976 at Columbus, Ohio in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-6688 Filed 3-8-76;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 4, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before March 24, 1976.

FSA No. 43134—*Cement and Related Articles from East Stroudsburg, Pennsylvania.* Filed by Southwestern Freight Bureau, Agent, (No. B-591), for interested rail carriers. Rates on cement and related articles, in carloads, as described in the application, from East Stroudsburg, Pennsylvania, to points in Arkansas, Louisiana, Missouri, Oklahoma and Texas.

Grounds for relief—Market competition.

Tariff—Supplement 29 to Southwestern Freight Bureau, Agent, tariff 71-H, I.C.C. No. 5068. Rates are published to become effective on April 11, 1976.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-6686 Filed 3-8-76;8:45 am]

[Notice 27]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 4, 1976.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate

Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

No. MC 61396 (Sub-No. 303TA), filed February 18, 1976. Applicant: HERMAN BROS., INC., 2565 St. Marys Ave., P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith, II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid argon, liquid nitrogen, and liquid oxygen*, in bulk, from Chester (Arroyo), W.Va., to points in Kentucky, Indiana, Illinois, Missouri, Kansas, and Iowa; (2) *Liquid oxygen and liquid nitrogen*, in bulk, from East Alton, Ill., to Denver, Colo., (3) *Liquid oxygen and liquid nitrogen*, in bulk, from Mt. Vernon, Ind., to points in Illinois, Indiana, Kentucky, and Tennessee; (4) *Liquid oxygen and liquid nitrogen*, in bulk, from Morris and Chicago, Ill., and East Chicago, Ind., to points in Kentucky, Missouri, Tennessee, Iowa, Kansas, and Indiana; and (5) *Hydrogen*, in bulk, from East Chicago, Ill., to points in Illinois and Missouri. Restriction: Movements of the specified commodities are to be restricted to shipments in cryogenic tank trailers provided by the shipper, for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. K. Kubala, Distribution Superintendent, Airco Industrial Gases, Division of Airco, Inc., P.O. Box 300, Chessen Lane, East Alton, Ill. 62024. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 110315 (Sub-No. 21TA) (Correction), filed February 6, 1976, published in the FEDERAL REGISTER issue of February 23, 1976, as MC 110513 (Sub-No. 21TA), republished as corrected this issue. Applicant: FELTS TRANSPORT CORPORATION, P.O. Box 2729, Chapel Hill, N.C. 27514. Applicant's representative: Richard A. Mehley, 1000 16th St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating oil*, restricted to bulk commodities, moving in tank vehicles, (1) from Hugheston, W. Va., to points in Buchanan, Russell, Tazwell, and Wise Counties, Va., and (2) from Bluefield, W. Va., to points in Russell County (except Carbo); Dickenson County (except Bartlick and Duty); and Wise County (except Coeburn) Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Texaco, Inc., P.O. Box 52332, Houston, Tex. 77025. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

NOTE.—The purposes of this republication are (1) to correct the docket number MC 110315 (Sub-No. 21TA) in lieu of MC 110513 (Sub-No. 21TA); (2) include the above commodity restriction; and (3) indicate the Virginia County as being Buchanan in lieu of Buckhanan.

No. MC 123778 (Sub-No. 30TA, filed February 20, 1976. Applicant: JALT CORP. doing business as UNITED NEWSPAPER DELIVERY SERVICE, 75 Cutters Dock Rd., P.O. Box 398, Woodbridge, N.J. 07095. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magazines*, from Old Saybrook, Conn., to points in New Jersey, points in that part of Pennsylvania on and east of U.S. Highway 15, and points in that part of New York on, east, and south of a line beginning at the New York-Pennsylvania State line, and extending along U.S. Highway 11 to Syracuse, thence along New York Highway 5 to Schenectady, and thence along New York Highway 7 to the New York-Vermont State line, and to Wilmington, Del., Baltimore, Md., and the District of Columbia, under a continuing contract with McGraw Hill Publications Company, for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: McGraw Hill Publications Company, John J. Murphy, Director of Distribution, 1221 Avenue of the Americas, New York, N.Y. 10020. Send protests to: District Supervisor Robert S. H. Vance, Interstate Commerce Commission, Newark, N.J. 07102.

No. MC 126736 (Sub-No. 81TA) (Correction), filed February 4, 1976, published in the FEDERAL REGISTER issue of February 23, 1976, as MC 126736 (Sub-No. 1TA), republished as corrected this issue. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st Street, P.O. Box 1559, Jacksonville, Fla. 32201. Applicant's representative: L. H. Blow (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing asphalt* in bulk, in tank vehicles, from Jacksonville, Fla. to points in South Carolina, and those points in Georgia north of a line beginning at the Georgia-Alabama State line and extending along U.S. Highway 78 through Bremen, Ga., to Atlanta, Ga., thence along Georgia Highway 12 through Conyers, Ga., to Madison, Ga., thence along U.S. Highway 441 through Milledgeville, Dubin, McRae, Pearson, and Homerville, Ga., to the Georgia-Florida State line, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Trumbull Asphalt Company, Southeastern Manager, 1151 Talleyrand Avenue, Jacksonville, Fla. 32206. Send protests to: Dist. Supv. G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

Note.—The purpose of this republication is to change docket number MC 126736 (Sub-No. 81TA) in lieu of MC 126736 (Sub-No. 1TA).

No. MC 127100 (Sub-No. 16TA), filed February 17, 1976. Applicant: B & B MOTOR LINES, INC., 911 Summit Street, Toledo, Ohio 43604. Applicant's representative: Charles K. Boxell, 9th Floor Toledo Trust Building, Toledo, Ohio 43604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt (beer and ale) beverages in* containers, between Frankenmuth, Mich., and Toledo, Ohio, under a continuing contract with Metropolitan Distributing Company, for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Metropolitan Distributing Company, 911 Summit Street, Toledo, Ohio 43604. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio, 43604.

No. MC 134375 (Sub-No. 10TA), filed February 12, 1976. Applicant: ELDON GRAVES, doing business as ELDON GRAVES TRUCKING, P.O. Box 3044, Union Gap, Wash. 89803. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Oreg. 97214. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, and feed supplements*, except liquids in bulk, in tank vehicles, (1) from Bellingham, Seattle, and Tacoma, Wash., and Portland and Lebanon, Oreg., to Petaluma, Stockton, Corcoran, Fresno, LeMoore, Los Angeles, San Lucas, Cypress, Corona, Norwalk, Chino, Ontario, Planada, Calif. (2) from Toppenish, Wash. to Livingston, Calif. (3) from El-

lensburg, Yakima, Toppenish, Sunnyside, Pasco, Tacoma, Seattle, Spokane, and Olympia, Wash. and Portland, Oregon to San Francisco, Petaluma, Los Angeles, and Apple Valley, Calif. (4) from Terminal Island, Calif. to Portland, Oregon and Seattle, Wash. (5) from Barstow, Calif. to Tacoma, Wash. (6) from San Marcos, Calif. to Olympia, Wash. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: H. J. Stoll & Sons, Inc., 2320 S.E. Grand Avenue, Portland, Oreg. 97202. Send protests to: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97202.

No. MC 134592 (Sub-No. 8TA), filed February 19, 1976. Applicant: HERB MOORE AND HAZEL MOORE doing business as H & H TRUCKING CO. 10366 N. Vancouver Way, Portland, Oreg. 97217. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Oreg. 97214. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine* from (1) Modesto, Calif., to points in Aberdeen, Bellingham, Bingen, Bremerton, Chehalis, Clarkston, Colfax, Colville, Enumclaw, Everett, Kennewick, Longview, Moses Lake, Mt. Vernon, Okanogan, Olympia, Wenatchee, Bellevue, Port Angeles, Seattle, South Bend, Spokane, Tacoma, Vancouver, Walla Walla, and Yakima, Wash.; points in Albany, Astoria, Bend, Coos Bay, Eugene, Grants Pass, Klamath Falls, La Grande, McMinnville, Medford, Nyssa, Pendleton, Portland, Roseburg, St. Helens, Salem, The Dalles, and Tillamook, Oreg.; Salmon, and Coeur d'Alene, Idaho, (2) from San Jose and St. Helena, Calif., to Salem, Oreg., (3) from Lodi, Rutherford, Guerneville, St. Helena, Livermoore, San Martin, Brisbane, Gratan, San Jose, San Francisco, Burlingame, Fresno, and Los Angeles, Calif., to Portland, Oreg., for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shippers: E. J. Gallo Winery, P.O. Box 1130, Modesto, Calif. 95353; Valley Beverages, Inc., 1483 Johnson N.E., Salem, Oreg. 97303; Al C. Giusti Wine Co., 66 S.E. Morrison, Portland, Oreg. 97214; Roberti's House of Wines, 808 S. E. Alder St., Portland, Oreg. 97214. Send protests to: District Supervisor Huetig, Bureau of Operations, Interstate Commerce Commission 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 134922 (Sub-No. 159TA) (Correction), filed February 4, 1976 published in the FEDERAL REGISTER issue of February 27, 1976 as MC 134922, republished as corrected this issue. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat* (in vehicles equipped with mechanical refrigeration), from Los Angeles, Calif., to Goshing, Ind.; Grand Rapids, Mich.; Youngstown, Ohio; Columbia and Greenville, S.C.; Milwaukee, Wis., and Denver, Colo., for 180 days. Supporting shipper: Coronet Foods, 609 S. Santa Fe Ave., Los Angeles, Calif. 90021. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

NOTE.—The purposes of this republication is to indicate the docket number as being MC 134922 (Sub-No. 159TA) in lieu of MC 134922 and to correct the spelling of the Indiana destination point.

No. MC 140827 (Sub-No. 3TA), filed February 20, 1976. Applicant: MARKET TRANSPORT, LTD., 33 N.E. Middlefield Road, Portland, Oreg. 97211. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Oreg. 97214. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and commodities* otherwise exempt from economic regulations under Section 203(b)(6) of the Interstate Commerce Act when moving in mixed shipments with bananas, from Los Angeles and Long Beach, Calif., to points in Klamath Falls, Ashland, Medford, Grants Pass, Coos Bay, Roseburg, Eugene, Albany, Corvallis, Salem, Milwaukie, Portland, Bend, Pendleton, La Grande, and Baker, Oreg.; points in Vancouver, Longview, Chehalis, Centralia, Aberdeen, Olympia, Tacoma, Kent, Renton, Bellevue, Seattle, Everett, Mt. Vernon, Bellingham, Port Angeles, Yakima, Wenatchee, Pasco, Walla Walla, and Spokane, Wash.; for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Chiquita Brands, Inc., Prudential Center, Boston, Mass. 02199, Northwest Grocers, Inc., 6433 S.E. Lake Road, Milwaukee, Oreg. 97222, Pacific Fruit & Produce Company, 4103 Second Avenue South, Seattle, Wash. 98134. Fred Meyer, Inc., 2140 N. Webster, Portland, Oreg., Standard Fruit & Steamship Company, 666 E. Ocean, Suite 1404, Long Beach, Calif. 90802. Send protests to: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 141756 (Sub-No. 1TA), filed February 4, 1976. Applicant: CAVINESS REFRIGERATED EXPRESS, INC., Box 790 (West Highway 60), Hereford, Tex. 79045. Applicant's representative: Terry Caviness, 112 Rio Vista Drive, Hereford, Tex. 79045. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packing houses*, as described in Sections A and C of Appendix 1 to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Caviness Packing Company, Inc. at or near Hereford, Tex. and Caviness Packing Company, Inc. of Dalhart at or near Dalhart, Tex. to Denver, Colo.; Tucson, Ariz.; and Los Angeles, Calif. and the commercial zones of each of the three named places, under contracts with Caviness Packing Company, Inc. and Caviness Packing Inc. of Dalhart, for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Caviness Packing Company, Inc., P.O. Box 790, Hereford, Tex. 79045, Caviness Packing Company, Inc. of Dalhart, P.O. Box 790, Hereford, Tex. 79045. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 141793 (Snb-No. 1TA), filed February 20, 1976. Applicant: KENNETH M. DAVIS, doing business as DAVIS FARM EQUIPMENT, Route 1, Box 1581 (12th Street), Anthony, Fla. 32617. Applicant's representative: Sol H. Proctor, 1107 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed and feed ingredients* (not in bulk), from Valdosta, Ga., to Anthony, Fla., under a continuing contract with Farmers Mutual Exchange, Inc., for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmers Mutual Exchange, Inc., P.O. Box 188, Anthony, Fla. 32617. Send protests to: Dist. Supv. G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. Mc 141797 (Sub-No. 1TA), filed February 20, 1976. Applicant: THE GREAT SOUTHERN TRUCKING CO., INC., 500 Richardson Road, Lancaster, Pa. 17603. Applicant's representative: A. David Millner, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as *a contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated board and products*, (1) between Lancaster, Pa., on the one hand, and, on the other, points in Ohio, New York, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New Jersey, Maryland, Delaware, Virginia, West Virginia, Kentucky, Tennessee, Alabama, Georgia, Florida, North Carolina, South Carolina, Illinois, Indiana, and Mississippi, under continuing contract with Penn State Container Corp., a subsidiary of Southern Container Corp. (2) between Deer Park, N.Y., on the one hand, and, on the other, points in New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, and South Carolina, under continuing contract with Southern Container Corp. (3) between Spartanburg, S.C. on the one hand, and, on the other, points in North Carolina, Tennessee, Kentucky, Virginia, West Virginia, Illinois, Indiana, Ohio, Pennsylvania, Maryland, Dela-

ware, New Jersey, New York, Alabama, Georgia, and Florida, under continuing contract with South Carolina Container Corp., a subsidiary of Southern Container Corp., for 180 days. Applicant has also filed underlying ETA seeking up to 90 days of operating authority. Supporting shipper: South Carolina Container Corp., Penn State Container Corp. Subsidiary, Southern Container Corporation Subsidiary. Send protests to: Robert P. Amerine, Dist. Supv. Bureau of Operations, Interstate Commerce Commission, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76–6687 Filed 3–8–76;8:45 am]

[Notice 199]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MARCH 9, 1976.

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 March 29, 1976. 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–75870. By order of March 3, 1976 the Motor Carrier Board approved the transfer to C. G. Middleton, D/B/A M. & R. Oil Co., Modale, Iowa, of Certificate No. MC 35797, issued October 17, 1956, to C. G. Middleton and D. W. Richardson D/B/A M. & R. Oil Co., Modale, Iowa, authorizing transportation of various commodities from, to, and between, specified points in Illinois, Iowa, and Nebraska. C. G. Middleton, M. & R. Oil Company, Modale, Iowa.

No. MC–FC–76347. By order entered March 3, 1976 the Motor Carrier Board approved the transfer to John Franklin Curtis, doing business as Inland Empire Courier, Inc., Spokane, Washington, of the operating rights set forth in Certificates Nos. MC 111490 and MC 111490 (Sub-No. 2), issued by the Commission, September 16, 1970, and September 21, 1967, respectively, to Loren W. Keifer, doing business as Keifer Bus Line, Spokane, Washington, authorizing the transportation of passengers and their baggage, and express, mail, and newspapers in the same vehicle with passengers, over specified routes, between specified points in Washington, and between specified points in Idaho and Washington. John Curtis, N. 15 Grant St., Spokane, Wash. 99202, representative for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76–6689 Filed 3–8–76;8:45 am]

federal register

TUESDAY, MARCH 9, 1976



PART II:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

INDIAN HOUSING

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R76-353]

PART 805—INDIAN HOUSING

Notice was given on September 19, 1975, at 40 FR 43372, that the Department of Housing and Urban Development ("HUD") was proposing to amend Title 24 of the Code of Federal Regulations by adding a new Part 805, to chapter VIII. The Notice allowed more than 50 days for public comments.

The purpose of Part 805 is to set forth the regulations applicable to housing developed or operated by an Indian Housing Authority ("IHA") with assistance from HUD under the United States Housing Act of 1937 ("Act").

HUD has received over 50 separate communications, all of them with multiple comments and recommendations. They were all carefully considered, and many changes have been made in the regulations. The following is a discussion of the principal comments and changes.

1. Several comments recommended that the Regulations indicate which offices and which officials in HUD will be making the various determinations required under the Regulations. Under the Regulations, with rare exceptions, the determinations will be made by the HUD field offices for which the heads of those offices are responsible. As to the individual officials within HUD dealing with particular matters relating to processing, these are matters of internal assignments of duties which are not officially part of the Regulation affecting the public and are dealt with in the HUD Handbooks. The Handbooks will be furnished to IHAs for their information.

2. Several comments inquired why the Regulations contain some references to the Turnkey III program in view of the statement that there would be no additional Turnkey III projects in Indian areas. The answer is that although there are to be no additional projects, there is no intention to terminate or otherwise impair the functioning of those Turnkey III projects which are now in existence.

3. Some comments confused references to the Turnkey method of development with references to Turnkey III projects. The Turnkey method of building a project is a totally different concept from the concept of the Turnkey III program. Turnkey III projects are those in which the families have homeownership opportunities, whereas the Turnkey method of development means that a project (whether rental or homeownership) is to be constructed by a developer under a contract of sale in accordance with the applicable regulations.

4. Several comments objected to the mention of the Section 8 Housing Assistance Payments program as a type of housing available to IHAs. While the Section 8 Program has not yet been utilized in Indian areas, HUD has not ruled out the possibility of providing this type of housing assistance as beneficial to Indians because it is possible to provide homeownership opportunity housing under it. The provision therefore has been retained (§ 805.103(c)).

5. Several comments indicated that there was a need for providing new IHAs with start-up funds. The Regulations provide for the granting of Preliminary Loans as soon as an application for a project has been approved by HUD (§ 805.209). There is no authority under the Act for the provision of financial assistance to IHAs prior to that point. It is assumed that new IHAs will be able to obtain the limited amount of start-up funds for organizational expenses from sources other than HUD as has been done in the past.

6. Several comments questioned the requirement that existing tribal ordinances be amended to conform to the model ordinance by July 1, 1976. This requirement has been relaxed by requiring only that the ordinance be amended as soon as possible and by providing that, beginning January 1, 1977, no new contracts or amendments providing additional commitments for HUD financial assistance shall be entered into unless the conforming amendments of the tribal ordinance have been enacted (§ 805.109(e)).

7. In response to other recommendations with respect to the model ordinance (Appendix I to Subpart A), due process safeguards have been incorporated in connection with removal of IHA Commissioners for cause (Art. IV, Sec. 1(d)); the provisions as to the presence at IHA meetings, and functions at such meetings, of Commissioners who are also tenants or homebuyers, have been clarified (Art. IV, Sec. 1(a)(4)); and flexibility has been provided in connection with appointments of Commissioners, the number of Commissioners, the number constituting a quorum, etc. (Art. IV and footnotes thereto).

8. Several comments stated that the provision in the model ordinance which prohibits a Commissioner, official or employee, of an IHA, or a member of the governing board of the tribe, from acquiring any interest in the project would be unworkable because of the small tribal populations and the fact that most of the population is low income and eligible for the program. It was also stated that this prohibition would, for the same reason, discourage the development of Indian business opportunities. The provision has been modified to permit the acquisition of such interests, provided that there is full disclosure of the interest and the pertinent facts and the interested party does not participate in any action by the IHA in respect to the particular matter (Art. VII, Sec. 2).

9. The powers of an IHA have been broadened to authorize an IHA to lend as well as borrow money (Art. V, Sec. 3(f)).

10. The requirement that a meeting be held of all the interested agencies (the Project Coordination Meeting) to agree on a development schedule for the project has been expanded to apply to all projects, including those not receiving assistance from IHS or BIA (§ 805.208).

11. Several comments suggested that it is premature to require a determination of the production method (Turnkey, Conventional or Force Account) at the application stage. This provision has been changed to require only a statement of the preferred method, and the actual decision as to the method to be used will be made at the Project Coordination Meeting (§ 805.203(a)).

12. Many comments were received concerning the procedure for awarding contracts to Indian-owned enterprises on a negotiated basis rather than through competitive bidding. After consideration of these comments, it was determined to delete the provisions authorizing negotiated contracts and to provide for preference for Indian-owned enterprises through implementation of Section 7(b) of the Indian Self-Determination and Education Assistance Act (§ 805.204). This section includes a provision giving IHAs authority to provide for Indian preference requirements in addition to, but consistent with, the objectives of the standard required preference clause set forth in § 805.204(b). In addition, the relationship of the Section 7(b) requirements to the requirements of the various applicable Civil Rights statutes and Executive Orders has been clarified (§ 805.106).

13. Several comments objected to the provision that an IHA may use the Force Account method of construction only with the specific approval of the Assistant Secretary for Housing Production and Mortgage Credit (§ 805.203(e)). This requirement is retained because it has been HUD's experience that when a housing authority undertakes construction of a project with its own employees (the Force Account method), it is very difficult to insure against delays, defects in material and workmanship, and overruns. Accordingly, it is HUD's view that the Force Account method should be used only in very unusual and controlled circumstances. The Regulation makes clear that Davis-Bacon wage rates apply to Force Account construction.

14. Several comments recommended more specific language concerning the time within which HUD will act on applications for projects by IHAs. It was also recommended that provision be made for appeal by an IHA from a HUD decision denying an application. In response to these recommendations, the Regulation requires HUD to notify the IHA, within 10 working days, as to the date by which HUD will act on the application (§ 805.206(b)(1)). In case of a HUD decision denying an application in whole or in part, HUD's notification to the IHA must contain a statement of the reasons for the denial, and the time within which objections may be presented to the HUD field office director (§ 805.206(b)(3)).

15. Many comments objected to the requirement that, as a condition for application approval, the IHA must have the administrative capability to carry out the program, and they argued that the IHA should instead be given sufficient assistance to achieve administrative capa-

bility. This section has been modified to provide that HUD will provide such assistance to an IHA to the extent that funds and staff are available for this purpose, and that HUD will approve an application where the IHA adopts a satisfactory plan for achieving administrative capability and demonstrates good faith and diligence in carrying out the plan. The section also provides that if the number of approvable units is too small for the development of an adequate administrative capability with the funds that could be allowed for such a small number of units, the IHA shall be so advised with a recommendation to combine with other IHAs or to obtain the necessary assistance from other sources (§ 805.207).

16. A number of comments recommended that the requirements for financial feasibility of a project as a condition of approval (see §§ 805.207(d), 805.220 and 805.404(g)), be removed entirely, arguing that it was the intention of the so-called Stevens Amendment in Section 5(c) of the Act that this be done. It has not been possible to accept these recommendations because the Congress anticipated that a certain number of units would be produced with the Annual Contributions Contract authority authorized by Section 5(c) and because the funds under Section 5(c), as well as the funds under Section 9 for operating subsidies, are limited. To the extent that income from tenants is insufficient to meet operating expenses, funds under Section 5(c) and Section 9 of the Act are the only available source. For these reasons, HUD must limit the amount of funds committed or expected to be needed for other than the capital costs of the projects. The Regulations provide for the unusual circumstances anticipated by the Stevens Amendment (i.e., the unusually high housing costs and unusually low incomes of Native Americans in Alaska) by providing that in cases involving areas of exceptionally low income or other exceptional circumstances, special HUD approval of projects will be permitted (§§ 805.220 and 805.404(g)).

17. A number of comments objected to the limitations on the amount permitted for Preliminary Loans. In response to these comments, the amount for Alaska has been increased from $750 per unit to $1,000 (§ 805.209(a)), and an additional provision has been included authorizing additional loans for special cases with the specific approval of the Assistant Secretary for Housing Production and Mortgage Credit (§ 805.209(c)).

18. A number of comments objected to the requirement, in connection with site selection, that there be due regard for regional and local plans, as an infringement on tribal sovereignty (§ 805.216(a)). Since the Regulation provides only that due regard be given and contains no requirement that site selection must conform to regional or local plans, we consider the provision not to be an infringement on sovereignty but an appropriate factor to be taken into account by the IHA and HUD.

19. The procedures in regard to conformance with OMB Circular A–95 have been simplified to the extent permitted by the Circular (§ 805.217(a)).

20. Many comments inquired as to the source of funds to provide the appraisals required by the Regulation. § 805.209(a) has been amended to clarify that the cost of appraisals may be paid for by Preliminary Loan funds.

21. Several comments recommended more expeditious and realistic HUD determination of "prototype cost" for Indian areas, including provisions for expeditious appeal of prototype cost determinations. In response to these recommendations, the Regulation has added availability of skilled labor and acceptable materials to the list of special factors which are to be considered in establishing prototype costs for Indian areas (§ 805.213(b)). In addition, the Regulation provides that an IHA may request revision of the prototype determinations for an area (§ 805.213(c)), and places responsibility for expediting prototype cost determinations in accordance with the agreed-to time schedule for the project, on the HUD official responsible for maintaining that time schedule.

22. In response to comments that the limitation for the cost of driveways to 1½% of estimated Dwelling Construction and Equipment Cost is too rigid, the Regulation has been changed to permit this limit to be exceeded in special cases with the specific approval of HUD (§ 805.214(c)).

23. Several comments objected that the 3-month time period, within which the BIA was to assure that a valid lease executed by all necessary parties could be obtained, was too rigid. This provision has been changed to "a reasonable time (3–6 months) after issuance of the tentative site approval," and it is also provided that HUD may approve a site requiring a longer time if HUD determines that such longer period will not unduly delay the project (§ 805.216(k)).

24. § 805.221 has been amended to provide that in the case of a Mutual Help project, each homebuyer shall be allowed to participate as an observer in the final inspection of his home. In addition, provisions have been added to make clear the separate responsibilities of the homebuyer and the IHA in connection with warranty items (§§ 805.222 and 805.417).

25. Clarification has been provided in response to comments questioning the source of funds for the three-month post-occupancy inspections of the dwelling units required by the Regulations. Language has been added that the costs of these inspections shall be treated as an operating expense (§ 805.222(b)).

26. Several comments objected, in effect, to the necessity for a coordinated effort of the BIA and IHS in conjunction with HUD and the necessity for the Interdepartmental Agreement (Appendix I to Subpart B). These comments argued that HUD should perform all of the functions. This suggestion cannot be adopted because the funds for the functions and the responsibilities for their administration is vested by law in the agencies involved.

27. Many comments requested clarification as to the manner of dealing with complaints arising from the coordination of functions, among HUD, the BIA and IHS, enumerated in the Interdepartmental Agreement. The Agreement has been modified to provide that the complainant may, if he chooses to do so, direct the complaint to HUD, and in that event HUD will be responsible for handling the matter (Appendix I to Subpart B, Sec. 3d).

28. § 805.302, which deals with IHA admission policies, has been amended to specify the statutory requirement that at least 20% of the units in a project placed under Annual Contribution Contract after September 26, 1975 must be occupied by very low income families. In addition, that section now specifies the applicability to Turnkey III and Rental projects, of the HUD regulations for Minimum and Maximum Rent-Income Ratios, and Minimum Rent Requirements.

29. It was suggested that procedures other than for eviction could be successfully followed to encourage prompt payment and collection of rents and homebuyers' required monthly payments. The Regulation has been amended to clarify that the remedy of eviction would be the last of a series of remedial actions to be taken in case of nonpayment (§ 805.305).

30. Several comments requested clarification of the source of funds for the cost of the homebuyer counseling program. The Regulation has been amended to include the amount of $500 per unit for this cost as a Development Cost item (§ 805.404(f)).

31. Several comments objected to the inference that the BIA would have to be selected by the IHA to conduct the counseling program for homebuyers. The Regulation now makes it clear that the IHA has discretion to select the BIA counseling program or any other program approved by HUD (§ 805.429(d)(2)).

32. Many comments were received which objected to the minimum Mutual Help ("MH") contribution being increased from $1,500 to $2,500. The Regulation has been amended to retain the $1,500 amount (§ 805.408(b)). In response to other comments relating to such matters as the type of contribution and the method of computing its value, the MH provisions have been changed substantially with respect to the amount to be credited for the land and non-land contributions under various circumstances and to provide substantially greater flexibility to the homebuyers and the IHAs and contractors in the administration of these provisions (§ 805.408 through § 805.413). Included specifically in the revised Regulation is a clarification of a wide misunderstanding of the relationship of Davis-Bacon wage rates to the computation of the value to be given to MH contributions in the form of construction work. The Regulation makes it clear that the value of the work is to be computed by the contractor on

the basis of the number of hours that it would take journeymen workers to complete the work product at Davis-Bacon wage rates, regardless of the number of hours it would take for completion of the work product by the homebuyers (§ 805.410).

33. Several comments indicated that they interpreted the computation of adjusted monthly income for purposes of determining the amount of the homebuyer's required monthly payment to mean that the homebuyers must be earning income in every month, and they pointed out that there are many seasonal workers whose monthly income varies greatly. This interpretation was not intended, and the word "monthly" has been deleted. The effect of this change is to clarify that the annual income may be averaged in order to arrive at a monthly rate (§ 805.416).

34. The provision to the effect that amounts in the Operating Reserve which are in excess of the maximum shall be used for payment of the project debt has been deleted because the amount to be paid into the reserve by the homebuyers is subject to increase or decrease annually, and there should not be any significant excess (§ 805.420).

35. Many comments objected that the number of accounts required to be maintained for an MH project would be administratively burdensome. The Regulation has been revised to eliminate one account, and to clarify and simplify the provisions relating to the remaining accounts which cannot be eliminated because they are essential to the protection of the monetary interests of the homebuyers and the IHA (§ 805.421).

36. A number of comments pointed out the complications and difficulties relating to the transition from the status of homebuyer to homeowner, including particularly the financing of acquisition of ownership. The Regulation has been modified substantially to clarify the circumstances under which a homebuyer has the option to purchase his home and under which he is required to purchase his home (§ 805.422). Also, the qualifications and method for obtaining financing by purchase-money mortgage to the IHA have been clarified and simplified (§ 805.423). Included in this provision is a new requirement that a maintenance reserve shall continue to exist after acquisition of homeownership by the family (§ 805.423). This is on the ground that the family should not be left without this resource as insurance against costly repairs that the family could not afford with its current income.

37. In response to comments pointing out the various restrictions on succession to land interests in some Indian areas, a provision has been added to require compliance with these restrictions (§ 805.425(f)).

38. The requirement that existing MH projects must be converted wholly to the new program, or remain entirely under the old program, has been retained because the administrative difficulties and expenses of administration of a partially converted project would exceed the difficulties and expenses of administration if the entire project is retained under the old program. However, the procedures for conversion and the protection of homebuyers against loss of basic rights under the existing agreements through conversion have been clarified and expanded so that, in the view of the Department, it is clearly in the homebuyer's interest to convert (§ 805.428).

39. Questions were raised concerning the conversion of Turnkey III projects to the provisions of the 1974 amendments to the Act and of Rental projects to homeownership opportunity projects. The conversion of such projects is not covered by this Regulation, but will be covered in the future when the Turnkey III regulations are revised to bring them in line with the new provisions of the Act.

The Department of Housing and Urban Development has determined that an Environmental Impact Statement is not required with respect to these regulations. A copy of the Finding of Inapplicability is available for public inspection during regular business hours in the office of the Rules Docket Clerk, Room 10245, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C.

The Secretary of Housing and Urban Development has determined that the public interest would best be served by making these regulations effective immediately to avoid unnecessary delay in its implementation. Therefore, the Secretary finds that good cause exists for making these regulations effective March 9, 1976.

Accordingly, Title 24 is amended as follows: A new Part 805, Indian Housing, is added to Chapter VIII to read as set forth hereinafter.

Subpart A—General

Sec.
805.101 Applicability and scope.
805.102 Definitions.
805.103 Types of low income housing projects.
805.104 Assistance from Indian Health Service and Bureau of Indian Affairs.
805.105 Applicability of civil rights statutes.
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805.430 Cross references to defined terms.

AUTHORITY: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); sections 201(b) and 203 of the Housing and Community Development Act of 1974 (42 U.S.C. 1437, note and 1437f, note); U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.), especially sections 5(b), 5(c), and 5(h) (42 U.S.C. 1437c(b), 1437c(c), and 1436c(h)).

Subpart A—General

§ 805.101 Applicability and scope.

(a) *General.* (1) Under the U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.), the U.S. Department of Housing and Urban Development provides financial and technical assistance to public housing agencies for the development and operation of low income housing projects. This Part is applicable to such projects which are developed or operated by an Indian Housing Authority in the area within which such Indian Housing Authority is authorized to operate.

(2) If assistance under this Part is not available to a low income Indian family because the family desires housing in an area within which no Indian Housing Authority is authorized to provide housing, or if for any other reason an Indian family desires housing assistance other than under this Part, a family may seek housing assistance under other Parts of this Chapter.

(b) *Other HUD regulations and requirements.* The provisions of this Part do not constitute a self-contained or complete statement of the HUD regulations and requirements affecting the development or operation of low income housing Projects of Indian Housing Authorities. Except as modified or supplemented by the provisions of this Part, HUD regulations, procedures and requirements generally applicable to the development or operation of low income housing are applicable to Projects subject to this Part.

§ 805.102 Definitions.

This section sets forth certain definitions of terms used in this Part. Definitions of other terms are contained in various sections where the terms are used. For a list of cross references to the location of the various definitions, see § 805.430.

ACC. An Annual Contributions Contract.

Annual Contributions Contract. A contract for loans and annual contributions between HUD and an IHA.

Act. The U.S. Housing Act of 1937 (42 U.S.C. 1437 et. seq.).

BIA. The Bureau of Indian Affairs in the Department of the Interior.

Construction Contract. The contract for construction in the case of the Conventional method, or the Contract of Sale in the case of the Turnkey method.

Conversion. A conversion of an Existing Project in accordance with § 805.428.

Development Cost. See Total Development Cost.

Development Program. A statement of the basic elements of a Project, including the estimated Total Development Cost of the Project, as adopted by the IHA and approved by HUD.

Existing Project. A Mutual Help Project placed under ACC before the effective date of this Part.

Home. A dwelling unit covered by a Homebuyer's Mutual Help and Occupancy Agreement.

Homebuyer. A person(s) who has executed a Mutual Help and Occupancy Agreement with the IHA, and who has not yet achieved homeownership.

Homeowner. A Homebuyer who has achieved ownership of his Home.

HUD. The Department of Housing and Urban Development, including the Regional, Area or Insuring Office which has been delegated authority under the Act to perform functions pertaining to this Part for the area in which the IHA is located.

IHA. An Indian Housing Authority.

IHA Homeownership Financing. IHA financing for purchase of a Home by an eligible Homebuyer who gives the IHA a Promissory Note and Mortgage for the balance of the purchase price (see section 805.423).

IHS. The Indian Health Service in the Department of Health, Education, and Welfare.

Indian. Any person recognized as being an Indian or Alaska Native by a tribe, the Government, or any state.

Indian Area. The area within which an IHA is authorized to provide housing.

Indian Housing Authority. A public housing agency established (a) by exercise of a tribe's powers of self-government independent of state law, or (b) by operation of state law providing specifically for housing authorities for Indians.

Interdepartmental Agreement. The agreement among HUD, the Department of Health, Education and Welfare and the Department of the Interior concerning assistance to Projects developed and operated under the Act (Appendix I to Subpart B).

MEPA. The Monthly Equity Payments Account (see § 805.421(b)(1)).

MH. Mutual Help.

MH Construction Contract. A Construction Contract for an MH Project where an MH contribution of work, materials or equipment is to be made, which contract shall be on a form prescribed by HUD.

MH Contribution. A contribution of land, work, cash, materials or equipment toward the Development Cost of a Project in accordance with a Homebuyer's MHO Agreement, credit for which is to be used toward purchase of a Home unless used earlier to pay for maintenance or other obligations of the Homebuyer.

MHO Agreement. A Mutual Help and Occupancy Agreement between an IHA and a Homebuyer.

MH Program. The Mutual Help Homeownership Opportunity Program.

MH Project. A Project developed and operated under the MH Program.

Program Reservation. A statement by HUD, which is not a legal obligation, but which expresses HUD's determination, subject to fulfillment of all legal and administrative requirements, to enter into a new or amended Preliminary Loan Contract or ACC covering the number of housing units reserved, or such lesser number as is consistent with the authority of HUD to enter into such contracts.

Project. The entire undertaking to provide housing as identified in the ACC involved, including all real or personal property, funds and reserves, rights, interests and obligations, and activities related thereto to be developed and operated by an IHA.

Total Development Cost. The sum of all HUD-approved costs for a Project incurred by an IHA in any and all undertakings necessary for planning, site acquisition, demolition, construction or equipment and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of the Project.

Tribe. An Indian tribe, band, pueblo, group or community of Indians or Alaska Natives.

§ 805.103 Types of low income housing projects.

IHAs may develop the following types of Projects:

(a) *Rental.* In a Rental Project, the occupants are month-to-month tenants of the IHA. Projects may be developed with single family detached, duplex, row house, walk-up, garden type, or elevator structures. Projects for the elderly and the handicapped may include congregate housing.

(b) *Mutual Help Homeownership Opportunity.* This program (see Subpart D) is available only for use by IHAs eligible for assistance under this Part. Under this program, a Homebuyer enters into an MHO Agreement under which the Homebuyer agrees to (1) contribute cash, work, land, materials, or equipment, or a combination thereof, for development of the Project; (2) make monthly payments based on income; and (3) provide all maintenance of the Home. In return, the initial purchase price of the Home is reduced each month in accordance with a predetermined purchase price schedule, and the Homebuyer is given the right to buy the Home by payment of the remaining balance of the purchase price at the time of the purchase. The credit for the Homebuyer's contribution is available for maintenance of the Home, and any balance is applied against the purchase price of the Home.

(c) *Section 8 Housing Assistance Payments.* The regulations for this program are set forth in Parts 880, 881, 882, and 883 of this Chapter. Under this program, a low income family leases a dwelling unit in newly constructed, substantially rehabilitated or existing housing. Housing assistance payments are made on behalf of the family to cover the difference between the contract rent of the unit and the amount payable by the family, as determined in accordance with schedules and criteria established by HUD. This program may include rental and cooperative projects, including housing for the elderly or handicapped and congregate housing, and homeownership opportunity housing (see Section 8(c)(8) of the Act).

§ 805.104 Assistance from Indian Health Service and Bureau of Indian Affairs.

Projects undertaken by IHAs of Federally Recognized Tribes shall be developed and operated in accordance with the provisions of the Interdepartmental Agreement. "Federally Recognized

Tribe" means a tribe recognized as eligible for services from BIA or IHS. Since HUD assistance under this Part is not limited to IHAs of Federally Recognized Tribes, provisions in this Part relating to assistance from BIA or IHS, or to required approvals, actions or determinations by these agencies in connection with such assistance, shall be construed as applicable only to Projects undertaken by IHAs of Federally Recognized Tribes.

§ 805.105 Applicability of civil rights statutes.

(a) *Indian Civil Rights Act.* The Indian Civil Rights Act (Title II of the Civil Rights Act of 1968, 25 U.S.C. 1301–03) provides, among other things, that no Indian tribe in exercising powers of self-government shall deny due process or the equal protection of its laws to any person within its jurisdiction. The Indian Civil Rights Act applies to tribes which exercise powers of self-government. Thus, it is applicable in all cases when an IHA has been established by exercise of such powers. In the case of an IHA established pursuant to state law, the capacity of the tribe to exercise powers of self-government and the applicability of the Indian Civil Rights Act shall be determined by HUD on a case-by-case basis. Projects of IHAs subject to the Indian Civil Rights Act shall be developed and operated in compliance with its provisions and all HUD requirements thereunder.

(b) *Non-applicability of Title VI and Title VIII.* Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4), which prohibits discrimination on the basis of race, color or national origin in federally assisted programs, and Title VIII of the Civil Rights Act of 1968 as amended (42 U.S.C. 3601 et seq.), which prohibits discrimination based on race, color, religion, sex or national origin in the sale or rental of housing, do not apply to IHAs established by exercise of a tribe's powers of self-government. HUD regulations implementing Title VI and Title VIII shall not be applicable to development or operation of Projects by such IHAs. In the case of an IHA established pursuant to state law, the question of applicability of Title VI and Title VIII shall be determined by HUD on a case-by-case basis.

§ 805.106 Preferences, opportunities, and nondiscrimination in employment and contracting.

(a) *Indian Self-Determination and Education Assistance Act (preference for Indians).* HUD has determined that the Projects under this Part are subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)), which requires that, to the greatest extent feasible: (1) Preference and opportunities for training and employment shall be given to Indians, and (2) preference in the award of contracts and subcontracts shall be given to Indian organizations and to Indian-owned Economic Enterprises. "Indian-owned Economic Enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit. However, such Indian ownership shall constitute not less than 51 percent of the enterprise.

(b) *Executive Order 11246 (equal employment opportunity).* (1) Contracts for construction work in connection with Projects under this Part are subject to Executive Order 11246 (30 FR 12319), as amended by Executive Order 11375 (32 FR 14303), and applicable implementing regulations (24 CFR, Part 130; 41 CFR, Chapter 60), rules, and orders of HUD and the Office of Federal Contract Compliance Programs of the Department of Labor. Executive Order 11246 prohibits discrimination and requires affirmative action to ensure that employees or applicants for employment are treated without regard to their race, color, religion, sex, or national origin.

(2) Compliance with Executive Order 11246, and related regulations, orders and requirements shall be to the maximum extent consistent with, but not in derogation of, compliance with Section 7(b) of the Indian Self-Determination and Education Assistance Act.

(c) *Section 3 of the HUD Act of 1968 (employment and business opportunities for lower income residents in project area).* (1) The Projects under this Part are subject to Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u), which requires that, to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with a Project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the project area.

(2) Compliance with Section 3 and related regulations, orders and requirements shall be to the maximum extent consistent with, but not in derogation of, compliance with Section 7(b) of the Indian Self-Determination and Education Assistance Act and Executive Order 11246.

(d) *IHA's Own Employment Practices.* Each IHA shall adopt and promulgate regulations with respect to the IHA's own employment practices which shall be in compliance with its obligations under Section 7(b) of the Indian Self-Determination and Education Assistance Act, Executive Order 11246, where applicable, and Section 3 of the HUD Act of 1968. A copy of these regulations shall be posted in the IHA office, and a copy shall be submitted to HUD promptly after adoption by the IHA. (Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), as amended, which prohibits discrimination in employment by making it unlawful for employers to engage in certain discriminatory practices, excludes Indian tribes from the nondiscrimination requirements of Title VII.)

§ 805.107 Compliance with other Federal requirements.

(a) *National Environmental Policy Act.* Projects shall be developed in compliance with the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and all requirements thereunder.

(b) *Clean Air Act and Federal Water Pollution Control Act.* Projects shall be developed in compliance with the Clean Air Act (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.) and all requirements thereunder.

(c) *Davis-Bacon Wage Rates for Laborers and Mechanics.* Not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a through 276a–5), shall be paid to all laborers and mechanics employed in the development of a Project.

(d) *Professional and Technical Wage Rates.* Not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable state or local law) by HUD, shall be paid to all architects, technical engineers, draftsmen and technicians employed in the development of a Project.

(e) *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and Expenses of Temporary Relocation.* (1) When a Project is developed by an IHA established in accordance with § 805.108(a), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Uniform Act") (42 U.S.C. 4601 et seq.) does not apply, because such an IHA is not a "State agency" covered by the Uniform Act.

(2) When a Project is developed by an IHA established in accordance with § 805.108(b), the Project shall be developed in compliance with the Uniform Act and HUD policies and requirements thereunder (24 CFR, Part 42).

(3) In the case of both (1) and (2), Development Cost may include the reasonable moving costs for a family which is moved from a Project site during construction and is returned to the site after completion.

§ 805.108 Establishment of IHAs pursuant to Tribal law or State law.

An IHA may be established either:

(a) By a tribal ordinance enacted by exercise of a tribe's powers of self-government independent of state law, creating an IHA with all necessary legal powers to carry out low income housing projects for Indians, which IHA shall be established in accordance with § 805.109; or

(b) Pursuant to a state law which provides for the establishment of IHAs with all necessary legal powers to carry out low income housing projects for Indians.

§ 805.109 Procedures for establishment of IHAs by Tribal ordinance.

(a) *Applicability.* This section shall be applicable only when an IHA is established by exercise of a tribe's powers as described in § 805.108(a).

(b) *Legal Capacity of Tribe to Establish IHA.* Where an Indian tribe has governmental police power to promote the general welfare, including the power

to create a housing authority, an IHA may be established by tribal ordinance enacted by the governing body of the tribe.

(c) *Approval or Review of Ordinance by the Department of the Interior.* HUD shall not enter into an undertaking for assistance to an IHA formed by tribal ordinance unless such ordinance has been submitted to HUD, accompanied by evidence that the tribe's enactment of the ordinance either has been approved by the Department of the Interior or has been reviewed and not objected to by that Department.

(d) *Form of Ordinance.* The form of tribal ordinance shown as Appendix I to this Subpart A shall be used for the establishment of IHAs by tribal ordinance on and after the effective date of this Part. No substantive change may be made in the form of tribal ordinance except as indicated by footnotes in Appendix I or with specific written approval from HUD.

(e) *Amendment of Ordinance Previously Enacted.* Tribal ordinances enacted prior to the effective date of this Part, which do not conform to the required provisions of the form of ordinance set out as Appendix I, shall be amended to conform thereto as soon as possible. Beginning January 1, 1977, no contract or amendment providing any additional commitment for HUD financial assistance shall be entered into unless such conforming amendments have been enacted.

(f) *Submission to HUD of Documents Establishing IHA.* The tribal ordinance, evidence of Department of the Interior approval or review, and the following documentation relating to the initial organization of the IHA, in the form prescribed by HUD, shall be submitted to HUD prior to or with any application for financial assistance:

(1) Certificate of appointment of Commissioners.
(2) Commissioner's oath of office.
(3) Notice of organization meeting.
(4) Consent to meeting.
(5) Minutes of meeting.
(6) Resolutions establishing the IHA, adopting the bylaws, adopting a seal, designating a regular place of meeting, and designating officers.
(7) Bylaws.
(8) Certificate of Secretary as to authenticity of documents.
(9) General Certificate of Housing Authority.

§ 805.110 IHA Commissioners who are tenants or homebuyers.

No person shall be barred from serving on an IHA's Board of Commissioners because he is a tenant or Homebuyer in a housing Project of the IHA. A Commissioner who is a tenant or Homebuyer shall be entitled to participate fully in all meetings concerning matters that affect all of the tenants or Homebuyers, even though such matters affect him as well. However, no such Commissioner shall be entitled or permitted to participate in or be present at any meeting (except in his capacity as a tenant or Homebuyer), or be counted or treated as a member of the Board, concerning any matter involving his individual rights, obligations or status as a tenant or Homebuyer.

APPENDIX I—TRIBAL ORDINANCE

Pursuant to the authority vested in the _____ Tribe by its Constitution, and particularly by Article _____, Sections _____ thereof, and its authority to provide for the health, safety, morals and welfare of the Tribe, the Tribal Council of the _____ Tribe hereby establishes a public body known as the _____ Housing Authority (hereinafter referred to as the Authority), and enacts this ordinance which shall establish the purposes, powers and duties of the Authority.

In any suit, action or proceeding involving the validity or enforcement of or relating to any of its contracts, the Authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of this ordinance. A copy of the ordinance duly certified by the Secretary of the Council shall be admissible in evidence in any suit, action or proceeding.

ARTICLE I [1]

DECLARATION OF NEED

It is hereby declared:

1. That there exist on the _____ Reservation insanitary, unsafe, and overcrowded dwelling accommodations; that there is a shortage of decent, safe and sanitary dwelling accommodations available at rents or prices which persons of low income can afford; and that such shortage forces such persons to occupy insanitary, unsafe and overcrowded dwelling accommodations;

2. That these conditions cause an increase in and spread of disease and crime and constitute a menace to health, safety, morals and welfare; and that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety protection, fire and accident prevention, and other public services and facilities;

3. That the shortage of decent, safe and sanitary dwellings for persons of low income cannot be relieved through the operation of private enterprise;

4. That the providing of decent, safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which money may be spent and private property acquired and are governmental functions of Tribal concern;

5. That residential construction activity and a supply of acceptable housing are important factors to general economic activity, and that the undertakings authorized by this ordinance to aid the production of better housing and more desirable neighborhood and community development at lower costs will make possible a more stable and larger volume of residential construction and housing supply which will assist materially in achieving full employment; and

6. That the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

ARTICLE II

PURPOSES

The Authority shall be organized and operated for the purposes of:

1. Remedying unsafe and insanitary housing conditions that are injurious to the public health, safety and morals;

2. Alleviating the acute shortage of decent, safe and sanitary dwellings for persons of low income; and

3. Providing employment opportunities through the construction, reconstruction, improvement, extension, alteration or repair and operation of low income dwellings.

ARTICLES III

DEFINITIONS

The following terms, wherever used or referred to in this ordinance, shall have the following respective meanings, unless a different meaning clearly appears from the context:

"Area of Operation" means all areas within the jurisdiction of the tribe.

"Board" means the Board of Commissioners of the Authority.

"Council" means The _____ Tribal Council.

"Federal government" includes the United States of America, the Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

"Homebuyer" means a person(s) who has executed a lease-purchase agreement with the Authority, and who has not yet achieved homeownership.

"Housing project" or *"project"* means any work or undertaking to provide or assist in providing (by any suitable method, including but not limited to: rental; sale of individual units in single or multifamily structures under conventional condominium, or cooperative sales contracts or lease-purchase agreements; loans; or subsidizing of rentals or charges) decent, safe and sanitary dwellings, apartments, or other living accommodations for persons of low income. Such work or undertaking may include buildings, land, leaseholds, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, for streets, sewers, water service, utilities, parks, site preparation or landscaping, and for administrative, community, health, recreational, welfare, or other purposes. The term "housing project" or "project" also may be applied to the planning of the buildings and improvements, the acquisition of property or any interest therein, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration or repair of the improvements or other property and all other work in connection therewith, and the term shall include all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

"Obligations" means any notes, bonds, interim certificates, debentures, or other forms of obligation issued by the Authority pursuant to this ordinance.

"Obligee" includes any holder of an obligation, agent or trustee for any holder of an obligation, or lessor demising to the Authority property used in connection with a project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal government when it is a party to any contract with the Authority in respect to a housing project.

"Persons of low income" means persons or families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe, and sanitary dwellings for their use.

ARTICLE IV

BOARD OF COMMISSIONERS

1.(a) [2] (1) The affairs of the Authority shall be managed by a Board of Commissioners composed of five persons.

(2) The Board members shall be appointed, and may be reappointed, by the Council. A certificate of the Secretary of the Council as to the appointment or reappointment of any commissioner shall be conclusive evidence of

Footnotes at end of article.

the due and proper appointment of the commissioner.

(3) A commissioner may be a member or non-member of the Tribe, and may be a member or non-member of the Tribal Council.

(4) No person shall be barred from serving on the Board because he is a tenant or homebuyer in a housing project of the Authority; and such commissioner shall be entitled to fully participate in all meetings concerning matters that affect all of the tenants or homebuyers, even though such matters affect him as well. However, no such commissioner shall be entitled or permitted to participate in or be present at any meeting (except in his capacity as a tenant or homebuyer), or to be counted or treated as a member of the Board, concerning any matter involving his individual rights, obligations or status as a tenant or homebuyer.

(b)[3] The term of office shall be four years and staggered. When the Board is first established, one member's term shall be designated to expire in one year, another to expire in two years, a third to expire in three years, and the last two in four years. Thereafter, all appointments shall be for four years, except that in the case of a prior vacancy, an appointment shall be only for the length of the unexpired term. Each member of the Board shall hold office until his successor has been appointed and has qualified.

(c)[4] The Council shall name one of the Commissioners as Chairman of the Board. The Board shall elect from among its members a Vice-Chairman, a Secretary, and a Treasurer; and any member may hold two of these positions. In the absence of the Chairman, the Vice-Chairman shall preside; and in the absence of both the Chairman and Vice-Chairman, the Secretary shall preside.

(d)[5] A member of the Board may be removed by the appointing power for serious inefficiency or neglect of duty or for misconduct in office, but only after a hearing before the appointing power and only after the member has been given a written notice of the specific charges against him at least 10 days prior to the hearing. At any such hearing, the member shall have the opportunity to be heard in person or by counsel and to present witnesses in his behalf. In the event of removal of any Board member, a record of the proceedings, together with the charges and findings thereon, shall be filed with the appointing power and a copy thereof sent to the appropriate office of the Department of Housing and Urban Development.

(e) The Commissioners shall not receive compensation for their services but shall be entitled to compensation for expenses, including travel expenses, incurred in the discharge of their duties.

(f)[6] A majority of the full Board (i.e., notwithstanding the existence of any vacancies) shall constitute a quorum for the transaction of business, but no Board action shall be taken by a vote of less than a majority of such full Board.

(g) The Secretary shall keep complete and accurate records of all meetings and actions taken by the Board.

(h) The Treasurer shall keep full and accurate financial records, make periodic reports to the Board, and submit a complete annual report, in written form, to the Council as required by article VII, Section 1, of this ordinance.

2. Meetings of the Board shall be held at regular intervals as provided in the bylaws. Emergency meetings may be held upon 24 hours actual notice and business transacted, provided that not less than a majority of the full Board concurs in the proposed action.

ARTICLE V

POWERS

1. The Authority shall have perpetual succession in its corporate name.

2. The Council hereby gives its irrevocable consent to allowing the Authority to sue and be sued in its corporate name, upon any contract, claim or obligation arising out of its activities under this ordinance and hereby authorizes the Authority to agree by contract to waive any immunity from suit which it might otherwise have; but the Tribe shall not be liable for the debts or obligations of the Authority.

3. The Authority shall have the following powers which it may exercise consistent with the purposes for which it is established:

(a) To adopt and use a corporate seal.

(b) To enter into agreements, contracts and understandings with any governmental agency, Federal, state or local (including the Council) or with any person, partnership, corporation or Indian tribe; and to agree to any conditions attached to Federal financial assistance.

(c) To agree, notwithstanding anything to the contrary contained in this ordinance or in any other provision of law, to any conditions attached to Federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or operation of projects; and the Authority may include in any contract let in connection with a project stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor, and comply with any conditions which the Federal government may have attached to its financial aid to the project.

(d) To obligate itself, in any contract with the Federal government for annual contributions to the Authority, to convey to the Federal government possession of or title to the project to which such contract relates, upon the occurrence of a substantial default (as defined in such contract) with respect to the covenants or conditions to which the Authority is subject; and such contract may further provide that in case of such conveyance, the Federal government may complete, operate, manage, lease, convey or otherwise deal with the project and funds in accordance with the terms of such contract: *Provided*, That the contract requires that, as soon as practicable after the Federal government is satisfied that all defaults with respect to the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the Federal government shall reconvey to the Authority the project as then constituted.

(e) To lease property from the Tribe and others for such periods as are authorized by law, and to hold and manage or to sublease the same.

(f) To borrow or lend money, to issue temporary or long term evidence of indebtedness; and to repay the same. Obligations shall be issued and repaid in accordance with the provisions of Article VI of this ordinance.

(g) To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.

(h) To purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law.

(i) To undertake and carry out studies and analyses of housing needs, to prepare housing plans, to execute the same, to operate projects and to provide for the construction, reconstruction, improvement, extension, alteration or repair of any project or any part thereof.

(j) With respect to any dwellings, accommodations, lands, buildings or facilities embraced within any project (including individual cooperative or condominium units): to lease or rent, sell, enter into lease-purchase agreements or leases with option to purchase; to establish and revise rents or required monthly payments; to make rules and regulations concerning the selection of tenants or homebuyers, including the establishment of priorities, and concerning the occupancy, rental, care and management of housing units; and to make such further rules and regulations as the Board may deem necessary and desirable to effectuate the powers granted by this ordinance.

(k) To finance purchase of a home by an eligible homebuyer in accordance with regulations and requirements of the Department of Housing and Urban Development.

(l) To terminate any lease or rental agreement or lease-purchase agreement when the tenant or homebuyer has violated the terms of such agreement, or failed to meet any of its obligations thereunder, or when such termination is otherwise authorized under the provisions of such agreement; and to bring action for eviction against such tenant or homebuyer.

(m) To establish income limits for admission that insure that dwelling accommodations in a housing project shall be made available only to persons of low income.

(n) To purchase insurance from any stock or mutual company for any property or against any risk or hazards.

(o) To invest such funds as are not required for immediate disbursement.

(p) To establish and maintain such bank accounts as may be necessary or convenient.

(q) To employ an executive director, technical and maintenance personnel and such other officers and employees, permanent or temporary, as the Authority may require; and to delegate to such officers and employees such powers or duties as the Board shall deem proper.

(r) To take such further actions as are commonly engaged in by public bodies of this character as the Board may deem necessary and desirable to effectuate the purposes of the Authority.

(s) To join or cooperate with any other public housing agency or agencies operating under the laws or ordinances of a State or another tribe in the exercise, either jointly or otherwise, of any or all of the powers of the Authority and such other public housing agency or agencies for the purpose of financing (including but not limited to the issuance of notes or other obligations and giving security therefor), planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project or projects of the Authority or such other public housing agency or agencies. For such purpose, the Authority may by resolution prescribe and authorize any other public housing agency or agencies, so joining or cooperating with the Authority, to act on the Authority's behalf with respect to any or all powers, as the Authority's agent or otherwise, in the name of the Authority or in the name of such agency or agencies.

(t) To adopt such bylaws as the Board deems necessary and appropriate.

4. It is the purpose and intent of this ordinance to authorize the Authority to do

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Footnotes at end of article.

any and all things necessary or desirable to secure the financial aid or cooperation of the Federal government in the undertaking, construction, maintenance or operation of any project by the Authority.

5. No ordinance or other enactment of the Tribe with respect to the acquisition, operation, or disposition of Tribal property shall be applicable to the Authority in its operations pursuant to this ordinance.

ARTICLE VI

OBLIGATIONS

1. The Authority may issue obligations from time to time in its discretion for any of its purposes and may also issue refunding obligations for the purpose of paying or retiring obligations previously issued by it. The Authority may issue such types of obligations as it may determine, including obligations on which the principal and interest are payable: (a) exclusively from the income and revenues of the project financed with the proceeds of such obligations, or with such income and revenues together with a grant from the Federal government in aid of such project; (b) exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of such obligations; or (c) from its revenues generally. Any of such obligations may be additionally secured by a pledge of any revenues of any project or other property of the Authority.

2. Neither the commissioners of the Authority nor any person executing the obligations shall be liable personally on the obligations by reason of issuance thereof.

3. The notes and other obligations of the Authority shall not be a debt of the Tribe and the obligations shall so state on their face.

4. Obligations of the Authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes imposed by the Tribe. The tax exemption provisions of this ordinance shall be considered part of the security for the repayment of obligations and shall constitute, by virtue of this ordinance and without necessity of being restated in the obligations, a contract between (a) the Authority and the Tribe, and (b) the holders of obligations and each of them, including all transferees of the obligations from time to time.

5. Obligations shall be issued and sold in the following manner:

(a) Obligations of the Authority shall be authorized by a resolution adopted by the vote of a majority of the full Board and may be issued in one or more series.

(b) The obligations shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such places, and be subject to such terms of redemption, with or without premium, as such resolution may provide.

(c) The obligations may be sold at public or private sale at not less than par.

(d) In case any of the commissioners of the Authority whose signatures appear on any obligations cease to be commissioners before the delivery of such obligations, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners had remained in office until delivery.

Footnotes at end of article.

6. Obligations of the Authority shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any obligation of the Authority or the security therefor, any such obligation reciting in substance that it has been issued by the Authority to aid in financing a project pursuant to this ordinance shall be conclusively deemed to have been issued for such purpose, and the project for which such obligation was issued shall be conclusively deemed to have been planned, located and carried out in accordance with the purposes and provisions of this ordinance.

7. In connection with the issuance of obligations or incurring of obligations under leases and to secure the payment of such obligations, the Authority, subject to the limitations in this ordinance, may:

(a) Pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

(b) Provide for the powers and duties of obligees and limit their liabilities; and provide the terms and conditions on which such obligees may enforce any covenant or rights securing or relating to the obligations.

(c) Covenant against pledging all or any part of its rents, fees and revenues or against mortgaging any or all of its real or personal property to which its title or right then exists or may thereafter come into existence or permitting or suffering any lien on such revenues or property.

(d) Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof.

(e) Covenant as to what other or additional debts or obligations may be incurred by it.

(f) Covenant as to the obligations to be issued and as to the issuance of such obligations in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

(g) Provide for the replacement of lost, destroyed or mutilated obligations.

(h) Covenant against extending the time for the payment of its obligations or interest thereon.

(i) Redeem the obligations and covenant for their redemption and provide the terms and conditions thereof.

(j) Covenant concerning the rents and fees to be charged in the operation of a project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof.

(k) Create or authorize the creation of special funds for monies held for construction or operating costs, debt service, reserves or other purposes, and covenant as to the use and disposition of the monies held in such funds.

(l) Prescribe the procedure, if any, by which the terms of any contract with holders of obligations may be amended or abrogated, the proportion of outstanding obligations the holders of which must consent thereto, and the manner in which such consent may be given.

(m) Covenant as to the use, maintenance and replacement of its real or personal property, the insurance to be carried thereon and the use and disposition of insurance monies.

(n) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.

(o) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequencies may be waived.

(p) Vest in any obligees or any proportion of them the right to enforce the payment of the obligations or any covenants securing or relating to the obligations.

(q) Exercise all or any part or combination of the powers granted in this section.

(r) Make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character.

(s) Make any covenants and do any acts and things necessary or convenient or desirable in order to secure its obligations, or, in the absolute discretion of the Authority, tending to make the obligations more marketable although the covenants, acts or things are not enumerated in this section.

ARTICLE VII

MISCELLANEOUS

1. The Authority shall submit an annual report, signed by the Chairman of the Board, to the Council showing (a) a summary of the year's activities, (b) the financial condition of the Authority, (c) the condition of the properties, (d) the number of units and vacancies, (e) any significant problems and accomplishments, (f) plans for the future, and (g) such other information as the Authority or the Council shall deem pertinent.

2. During his tenure and for one year thereafter, no commissioner, officer or employee of the Authority, or any member of any governing body of the Tribe, or any other public official who exercises any responsibilities or functions with regard to the project, shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any project, unless prior to such acquisition, he discloses his interest in writing to the Authority and such disclosure is entered upon the minutes of the Authority, and the commissioner, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he has any such interest. If any commissioner, officer or employee of the Authority involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as a commissioner, officer or employee, the commissioner, officer or employee, in any such event, shall immediately disclose his interest in writing to the Authority, and such disclosure shall be entered upon the minutes of the Authority, and the commissioner, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he has any such interest. Any violation of the foregoing provisions of this section shall constitute misconduct in office. This section shall not be applicable to the acquisition of any interest in obligations of the Authority issued in connection with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency, or to membership on the Board as provided in Article IV, Section 1(a)(4).

3. Each project developed or operated under a contract providing for Federal financial assistance shall be developed and operated in compliance with all requirements of such contract and applicable Federal legislation, and with all regulations and requirements prescribed from time to time by the Federal government in connection with such assistance.

4. The Authority shall obtain or provide for the obtaining of adequate fidelity bond

coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

5. The Authority shall not construct or operate any project for profit.

6. The property of the Authority is decleared to be public property used for essential public and governmental purposes and such property and the Authority are exempt from all taxes and special assessments of the Tribe.

7. All property including funds acquired or held by the Authority pursuant to this ordinance shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the Authority be a charge or lien upon such property. However, the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees or revenues or the right of the Federal government to pursue any remedies conferred upon it pursuant to the provisions of this ordinance or the right of the Authority to bring eviction actions in accordance with Article V, Section 3(1).

ARTICLE VIII

COOPERATION IN CONNECTION WITH PROJECTS

1. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of projects, the Tribe hereby agrees that:

(a) It will not levy or impose any real or personal property taxes or special assessments upon the Authority or any project of the Authority.

(b) It will furnish or cause to be furnished to the Authority and the occupants of projects all services and facilities of the same character and to the same extent as the Tribe furnishes from time to time without cost or charge to other dwellings and inhabitants.

(c) Insofar as it may lawfully do so, it will grant such deviations from any present or future building or housing codes of the Tribe as are reasonable and necessary to promote economy and efficency in the development and operation of any project, and at the same time safeguard health and safety, and make such changes in any zoning of the site and surrounding territory of any project as are reasonable and necessary for the development and protection of such project, and the surrounding territory.

(d) It will do any and all things, within its lawful powers, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of projects.

(e) The Tribal Government hereby declares that the powers of the Tribal Government shall be vigorously utilized to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations including action through the appropriate courts.

(f)[7] The Tribal Courts shall have jurisdiction to hear and determine an action for eviction of a tenant or homebuyer. The Tribal Government hereby declares that the powers of the Tribal Courts shall be vigorously utilized to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations.

2. The provisions of this Article shall remain in effect with respect to any project, and said provisions shall not be abrogated, changed, or modified without the consent of the Department of Housing and Urban Development, so long as (a) the project is owned by a public body or governmental agency and is used for low income housing purposes, (b) any contract between the Authority and the Department of Housing and Urban Development for loans or annual contributions, or both, in connection with such project, remains in force and effect, or (c) any obligations issued in connection with such project or any monies due to the Department of Housing and Urban Development in connection with such project remain unpaid, whichever period ends the latest. If at any time title to, or possession of, any project is held by any public body or governmental agency authorized by law to engage in the development or operation of low income housing, including the Federal government, the provisions of this section shall inure to the benefit of and be enforced by such public body or governmental agency.

ARTICLE IX

APPROVAL BY SECRETARY OF THE INTERIOR

With respect to any financial assistance contract between the Authority and the Federal government, the Authority shall obtain the approval of the Secretary of the Interior or his designee.

FOOTNOTES

[1] Article I may be modified as deemed appropriate.

[2] Article IV, section 1(a), paragraphs (1), (2) and (3) may be modified. For example, the number of board members may be more or less than five; the appointments may be made by the elected head of the tribal government, rather than the Council; the IHA may be made a department or division of the tribal government; membership on the Board may be limited to those who are members of the tribe, or to those who are members of the Council, or to those who are nonmembers of the Council, or to a certain number of any category.

[3] Article IV, section 1(b) may be modified to conform to changes in Article IV, section 1(a), and as to the length of the term of membership.

[4] Article IV, Section 1(c) may be modified as to the manner of appointment of the Chairman. For example, it may provide for appointment by the Board members or by the elected head of the tribal government. This paragraph may also be modified as to the manner of appointment of the other officials.

[5] Article IV, Section 1(d) may be modified, but adequate safeguards against arbitrary removal shall be included.

[6] Article IV, Section 1(f) may be modified if deemed appropriate, where the full Board consists of more than 5 members.

[7] Article VIII, Section 1(f) may be modified to insert the name of the appropriate court, or it may be deleted where it is demonstrated to HUD that the jurisdiction for evictions is vested in other than tribal courts (e.g., State courts or Courts of Indian Offenses).

Subpart B—Development

§ 805.201 Definitions.

See §§ 805.102 and 805.430.

§ 805.202 Roles and responsibilities of Federal agencies.

HUD, IHS and BIA shall coordinate functions and funding in accordance with the Interdepartmental Agreement. HUD assistance shall not include items or services which either BIA or IHS has agreed to provide or fund under the Interdepartmental Agreement, or items or services otherwise provided by other Government agencies.

§ 805.203 Production methods.

(a) *Justification for Production Method.* The IHA's application for a Project shall state which of the production methods described in this section it prefers to use supported by a justification for the use of the proposed method, such as economy, quality, design, expeditious completion and maximum competition. The method to be used shall be approved by HUD in the agreement entered into as a result of the Project Coordination Meeting (see § 805.208).

(b) *Turnkey Method.* Under the Turnkey method, the IHA advertises for developers to submit proposals to build a Project described in the IHA's Invitation for proposals. The Invitation for Proposals may, when approved by HUD, prescribe the sites to be used. The IHA selects, subject to HUD approval, the best of the proposals received, taking into consideration price, design, the developer's experience and other evidence of the developer's ability to complete the Project. After HUD approval of the proposal selected by the IHA, the working drawings and specifications are agreed to by the developer, the IHA, and HUD, and the developer and the IHA enter into a Contract of Sale. Upon completion of the Project in accordance with the Contract of Sale, the IHA purchases the Project from the developer. The IHA may employ an architect to assist in evaluating proposals and negotiating the working drawings and specifications. The IHA provides inspection services by an architect, engineer or other qualified person.

(c) *Conventional Method.* Under the Conventional method, the IHA contracts with or employs an architect to prepare plans and specifications for a proposed Project. Following HUD approval of the plans and specifications, the IHA advertises for bids from contractors to build the Project and awards the Construction Contract to the lowest responsible bidder, subject to HUD approval. The contractor provides assurance in the form of 100 percent performance and payment bonds, or other security approved by HUD, such as a letter of credit or escrow. The contractor receives progress payments from the IHA during construction and a final payment upon completion in accordance with the Construction Contract.

(d) *Acquisition of Existing Housing (with or without rehabilitation).* Under the Acquisition method, the IHA acquires existing housing which may need only minor repairs or may require substantial rehabilitation. Repair or rehabilitation may be accomplished prior to acquisition using Turnkey procedures or after acquisition, as authorized by HUD.

(e) *Force Account Method.* Under the Force Account method, an IHA performs construction or rehabilitation in a manner similar to a contractor, using a work force entirely employed by and under the supervision of the IHA, or in combination with contracts for those portions of the work which can be better or more economically performed by an independent contractor. Force Account work is subject to Davis-Bacon wage rates. The Force Account method may be used for construction or rehabilitation of a Project only in exceptional cases, and only

See footnotes at end of document.

with the approval of the HUD Assistant Secretary for Housing Production and Mortgage Credit, and only if the tribe agrees in writing to cover any costs in excess of the HUD-approved Development Cost, including contingencies. For purposes of this paragraph, an exceptional case may be, but is not limited to, a Project or unit of work (1) of unusually small size, or (2) involving a lengthy construction or rehabilitation period, or (3) for which Development Cost would be excessively high if developed under the Conventional or Turnkey methods. The IHA must justify use of the Force Account method and demonstrate the capabilities of the IHA to successfully implement the Force Account method.

§ 805.204 Indian preference in contracting.

(a) *Preference in the Award of Contracts.* An IHA shall to the greatest extent feasible under this Part give preference in the award of contracts in connection with a Project to Indian organizations and Indian-owned Economic Enterprises, if this does not result in a higher cost or greater risk of nonperformance.

(b) *Required Contract Clause.* The IHA shall incorporate the following clause (referred to as a Section 7(b) clause) in each contract awarded in connection with a Project:

(1) The work to be performed under this contract is on a project subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e (b)). Section 7(b) requires that to the greatest extent feasible (i) preferences and opportunities for training and employment shall be given to Indians, and (ii) preferences in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises.

(2) The parties to this contract shall comply with the provisions of said Section 7(b) and all HUD requirements pursuant thereto.

(3) The contractor shall, in connection with this contract, to the greatest extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian-owned Economic Enterprises, and preferences and opportunities for training and employment to Indians.

(4) The contractor shall include this Section 7(b) clause in every subcontract in connection with the project, and shall, at the direction of the IHA, take appropriate action pursuant to the subcontract upon a finding by the IHA or HUD that the subcontractor is in violation of the Section 7(b) clause.

(c) *Additional Indian Preference Requirements.* An IHA may, with HUD approval, provide for additional Indian preference requirements in any contract in connection with a Project consistent with the objectives of the Section 7(b) clause, if this does not result in a higher cost, or greater risk of non-performance. Where an IHA provides for additional Indian preference requirements, the information for prospective contractors (advertisement or contractor's packet) shall include a statement of such additional preference requirements.

§ 805.205 Allocations of contract authority.

HUD will allocate contract authority for Indian housing in conformance with Section 213(d) of the Housing and Community Development Act of 1974.

§ 805.206 Application for project.

(a) *Submission to HUD.* To apply for a Project, an IHA shall submit an application on the form prescribed by HUD. The application shall be accompanied by a resolution of the local governing body approving the application for a preliminary loan, if a preliminary loan is requested. Where the provisions for the necessary local government cooperation (as in Subpart A—Appendix I, Article VIII) are not contained in the ordinance or other enactment creating the IHA, the IHA shall submit an executed cooperation agreement, or a showing that a cooperation agreement already exists for the location involved sufficient to cover the number of units in the application.

(b) *Action on Application.* (1) Within 10 working days of its receipt of the application, HUD shall notify the applicant of the approximate date, which shall be as soon as possible, by which HUD will act on the application.

(2) If the application is approved, a Program Reservation on the form prescribed by HUD shall be issued to the IHA. The Program Reservation shall specify whether the Project is Rental or Mutual Help, the total number of dwelling units, and the number of units for the elderly or handicapped, if any.

(3) If the application is disapproved, HUD shall give the IHA a written notification of disapproval and of the reasons therefor. If the application is approved for fewer units than requested, HUD shall issue a Program Reservation with respect to the total number of dwelling units approved, and the written notification to the IHA shall include a statement of the reasons for not approving the number of units requested. The notification under this paragraph (b)(3) shall state the time within which any objections to the HUD action may be presented to the field office director.

§ 805.207 Prerequisites for application approval.

(a) *Determination of Administrative Capability.* An application shall not be approved unless HUD determines that the IHA has, or will achieve within a reasonable time prescribed by HUD, the capability to provide adequate administration in compliance with all applicable HUD requirements of the proposed Project and other IHA Projects without an unreasonable need for continuing HUD assistance. Approval of an application shall not be withheld because of minor administrative deficiencies. As a minimum, however, the IHA shall have the capability to comply with all HUD requirements for prompt completion of development, the maintenance of complete and accurate books of accounts and records, the proper handling of funds, the timely preparation and submission of reports, the maintenance of the property, the occupancy of the housing units, determination of rents and required Homebuyer payments, the prompt collection of rents and required Homebuyer payments, and the prompt processing of evictions in cases of nonpayment or other serious breach of a lease or Homebuyer agreement.

(b) *Action When IHA Lacks Administrative Capability.* (1) If HUD cannot approve an application because the IHA does not have the capability to provide adequate administration of the proposed Project and other IHA Projects, and if the IHA wishes to achieve and maintain such capability, HUD shall assist the IHA to the extent of funds and staff available to HUD for this purpose. In such case, an application will be approvable after:

(i) Adequate administrative capability has been achieved; or

(ii) The IHA has adopted a plan, satisfactory to HUD, to achieve adequate administrative capability within a specified reasonable time, and after the IHA has demonstrated good faith and diligence in carrying out the plan. If achievement of final goals under such a plan will require an extended period of time, the plan shall include interim goals. The achievement of interim goals may be considered by HUD to be a sufficient demonstration of the IHA's good faith and diligence in carrying out the plan.

(2) If HUD determines that the number of required units is too small for development of adequate administrative capability, the IHA shall be so advised, with a recommendation to combine with other IHAs or to obtain necessary assistance from the tribe, the BIA or other sources.

(c) *Compliance with Section 213 (a), (b), and (c).* (1) HUD shall begin its evaluation promptly after receipt of the application for a Project, but the application shall not be approved or disapproved until the requirements of Section 213 (a), (b) and (c) of the Housing and Community Development Act of 1974 have been satisfied.

(2) Unless the comments of the chief executive officer of the unit of general local government in which the proposed housing is to be located were previously received by HUD, the HUD field office shall within 10 working days after receipt of a complete application send a letter in the prescribed form to the chief executive officer (or such designee as such officer may designate in writing to the HUD field office) or the unit of general local government requesting his comments. The cover letter will invite a response within 30 days from the date the letter is received by the addressee.

(d) *Preliminary Feasibility Determination.* An application for a Project may be approved only if HUD determines that it is likely that the feasibility requirements for approval of the Development

Program under § 805.220 or § 805.404(g), as the case may be, can be met.

(e) *Availability of Other Financing.* An application for a Project may not be approved unless the application shows that private or Farmers Home Administration financing is not available to the prospective tenants or Homebuyers.

§ 805.208 Project coordination meeting.

Promptly after issuance of a Program Reservation, a Project Coordination Meeting shall be held in accordance with the procedures stated in paragraph 3 of the Interdepartmental Agreement. This requirement applies to all Projects, including Projects of IHAs not receiving assistance from IHS or BIA. In the latter case, however, the IHS and BIA shall not participate.

§ 805.209 Preliminary loans.

(a) If an application is approved and a Program Reservation is issued, HUD may approve a Preliminary Loan of up to $500 per unit (up to $1000 per unit for Alaska) to pay the cost of preliminary surveys and planning (including the cost of appraisals) in respect to the number of units covered by the Preliminary Loan Contract.

(b) If because of unusual circumstances it is essential that Development Costs other than for preliminary surveys and planning be incurred prior to execution of the ACC, HUD may approve use of Preliminary Loan funds for such other costs, if HUD has determined that the Project will successfully proceed to ACC and that the local governing body of the locality has agreed to provide the local cooperation required by the Act.

(c) Where the amount of the Preliminary Loan provided in paragraph (a) of this section is insufficient, the field office may request authorization from the HUD Assistance Secretary for Housing Production and Mortgage Credit to provide additional Preliminary Loan funds. Any such request must be supported by full justification for the proposed expenditures, including the determinations required by paragraph (b) of this section.

§ 805.210 Development program.

The ACC for a Project shall not be executed until the IHA has adopted, and HUD has approved, the Development Program for the Project.

§ 805.211 Contracts in connection with development.

(a) The IHA shall not enter into the Construction Contract for a Project prior to execution of the ACC for the Project.

(b) The IHA shall not enter into any contract in connection with the development of a Project, including contracts for work, materials or equipment, or for architectural, engineering or legal services, without HUD approval. This requirement shall not apply to MHO Agreements in the form prescribed by HUD or such other types of contracts as HUD may specify.

§ 805.212 HUD's minimum property standards.

A Project shall be developed in compliance with the requirements of HUD's Minimum Property Standards (see 24 CFR Part 200, Subpart S). HUD may approve variations from the Minimum Property Standards to meet local conditions, such as the use of traditional heating which reflects available local sources of fuel, or the use of traditional indigenous building materials or other design features which reflect climatic conditions or local cultural patterns.

§ 805.213 Prototype costs in Indian areas.

(a) *Establishment of Special Prototype Cost Areas.* Where trade conditions and economic influences cause construction costs in an Indian Area or portion thereof to be significantly different from such costs in adjoining areas, HUD shall establishes or amends the published portion thereof, as a separate prototype cost area.

(b) *Factors to be Considered in Establishing Prototype Costs.* When HUD establishes or amends the published prototype costs (see Appendix to 24 CFR, Part 275), consideration shall be given to all pertinent trade conditions and economic influences. The factors to be considered include, where applicable, the following: local customs; abnormal climatic conditions; the logistical problems associated with Projects of remote location, low density and/or scattered sites; availability of skilled labor or acceptable materials; provisions for the use of wood or coal as an alternate heat source; and, with respect to trust or restricted land, the unavailability of the legal protection normally available for enforcement of claims by contractors, laborers and materialmen.

(c) *Requests for Revision of Prototype Costs.* The IHA may request a revision of the published prototype costs at the time of its application for a Project or subsequently when the IHA believes that revision is necessary to permit development of the Project. Such request shall be supported by appropriate evidence, including evidence relating to the factors mentioned in paragraph (b) of this section. The HUD field office director shall be responsible for obtaining an expeditious answer to the request in accordance with the time schedule agreed to at the Project Coordination meeting (see § 805.208).

§ 805.214 Development cost.

(a) *Total Development Cost.* The IHA shall complete development of each Project at the lowest possible cost, and in no event at a cost in excess of the Total Development Cost approved by HUD.

(b) *Prototype Cost Limit.* Dwelling construction and equipment cost for a Project shall not exceed the sum of the HUD-approved unit prototype costs for the homes of various sizes and types comprising the Project.

(c) *Streets and Driveways.* The Development Cost of a Project may include the planning, construction and inspection costs of providing on-site streets, sidewalks, curbing and street-lights for such Project. The cost of driveways within the boundaries of a multi-unit site, or within the boundaries of the individual homesites, in the case of a scattered site Project, may also be included in Development Cost. The total cost of driveways may not, unless specifically agreed to by HUD, exceed one and one-half percent of the HUD-approved Dwelling Construction and Equipment Cost for the Project. Development Cost shall not include the cost of providing the access roads referred to in § 805.216(b). The cost of obtaining access to the site during construction, or costs due to delays in construction because of inaccessibility of the site, shall not be included in Development Cost.

(d) *Water and Sanitation; Electricity and Fuel Distribution Systems.* Development Cost may include: (1) The costs of providing water, sewer, electrical and fuel facilities within the boundaries of any multi-unit site, or within the boundaries of the individual homesites in the case of a scattered site Project; connections to the appropriate distribution systems, if such systems are available to the multi-unit site, or to the homesites of a scattered site Project; or the pro rata cost of a community water and sewer system where required in accordance with section 8 h(2) of the Interdepartmental Agreement; or

(2) The costs of providing on-site wells, septic tanks, electrical generating and fuel storage facilities and distribution systems.

(e) *Exclusion of Costs for Facilities to be Provided by Others.* Development Cost shall not include any costs related to any of the facilities or improvements described in paragraphs (c) or (d) of this section if such facilities or improvements are to be provided by the local government or utility company, or, with respect to an IHA of a Federally Recognized Tribe, by IHS or BIA.

(f) *Nondwelling Facilities.* Management, maintenance, and community space and facilities may be approved for inclusion in the Development Cost for a Rental or an MH Project. In addition, where necessary and feasible to achieve adequate fire protection, HUD may approve inclusion of the cost of providing adequate fire warning devices and extinguishing equipment, and also may approve inclusion of all or a part of the reasonable expense of obtaining the required fire-fighting equipment and space for its storage. In areas subject to severe storms, consideration may also be given to the inclusion of the cost of storm shelter space in a Project.

(g) *Contingency Allowance.* HUD may permit a contingency allowance of up to five percent for a Project developed under the Conventional or Force Account method, and up to one percent for a Project developed under the Turnkey

method. However, if HUD determines in writing that a higher contingency allowance is necessary because of special circumstances set forth in the determination, a higher contingency allowance may be permitted, not to exceed ten percent for a Project developed under the Conventional or Force Account method, and three percent for a Project developed under the Turnkey method.

(h) *Initial Insurance Premiums.* The insurance premiums for the first three years may be included in Development Cost, with no obligation for reimbursement from operating receipts.

§ 805.215 Design for economy in fuel consumption.

(a) *Choice Among Feasible Options.* In selecting from among feasible options and in designing installations for heating and cooking, particular attention shall be given to maximum economy in the cost of fuel, adequacy for the purposes intended, maximum economy in maintenance and the long-term reliability of fuel supplies. All options which are feasible in the locality shall be examined, and HUD shall provide technical assistance for this purpose.

(b) *Cost of Alternate Fuel System.* Development Cost may include, where availability and cost of fuel and local preferences indicate, the design, construction and equipment costs of an alternate fuel system, either primary or supplemental, such as coal or wood stoves or fireplaces. Where locally available coal or wood offers a ready supply of fuel at costs less than those of other fuels which might be used, strong consideration should be given to requests for the installation of stoves or fireplaces as a supplemental or primary system for heating and/or cooking. A further possibility is the supplemental installation of stove flues only, which would permit residents to install coal or wood burning stoves at their individual option and expense.

§ 805.216 Site selection.

(a) *Relation to Local and Regional Plans.* Site selection shall be made with due regard for local and regional plans.

(b) *Access Roads.* An access road up to the boundaries of a multi-unit site shall be provided by the BIA, the tribe, or other appropriate agency without cost to the Project. In the case of a scattered site Project, access roads up to the boundaries of the individual homesites shall be provided by the Homebuyer, the tribe, or other appropriate agency without cost to the Project. In all cases, access roads shall provide safe and suitable vehicular access at all times. No site may be approved unless such access roads exist, or a written assurance has been obtained from the responsible entity prior to site approval that the requisite roads will be constructed in time for occupancy of the proposed Project, and will be maintained for continuous accessibility to the Project.

(c) *Water and Sanitation.* The IHA shall, prior to site approval, obtain a written assurance from the IHS, or from the appropriate local agency, that water and sanitation facilities acceptable to the IHS, or to HUD where the IHS has no jurisdiction, exist or will be provided in time for occupancy of the housing. (See also section 8 of the Interdepartmental Agreement).

(d) *Lighting, Heating and Cooking Sources.* The IHA shall, prior to site approval, obtain a written assurance from the appropriate utility companies, or other entities providing the requisite lighting, heating and cooking sources, that the sources exist or will be provided in time for occupancy of the housing. The statement of assurance shall include the rates currently in effect, and, where possible, information concerning anticipated increases for the next year.

(e) *Physical Characteristics of Site.* The physical characteristics of a site shall be such as to facilitate economical construction and management.

(f) *Topography.* (1) Sites with dominant grades in excess of ten percent shall be avoided where possible.

(2) Low-lying and flat sites shall not be approved unless practical and economical means of surface drainage can be provided to accommodate the level of rainfall expected.

(3) The topography shall permit an acceptable arrangement for the proposed number and type of units. If the topography of a proposed site raises serious doubt as to the suitability of the site, HUD may require the preparation of a site feasibility study in order to establish whether the site can be utilized satisfactorily.

(g) *Subsurface Conditions.* (1) Where there is any evidence to suggest that a site may have unsuitable bearing qualities for foundations and/or underground utilities or excessive areas of rock to be excavated, tentative site approval shall not be requested from HUD until a preliminary examination of the adverse conditions has indicated that they can be overcome.

(2) No site shall be selected if the hazard of earthslides exists either on the site or on adjacent or nearby land.

(3) In regions where local experience shows loss of life or damage resulting from earthquakes, or in regions located in zones 1, 2 or 3 as shown on the Seismic Risk Maps provided in the HUD Minimum Property Standard, precautions in design shall be taken in accordance with the requirements of the HUD Minimum Property Standards.

(4) In general, subsurface soil investigations, if required, shall be undertaken as soon as tentative site approval is obtained from HUD. Professional competence in soils and foundation engineering shall be required for both the performance of the subsurface soil investigation and the evaluation of the results.

(h) *Flooding.* The Project shall not be built in an area that has been identified by HUD as having special flood hazards unless other reasonable sites are not available. Where it is necessary to use a site in such an area, the community must have entered the National Flood Insurance Program under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), and the Project must be covered by flood insurance under that Program.

(i) *Multi-Unit Sites Versus Scattered Sites.* (1) A Project may consist of a multi-unit site, or scattered sites, or a combination. A "multi-unit site" is a site for a multi-unit structure or structures, or where individual homesites are contiguous. "Scattered sites" are where individual homesites are not contiguous.

(2) Basic considerations to be taken into account in selecting the type of sites are:

(i) Suitability for the type of occupancy intended (e.g. elderly);

(ii) The economical development and operation of the Project.

(j) *Size of Sites.* (1) The size of a multi-unit site shall be no greater than necessary to permit an acceptable arrangement for the proposed number and type of units.

(2) No individual homesite, whether a scattered site or included in a multi-unit site, shall exceed one acre unless HUD approves the use of a larger site for acceptable reasons, such as compliance with local law or to meet sanitary design requirements; however, the amount to be included in Development Cost for such site shall not exceed the value of a one acre site.

(k) *Individually Owned Trust or Restricted Land.* A site on individually owned trust or restricted land shall not be approved by HUD unless HUD obtains written assurance from the BIA that, in its judgment, a valid lease executed by all necessary parties can be obtained within a reasonable time (3–6 months) after issuance of the tentative site approval. HUD may approve a site requiring a longer period of time if HUD determines that such longer period will not unduly delay the Project.

§ 805.217 Site approval.

(a) *Tentative Site Approval.* (1) The IHA shall request tentative HUD approval for each site by submitting a Preliminary Site Report on a form prescribed by HUD, including all required exhibits, and including the written approval of IHS or BIA when required under the Interdepartmental Agreement, or in connection with services or facilities to be provided by the IHS or the BIA.

(2) Promptly after tentative site approval, HUD will send a copy of the Preliminary Site Report, including reports from IHAs of Federally Recognized Tribes, to the appropriate A–95 Clearinghouse (which may be a tribal coordinating mechanism established in accordance with section 2c of OMB Circular A–95, 41 FR 2053) where such action is required under 41 FR 2052, inviting a response within 34 days from the date of the letter of transmittal.

(3) HUD shall not give final site approval until the A–95 response period has ended.

(4) HUD shall notify the IHA as soon as possible of tentative approval, conditional approval, or disapproval of the proposed sites or portions thereof. The

notification to the IHA shall specifically state any conditions to be met for final site approval and, in the case of a scattered site Project, whether a sufficient number of sites have been approved for the Project to proceed.

(5) If HUD disapproves the proposed sites or portions thereof, it shall notify the IHA of the reasons for disapproval.

(6) No site or portion thereof may be acquired or used without HUD approval, or without approval of the IHS or BIA where required.

(b) *HUD Final Site Approval.* HUD shall not give final site approval, or enter into an ACC, until the conditions, if any, stated by HUD in its tentative approval of the site have been met. No site may be acquired or leased, and no commitment shall be made for acquisition or leasing until after execution of the ACC.

§ 805.218 Types of interest in land.

(a) *Sites on Trust or Restricted Land.* (1) Sites on tribally or individually owned trust or restricted land shall be leased to the IHA for a term of not less than 50 years (25 years, automatically renewable for an additional term of 25 years). For sites on trust or restricted land, HUD may accept a Title Status Report furnished by the BIA in lieu of obtaining other title information, opinions, certificates or policies.

(2) "Trust or restricted land" includes "tribal land" or "individually owned land" as defined in 25 CFR 131.1. "Tribal land" under 25 CFR 131.1 means land or any interest therein held by the United States in trust for a tribe, or land or any interest therin held by a tribe subject to federal restrictions against alienation or encumbrance. "Individually owned land" under 25 CFR 131.1 means land or any interest therein held by the United States in trust for an individual Indian, or land or any interest therein held by an individual Indian subject to federal restrictions against alienation or encumbrance, including allotted land.

(b) *Unrestricted Land.* Sites on unrestricted land may be either conveyed to the IHA in fee, or leased to the IHA for a term of not less than 50 years.

§ 805.219 Appraisals.

(a) *When Appraisals are Required.* If the amount to be charged to Development Cost for the site exceeds $500 per unit, an appraisal shall be made in accordance with the standards provided in this section, and in the case of an MH Project such amount shall not exceed the limitations stated in §§ 805.404(c) and 805.408(c)(1). If the cost of a site does not exceed $500 per unit, no appraisal shall be required unless HUD determines that an appraisal is required by law.

(b) *Performance of Appraisals.* The IHA shall submit a formal request for appraisal to HUD or BIA, as appropriate, after notification by HUD that the number of sites approved is sufficient to allow the Project to proceed. When BIA appraisal service is available, appraisals shall be provided by the BIA in accordance with paragraph (c) of this section (unless HUD agrees to provide the services in whole or in part), and shall be accepted by HUD. Otherwise, all appraisals shall be provided by HUD.

(c) *Appraisal Standards.* (1) *Conformity with Appraisal Standards.* All appraisals shall be in conformance with established and generally recognized appraisal practice and procedures in common use by professional appraisers. Opinions of value shall be based on the best available data properly analyzed and interpreted.

(2) *Nature of Legal Interest in Land.* In valuing the property interest to be conveyed to the IHA, appraisals shall give full consideration to the nature of the property interest, including any legal and market restrictions and restraints on alienation that affect market value. It shall be determined whether the interest to be conveyed to the IHA is fee simple title, an easement, a leasehold or another property right. In the case of tribally or individually owned trust or restricted land to be leased to the IHA, the appraiser shall report the value of the leasehold.

(3) *Market Data Comparables.* In the application of the market data approach to valuation, a property shall be compared with properties that have been leased or sold recently in the same or competing market areas. However, value estimates shall not be predicated upon comparable sales or leases that involve the IHA either as seller or purchaser, or lessor or lessee.

(4) *Valuation of Trust or Restricted Land—Market Data Approach.* When the interest to be appraised is a leasehold interest in tribally or individually owned trust or restricted land, and comparable leasehold transactions are not available, the appraiser shall estimate the value of the land as if alienable in fee, based on a comparison of the land being valued with sales of fee interests in comparable land in the same or competing market areas. The value of the land as if marketable in fee shall be discounted to obtain an estimate of the value of the leasehold interest which is alienable. An acceptable estimate of the value of the leasehold shall in no event exceed ⅔ of the estimate of the value as if alienable in fee.

§ 805.220 Financial feasibility of rental projects.

The financial feasibility test for a Rental Project, which must be met before a Development Program for the Project can be approved, shall be the test applicable to Projects subject to 24 CFR 890.101 et seq. (Performance Funding System). However, this requirement may be modified with the approval of the HUD Assistant Secretary for Housing Management in cases involving areas of exceptionally low income or other exceptional circumstances. The financial feasibility test for an MH Project is stated in § 805.404(g).

§ 805.221 Construction inspection.

(a) *IHA Inspections.* Inspection of construction is the responsibility of the IHA. IHA construction inspectors shall be selected by the IHA and approved by HUD. The IHA shall promptly forward a copy of each inspection report to HUD with comments on action taken to remedy deficiencies disclosed by the report. Because remote or scattered sites are sometimes used for Indian housing, and inspections at such sites may be more expensive, HUD may approve, where necessary, a larger amount for the cost of IHA inspection than provided under regular program requirements.

(b) *HUD Inspections.* HUD representatives shall make site visits from time to time, and shall make a report to HUD of each of their visits. HUD shall send a copy of each report to the IHA, with HUD's recommendation of the action, if any, to be taken by the IHA. The HUD report shall include its evaluation of the adequacy of the IHA inspections and the IHA actions with respect thereto.

(c) *Inspection Upon Completion.* (1) The contractor shall notify the IHA in writing as to the date when, in his opinion, the contract work, or stage when applicable, will be completed and ready for final inspection. If the IHA determines that the state of the work is as represented, the IHA shall promptly notify HUD and request HUD's participation in the final inspection. The final inspection shall be made jointly by the representatives of the IHA, HUD and the contractor. In the case of an MH Project, each Homebuyer shall also be allowed to participate as an observer in the inspection of his Home, but acceptance shall be by the IHA with HUD approval.

(2) If the inspection discloses no deficiencies other than punch list items, or items awaiting seasonal opportunity to complete, the IHA shall submit for HUD approval an Interim Certificate of Completion, which shall detail the items. The IHA shall also submit for HUD approval a proposed time schedule agreed to by the contractor for completion of the items. Upon HUD approval of the Interim Certificate and schedule for completion, the IHA may release the monies to the contractor less the withholdings required by the Construction Contract. The IHA may permit occupancy prior to IHA sign-off on all punch list items and items awaiting seasonal opportunity.

(3) The contractor shall complete the punch list items, and items awaiting seasonal opportunity to complete, in accordance with the time schedule for completion of the items as approved by HUD. The contractor will be paid for such items only after inspection and acceptance by the IHA and HUD approval; and the IHA shall not accept any item if there is a dispute as to whether such items have been completed. If the IHA is satisfied that the applicable requirements of the Construction Contract have been met, the IHA shall submit for HUD approval a Final Certificate of Completion and release to the contractor the amounts withheld with respect to such items in accordance with the applicable provisions of the Construction Contract.

§ 805.222 Inspections after acceptance and enforcement of warranties.

(a) The Construction Contract shall specify the warranty periods applicable to items completed as of the date of the approved Interim Certificate of Completion and to items completed after the date of the Interim Certificate, and shall also provide for assignment to the IHA of manufacturers' and suppliers' warranties covering equipment or supplies.

(b) The IHA shall inspect each dwelling unit no less often than every three months during the contractor's warranty period or periods, beginning three months after the date of the approved Interim Certificate of Completion, provided that there shall be a final inspection in time to exercise rights before expiration of the contractor's warranties. These inspections shall cover all items under warranty as of the time of the inspection, including the items covered by manufacturers' and suppliers' warranties, as well as those covered by the contractor's warranties. At each inspection, the IHA shall obtain a signed statement from the occupants as to any deficiencies in the structure, equipment, grounds, etc., so that it may enforce any rights under applicable warranties. The costs to the IHA of making the inspections provided for in this paragraph (b) will be treated as an operating expense.

§ 805.223 Cost to correct deficiencies.

Costs to correct deficiencies which are the responsibility of the contractor or of an MH Homebuyer shall be charged accordingly. Costs which are not chargeable to the contractor or to the Homebuyer can only be met by increasing the Development Cost with an amendment to the development cost budget where necessary, or by charging the costs to Project operating receipts. Such costs shall not be incurred without the specific approval of HUD.

APPENDIX I—INTERDEPARTMENTAL AGREEMENT ON INDIAN HOUSING

1. *Introduction.* Most assisted housing in Indian areas is made available under the low-income housing programs authorized by the United States Housing Act of 1937 (USH ACT). For federally recognized tribes, the Bureau of Indian Affairs (BIA) in the Department of the Interior, and the Indian Health Service (IHS) in the Department of Health, Education and Welfare furnish the principal necessary additional services. The purpose of this Interdepartmental Agreement is to set forth the responsibilities of the signatory agencies, having in mind that the financial and contractual relationships for assisted housing under the USH Act are between HUD and the IHAs and their tribal governments and that this Agreement contemplates promotion of the independent initiative and responsibilities of the IHAs and tribal governments involved. In addition, this Agreement specifies the responsibilities of IHS concerning water supply and sewerage facilities not only for HUD-supported housing but also for the BIA-Housing Improvement Program (HIP).

2. *HUD Responsibilities.* Except as specified in this Agreement, HUD will assume all responsibilities for projects of IHAs of federally recognized tribes under the USH Act that it normally does for any project under the USH Act.

3. *Coordination of Agencies.*

a. Before issuing the Program Reservation,[1] HUD will request the IHA to specify the time and place for a meeting of the IHA with representatives from HUD, BIA, IHS and any other agencies that may be involved. The time and place will be determined by the IHA and furnished to HUD after consultation with all participants. When HUD issues the Program Reservation, it shall send a notice to all the participants of the time and place for the meeting.

b. The purpose of the meeting will be to decide on the production method and to establish a time schedule of all necessary actions to be taken by the IHA and the Federal agencies leading to the start of construction and all subsequent actions to be taken during the total development period. These actions will include but not be limited to: site review, selection and development as they relate to the provision of water, sewer, house placement, access roads and streets where applicable; Homebuyer training program; development program; execution of Annual Contributions Contract; execution of Construction Contract; construction schedule; and inspections during construction and upon completion.

c. The time schedule agreed to at this meeting will be signed by each participant on behalf of his agency and by a representative of the IHA, and each participant agency and the IHA will thereby agree to meet that schedule. Any departure from the schedule must be for good cause and justified in writing by the head of the HUD field office, the Chairman of the IHA, the BIA Area Office Director or the IHS Area Director, as the case may be.

d. Complaints concerning compliance with the time schedule or performance of functions by the participating agencies may be made in writing to the head of the HUD field office and, in that event, it shall be his responsibility to resolve the matter. Complaints and the action taken with respect thereto shall be included in the monthly report required under paragraph e.

e. A monthly production progress reporting system on HUD-assisted projects compatible with the needs of HUD, BIA and IHS will be established by HUD in consultation with the other agencies and implemented within 90 days of the effective date of the HUD Indian Housing Regulations.

4. *Related Statutory Requirements.* The Departments of Housing and Urban Development; Health, Education and Welfare and the Interior shall develop memoranda of agreement, which shall be made a part of this Agreement, relating to compliance with the Flood Disaster Protection Act of 1973, the National Environmental Policy Act, the 1974 Historic and Archeological Data Preservation Act, the National Historic Preservation Act of 1966, the Act for the Preservation of American Antiquities, and related Executive Orders. Until such time as they are approved, each Department shall be responsible for following its own applicable procedures in such manner as to avoid or minimize delays. Required clearances to comply with these Acts will be included in the time schedule worked out at the interdepartmental coordination meeting (see paragraph 3b).

5. *Homebuyer Training Programs.* An IHA may elect to use, without additional HUD approval, the HUD pre-approved BIA Homebuyer Training Program (HTP). The BIA will assist with this program in accordance with responsibilities enumerated in the Exhibit to this Agreement.

6. *Other BIA Functions.*

a. *Site Selection and Land Acquisition Services.* The BIA will assist an IHA with site selection and land acquisition services, including title evidence and furnishing the site lease forms for both HUD rental and homeownership projects.

b. *Appraisals.* When requested by an IHA, the BIA will perform appraisals of the proposed sites in accordance with the HUD and BIA regulations.

c. *Roads.* The BIA will carry out its responsibilities under applicable regulations of the Department of Interior for providing roads, including access roads, which are not the responsibility of HUD under the HUD regulations.

d. *Management Services.* Although there is no commitment by the BIA for the furnishing of assistance in the management and operation of IHA projects, it is understood under this Agreement that where the BIA has staff or facilities available to provide such assistance and an IHA requests such assistance, the BIA will provide it to the extent feasible.

7. *Audits.*

a. The Office of Audit and Investigation (OAI) in the Department of the Interior, will provide audits of IHAs of federally recognized tribes until federal fiscal year 1977. The scope of these audits will be limited as follows:

(1) As a general rule, the audits will omit confirmation procedures for tenants' accounts receivable. The audit opinion will be qualified or a disclaimer will be made in those instances where receivables are material. Other tests and analyses applicable to receivables will be applied, such as review of billing procedures and aging receivables and evaluation of collection efforts. If results of these tests indicate the possibility of serious error or potential for fraud, OAI will attempt confirmation.

(2) Upon request of OAI, HUD will confirm the balance of outstanding notes for the construction of the projects and of HUD contributions surplus accounts.

b. Audits will be scheduled only upon receipt of required financial statements. HUD procedures will provide that the IHA furnish a copy of its financial statement to OAI at the times it is furnished to HUD.

c. Audits will not be performed at those IHAs, such as in Oklahoma and Alaska, which are not located on Federal Indian reservations.

d. HUD will assume responsibility for the audit of IHAs beginning with fiscal year 1977.

8. *Water Supply and Sewage Facilities.*

a. *General.* The IHS has general responsibility to provide water supply and sewage facilities for those Indians and Alaska Natives who are eligible to receive such benefits under the Indian Sanitation Facilities and Construction Act (Pub. L. 86–121). The IHS will exercise this responsibility with respect to facilities required to serve Indian homes constructed or improved with the support of HUD or BIA to the extent that funds are specifically appropriated by the Congress for such facilities and as agreed upon under the terms of this Agreement.

b. *Planning for Budget Purposes.* Sixteen months prior to the beginning of a fiscal year during which IHS will be required to furnish sanitation facilities, HUD and BIA will, to the extent possible, advise IHS with respect to the number and, where possible, the location of HUD-assisted housing starts and of HIP units of housing improvement to be started during that fiscal year. (If the information cannot be provided at that particular time, HUD and BIA will notify the IHS Director in writing accordingly). IHS will use this information in developing its budget request to assure that adequate funds are included to support construction of all necessary sanitation facilities for HUD-assisted and HIP housing units.

c. *Evaluation of Housing Site and Determination of Type of Facility to be Provided.*

[1] See § 805.206(b)(2) of the Regulation.

(1) The ability of the IHS to provide needed water supply and waste facilities is dependent on the availability of a water source of suitable quantity and quality and a means of sewage disposal which will conform to acceptable standards and can be developed within reasonable cost limits. Therefore, the IHS shall be consulted with respect to the general site plan for new housing units and shall review and concur in the site selection.

(2) It shall be the responsibility of the IHS to determine, following its review of the site in each case, whether community or individual type facilities or a combination of these, can best serve the housing units concerned.

(3) IHS's review and approval of sites, along with any recommendations and observations concerning water and sanitation facilities, will be furnished the IHA, which shall in turn forward this material to HUD as part of the Preliminary Site Report submission.

d. *Technical Requirements.* To minimize the cost of providing and maintaining water supply and sewage facilities, the following criteria shall apply:

(1) Wherever possible, project sites will be on or adjacent to existing community water and sewer systems.

(2) Economic feasibility of water and sewer installations shall be considered in site selection. Feasibility shall be determined on the basis of initial construction as well as long range costs of operation, maintenance and replacement. Overly expensive and complex utility installation shall be avoided.

(3) Whenever possible and practicable, dwelling units within a multi-unit project site will be located on both sides of the street.

e. *Test Well Drilling.* Whenever it is determined by the IHS that test drilling is required for wells to provide individual water facilities for housing supported by HUD, tentative site approval may be given subject to the results of the test drilling. Should the test drilling indicate an insufficient supply of potable water, the site shall be disapproved and another selected unless another suitable water source can be provided. All test drilling, including obtaining of necessary permits or authorizations, shall be performed by and at the expense of the HUD program and carried out in accordance with accepted practices in the area concerned, and the data obtained shall be furnished to the IHS. For all community water facilities, including facilities for HUD-assisted projects and for individual wells to be provided for BIA sponsored housing, the IHS will perform at its expense any test drilling required.

f. *Soil Percolation Tests.* Soil percolation tests are necessary to ascertain the suitability of a home site for septic tank and drainfield facilities. The test will be conducted by, or at the expense of, the IHS. The data obtained will be provided to the IHA with IHS's recommendations for accepting or rejecting the site. (IHS's concurrence is required as a condition for use of the site, see paragraph 8c(1) above).

g. *Individual House Facilities.* In those instances where the IHS determines that individual water supply and/or waste disposal facilities are the most feasible and should be provided, the following conditions will apply:

(1) The agency financing the house construction or improvement will be responsible for the installation of all plumbing facilities within the dwelling and the house service lines.

(2) In the case of BIA–HIP homes, the IHS will provide the on-site water supply and waste disposal facilities along with service lines to a point five feet from the house.

(3) In the case of HUD-supported homes, the housing project will include the cost of installing any water supply and/or sewage disposal facilities which are to be located on the individual house sites. These facilities would include individual water supplies, sewage disposal systems or service lines to the house. All such work is to be carried out in accordance with guides and recommendations furnished by the IHS regarding the location and design of the facilities. These guides and recommendations will be provided by the IHS, following site review, to the IHA.

h. *Community Systems.* All community water and sewer systems will be designated on the basis of a total community concept. The following conditions will apply:

(1) The agency financing the house construction or improvement will be responsible for the installation of all plumbing facilities within the house and the house service lines.

(2) Where HUD-financed new houses are interspersed with existing homes, HUD will fund a pro rata share of the system's cost, excluding water source development. This share will be based on the ratio of new to existing homes and will not exceed the cost of equivalent individual type facilities.

(3) Where the systems serve only new HUD-financed houses, HUD will fund the total cost of water distribution and sewage collection systems located within the boundaries of the project. The cost of all necessary facilities outside the housing project boundary will be funded by IHS.

(4) Community systems servicing BIA–HIP homes will be provided by IHS.

i. *Plan Review and Approval.*

(1) In those instances where the housing project includes the cost of installing individual or on-site water and sewer facilities, approval must be obtained from the IHS Area Office on all final plans before advertisement for construction bids. The IHS at its expense will inspect the installation of these facilities during construction and after completion of the work to assure the IHA that the installation has been done in conformance with the plans and specifications and may be accepted.

(2) If connection to a BIA water and/or sewage system is contemplated, a joint feasibility study will be conducted by the BIA and IHS to determine the adequacy of existing facilities to meet the additional requirements, to recommend necessary improvements or additions and to determine points of master or individual metered connections, valving, flushing hydrants, etc., in order to insure compatibility with existing systems. If the system is not adequate, the IHS and BIA will develop a mutually agreed upon program for providing additional capacity.

(3) Responsibility for the acquisition of land or interest therein in connection with the provision of water and sewage facilities for HUD-assisted housing shall not be assumed by the IHS, BIA, or HUD.

Dated: February 7, 1976.

THOMAS S. KLEPPE,
Secretary,
Department of the Interior.

Dated: February 20, 1976.

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

Dated: March 2, 1976.

CARLA A. HILLS,
Secretary, Department of Housing and Urban Development.

EXHIBIT TO THE INTERDEPARTMENTAL AGREEMENT

BIA HOMEBUYER TRAINING PROGRAM

1. *Scope of Program.* The HUD-approved BIA Homebuyer Training Program (HTP) will provide pre-occupancy and post occupancy training to Homebuyer families in Mutual Help Projects and shall consist of the following:

a. *Training in the Mutual Help Program.* Training will be provided to explain the Mutual Help Program and the rights and obligations of the Homebuyers.

b. *Training in Home and Appliance Maintenance and Care.* Training will be provided to increase the knowledge and understanding of Homebuyers of the methods and means to properly care for and maintain (1) both the interior and exterior structures of the Home including electrical, plumbing (including water heaters and pumps) and heating systems; (2) major appliances, refrigerators, ranges and dishwashers; (3) minor appliances, such as can openers and toasters; and (4) yards and gardens. In addition, training will be provided to Homebuyers to increase their knowledge about simple repair techniques with regard to the above-mentioned house components and equipment.

c. *Training in Budgeting and Financial Management.* Training will be provided to Homebuyer families on family budgeting, use of credit, and meeting financial obligations, including their responsibility to make the required monthly payments and to allocate funds to various other necessities, such as utilities.

d. *Information and Referral Services.* Homebuyers will be given information on and, where appropriate, will be assisted by referrals to, other local, state and Federal agencies whose programs relate to total family counseling, and social services, including services on problems such as alcoholism, drug abuse, etc.

2. *Implementation of Program.*

a. *General.* The HTP will be implemented according to the schedule established under paragraph 3 of the Agreement in accordance with the following: (1) An IHA will submit a proposal to the BIA which will set forth the specific needs of Homebuyers, the scope of training, methodology and budget to be undertaken within the general guidelines stated above.

(2) The program shall be developed and implemented at the local level by the IHAs employing locally recruited members of the commmunity to the maximum extent possible.

(3) The program may be carried out through individual home visits, demonstration or other group sessions, or by any combination of these deemed appropriate.

(4) The BIA shall assist the IHAs in obtaining the necessary training and instruction for their training staff who will carry out the program. Such training of IHA employees may be undertaken through IHS training centers at universities or other institutions which can provide the needed training.

b. *Progress Reports.* IHAs shall submit quarterly progress reports to BIA and to HUD, which shall include:

(1) A list of expenditures under the program, including salaries, cost of transportation, training materials, office expenses and other justifiable expenditures. All expenditures must be identified and supported by appropriate books and records of the IHA and must be certified as correct by the Executive Director and the Chairman of the IHA.

(2) Names of Homebuyer participants, the number of training sessions, descriptions of training activities, degree of participation,

deficiencies noted, and other relevant information or observations.

(3) Efficacy of training as shown by reports, results of tests, reduction in monthly payments delinquencies, reduction in maintenance costs or other factors.

(4) Proposed changes during the next period of training, including program changes to overcome deficiencies described in current or prior report(s) or called to the attention of the IHA previously by BIA and to provide training to any additional or substitute Homebuyers.

(c) *BIA Responsibilities.* The BIA will monitor and evaluate the progress and the implementation of the HTP of IHAs and submit semi-annual reports to HUD. Should BIA judge that an IHA is not implementing the program consistent with these guidelines, it will:

(1) Notify the IHA of the deficiencies in its program implementation and provide the necessary assistance to it to assure proper implementation,

(2) Afford the IHA 90 days from the date of notification to take corrective action, and

(3) Report to HUD whether the program should be continued based on the corrective action or whether the program should be terminated.

d. *HUD Responsibilities.* HUD will be responsible for including in the development cost of a project the funds for the HTP, provided that the BIA will not be reimbursed for utilization of its staff or facilities. HUD will also be responsible for determining whether the program for a particular project shall be terminated on the basis of information provided pursuant to paragraph c above, or otherwise.

Subpart C—Operation

§ 805.301 Definitions.

See §§ 805.102 and 805.430.

§ 805.302 Admission policies.

(a) *Income and Assets Limits.* Subject to approval by HUD, the IHA shall adopt and promulgate regulations establishing schedules of maximum income limits for admission of tenants or homebuyers. An IHA may establish income limits up to the maximum permitted by the Act, which limits admission to families of low income who cannot afford to pay enough to cause private enterprise in the Indian Area to build an adequate supply of decent, safe and sanitary dwellings for their use. In determining the income limits for admission, consideration shall be given to any relevant limitations in the local private housing market (such as an insufficient supply of standard private housing, or the unavailability of mortgage financing on trust or restricted land). HUD shall approve the IHA's schedules of maximum income limits unless it finds that the IHA's determination of such limits is arbitrary or capricious. An IHA may also adopt regulations establishing reasonable assets limits for admission to occupancy. A copy of the IHA's income and assets regulations shall be posted prominently in the IHA's office for examination by prospective tenants or Homebuyers.

(b) *Other Admission Policies.* (1) The IHA shall adopt and promulgate regulations establishing the IHA's policies for admission of tenants or Homebuyers. Such regulations shall specify the types of Projects to which they apply (i.e., Rental, MH, or Turnkey III). A copy of the regulations shall be posted prominently in the IHA's office for examination by prospective tenants or homebuyers, and shall be submitted to HUD promptly after adoption by the IHA.

(2) These regulations shall be designed:

(i) To attain at initial occupancy, or within a reasonable period of time for Projects beyond the stage of initial occupancy (but without prejudice to contract rights of homebuyers in Turnkey III or MH Projects), a tenant or homebuyer body in each Project composed of families with a broad range of incomes and rent-paying ability which is generally representative of the range of incomes of low income families in the Indian Area;

(ii) To avoid concentrations of the most economically and socially deprived families in any one or all of the IHA's Projects;

(iii) For Rental and Turnkey III Projects, to achieve compliance with the applicable provisions of 24 CFR, Part 860, Subpart D, Minimum and Maximum Rent-Income Ratios, and Minimum Rent Requirements, including, but not limited to, § 860.406 which provides that "at least 20 percent of the dwelling units in any project placed under annual contributions contract in any fiscal year beginning after [September 26, 1975] shall be occupied by very low-income families * * *;" and

(iv) So that at least 20 percent of the dwelling units in any MH Project placed under ACC after September 26, 1975 shall be occupied by very low income families, i.e., families whose incomes do not exceed 50 percent of the median Total Family Income for the Indian Area, with adjustments for smaller and larger families, as determined by HUD.

§ 805.303 Grievance procedures.

The requirements set forth in HUD regulations relating to procedures for the resolution of tenant or homebuyer grievances against Public Housing Agencies (24 CFR, Part 866) are not applicable to Projects under this Part. Each IHA shall adopt and promulgate grievance procedures which are appropriate to local circumstances, provided that such procedures shall afford all tenants and homebuyers a fair and reasonable opportunity to have their grievances heard and considered by IHA officials, and shall comply with the Indian Civil Rights Act. A copy of the grievance procedures shall be posted prominently in the IHA office, and shall be provided to a tenant or homebuyer upon request.

§ 805.304 Determination of rents and homebuyer payments.

(a) *Rental and Turnkey III Projects.* The amount of rent or homebuyer payment required of a tenant in a Rental Project or a homebuyer in a Turnkey III Project shall be determined in accordance with the provisions of 24 CFR, Part 860, Subpart D.

(b) *MH Projects.* The amount of the Required Monthly Payment for a Homebuyer in an MH Project placed under ACC on or after the effective date of this Part and a Homebuyer admitted to occupancy in an Existing Project on or after the effective date of the conversion of the Project in accordance with § 805.428 shall be determined in accordance with § 805.416 of this Part.

(c) *Examination and Reexamination of Family Income.* For purposes of determining rent and homebuyer payment amounts under paragraphs (a) and (b) of this section, making adjustments in the amounts so determined, and determining whether an MH Homebuyer is required to purchase the Home under § 805.422(e), the IHA shall examine the family's earnings and other income prior to initial occupancy, and shall make periodic reexaminations thereafter at least once a year, except as follows:

(1) The date of the first reexamination may be extended to not more than 18 months after the initial examination, if necessary to fit a reexamination schedule established by the IHA.

(2) For families whose heads (or their spouses) or whose sole members are 62 years of age or over, the reexaminations need not be more often than once every two years.

For each examination or reexamination, the tenant or homebuyer shall furnish to the IHA certification of his family's earnings and other income and family composition, including any information and evidence required by the IHA.

§ 805.305 Rent and homebuyer payment collection policy.

Each IHA shall adopt and promulgate, and shall use its best efforts to obtain compliance with, rules or regulations sufficient to assure the prompt payment and collection of rents and required homebuyer payments. A copy of the rules or regulations shall be posted prominently in the IHA office, and shall be provided to a tenant or homebuyer upon request. The rules or regulations shall include provisions on at least the following subjects:

(a) The time, place and method for payment.

(b) A statement to the effect that prompt payment is a requirement for continued occupancy.

(c) For tenants or homebuyers whose income is seasonal or otherwise irregular, provisions for special plans or schedules for assuring that the required payments are made when due, e.g., prepayment, or arrangements with public welfare agencies regarding public assistance payments.

(d) Procedures for counseling and assistance to tenants and homebuyers so as to minimize the need for resort to the remedy of eviction.

(e) Procedures for enforcement of tenant and homebuyer obligations to make payment, including procedures for eviction where necessary.

(f) Procedures for collection of amounts remaining due and unpaid from terminated tenants and homebuyers.

(g) Procedures for obtaining assistance from the tribal government.

§ 805.306 Maintenance.

(a) *General.* Each IHA shall adopt and promulgate, and shall use its best efforts to obtain compliance with, rules or regulations to assure full performance of the respective maintenance responsibilities of the IHA and tenants or homebuyers. A copy of such rules or regulations shall be posted prominently in the IHA office, and shall be provided to a tenant or homebuyer upon request.

(b) *Provisions for Rental Projects.* For Rental Projects, the maintenance rules or regulations shall contain provisions on at least the following subjects:

(1) A statement specifying the responsibilities of tenants for normal care and maintenance, if any, of their dwelling units and common property, if any.

(2) Procedures for handling maintenance service requests from tenants.

(3) Procedures for IHA inspections of dwelling units and common property, if any.

(4) Special arrangements, if any, for obtaining maintenance services from outside workmen or contractors.

(5) Procedures for charging tenants for damages for which they are responsible.

(c) *Provisions for MH and Turnkey III Projects.* For MH and Turnkey III Projects, the maintenance rules or regulations shall contain provisions on at least the following subjects:

(1) A statement specifying the responsibilities of homebuyers for maintenance and care of their dwelling units and common property, if any.

(2) For Turnkey III Projects only, procedures for handling service requests from homebuyers for nonroutine maintenance.

(3) Procedures for providing advice and technical assistance to homebuyers to enable them to meet their maintenance responsibilities.

(4) Procedures for IHA inspections of homes and common property, if any.

(5) Procedures for IHA performance of homebuyer maintenance responsibilities (where homebuyers fail to satisfy such responsibilities) including procedures for charging the homebuyer's proper account for the cost thereof.

(6) Special arrangements, if any, for obtaining maintenance services from outside workmen or contractors.

(7) Procedures for charging homebuyers for damages for which they are responsible.

(d) *IHA Responsibility in MH and Turnkey III Projects.* The IHA shall enforce those provisions of a homebuyer's agreement under which the homebuyer is responsible for maintenance of the home. The IHA shall have overall responsibility to HUD for assuring that the housing is being kept in decent, safe and sanitary condition. Failure of a homebuyer to meet his obligations for maintenance shall not believe the IHA of responsibility in this respect.

§ 805.307 Procurement and administration of supplies and equipment.

(a) Each IHA shall adopt and promulgate, and shall comply with, rules or regulations for the procurement and administration of supplies and equipment, which shall contain provisions on at least the following subjects:

(1) Procedures for purchasing in cases where competitive bidding is required.

(2) Identification (by position title) of IHA officials authorized to make purchases when competitive bidding is not required, and procedures for making such purchases.

(3) Procedures for inventory control.

(4) Procedures for storage and protection of goods and supplies.

(5) Procedures for issuance or other disposition of supplies and equipment.

A copy of such rules or regulations shall be promptly furnished to HUD.

(b) In the purchasing of equipment, materials and supplies, and in the award of contracts for services or for repairs, maintenance and replacements, the IHA shall comply with all applicable laws, and in any event shall make such purchases and award such contracts only to the lowest responsible bidder after advertising a sufficient time in advance for proposals, except:

(1) When the amount involved does not exceed an amount prescribed from time to time by HUD; or

(2) When the public exigencies require immediate delivery of the articles or performance of the service; or

(3) When only one source of supply is available and the purchasing or contracting officer of the IHA has so certified; or

(4) When the services required are (i) of a technical and professional nature, or (ii) to be performed under the IHA supervision and paid for on a time basis.

§ 805.308 Correction of management deficiencies.

An IHA shall promptly take such action as may be required or approved by HUD to remedy management deficiencies. Particular attention shall be given to the correction of serious deficiencies in any of the following: physical maintenance of the property, occupancy practices, maintenance of accounts and records, cost controls, handling of funds, rent or homebuyer payment collection, required reports to HUD, IHA staffing and staff turnover, and tribal government cooperation. HUD shall provide the maximum feasible assistance to an IHA to remedy management deficiencies.

§ 805.309 Indian preference in contracting.

The provisions of § 805.204 shall apply to contracts in connection with the operation of a Project.

§ 805.310 Contracts for personal services.

The IHA shall not without the prior written approval of HUD enter into, execute or approve any agreement or contract for personal, management, legal or other services with any person or firm (a) where the initial period or term of the agreement or contract (including any renewal) is in excess of two years, or (b) where the amount of the agreement or contract is in excess of the amount included for such purpose in the HUD-approved development cost budget or operating budget or an amount specified from time to time by HUD, as the case may be, or (c) where the agreement or contract is for legal or other services in connection with litigation.

Subpart D—Mutual Help Homeownership Opportunity Program

§ 805.401 Scope and applicability.

(a) *Scope.* This Subpart sets forth the requirements applicable to the Mutual Help Homeownership Opportunity Program. For any matter not covered in this Subpart see also the provisions of Subparts A, B, and C of this Part.

(b) *Applicability.* The provisions of this Subpart shall be applicable to (1) all MH Projects placed under ACC on or after the effective date of this Part, and (2) any Existing Projects converted in accordance with section 805.428.

§ 805.402 Definitions.

See §§ 805.102 and 805.430.

§ 805.403 Contractual framework.

An MH Project involves three basic contracts: an ACC for an MH Project, an MHO Agreement, and an MH Construction Contract, each in the form prescribed by HUD.

§ 805.404 Special provisions for development of an MH Project.

(a) *Application for Project.* An application for an MH Project shall include, in as much detail as possible, a tentative listing of the family size and incomes of the families who will be eligible and willing to participate as MH Homebuyers, and the expected sources, forms and amounts of their MH Contributions. The application shall state that the listing is supported by signed applications of the families.

(b) *Inclusion of MH Contribution in Development Cost.* The total amount of the MH Contributions shall be included in the Development Cost for an MH Project. The development cost budget shall state in total and separately the portion of the Total Development Cost to be attributed to the land, cash, materials, equipment, and MH work to be furnished by or on behalf of the Homebuyers as their MH Contributions.

(c) *Purchase of Land.* An IHA may purchase a homesite if neither the tribe nor the Homebuyers can donate or contribute enough sites suitable for Project use. However, if the cost of a purchased homesite exceeds $1,500, the amount of the excess shall be covered by either (1) additional MH Contributions in accordance with section 805.408(b), in which case the cost of the homesite may not exceed $2,500, or (2) funds from a source other than Project funds.

(d) *Availability of Sites for Use by Substitute Homebuyers.* Each homesite shall be legally and practicably available for use by a substitute Homebuyer. If a site is part of other land owned by the prospective Homebuyer, the lease or other conveyance to the IHA shall include legal right of access to the site by any substitute Homebuyer.

(e) *Time of Lease or Conveyance of Contributed Land.* Land contributed by a Homebuyer or by a tribe shall be leased or conveyed to the IHA before execution of the Construction Contract.

(f) *Cost of Counseling Program.* The Development Cost of an MH Project shall include an amount not in excess of $500 multiplied by the number of Homes in the Project for a counseling program as required by § 805.429.

(g) *Financial Feasibility.* The Development Program shall include a demonstration by the IHA that there is a sufficient number of selected Homebuyers who are able and willing to pay the Administration Charge and meet the other obligations under MHO Agreements (see § 805.406(b)) and who have signed statements that they are willing to enter into MHO Agreements. However, this requirement may be modified with the approval of the HUD Assistant Secretary for Housing Management in cases involving areas of exceptionally low income or other exceptional circumstances.

(h) *Execution of MHO Agreements.* MHO Agreements shall be executed promptly after execution of the ACC.

(i) *Rights Under MHO Agreement if Project Fails to Proceed.* Any MHO Agreement shall be subject to revocation by the IHA if the IHA or HUD determines not to proceed with the development of the Project. In such event any contribution made by the Homebuyer or tribe shall be returned.

§ 805.405 Financing of development cost.

(a) Development Cost shall be financed by issuance of notes, and not by issuance of bonds.

(b) Under the ACC, HUD agrees to advance funds from time to time to the IHA upon a showing by the IHA that the funds requisitioned by the IHA are needed for the development of the Project. This commitment is called the Project Loan, and the IHA note evidencing the borrowing from HUD is called a Project Loan Note.

(c) HUD may at any time require the IHA to obtain loans from sources other than HUD, in lieu of advances from HUD, secured by a pledge of HUD's agreement under the ACC to advance monies to the IHA. The IHA note evidencing such borrowing from non-HUD sources is called a Project Note.

§ 805.406 Selection of MH homebuyers.

(a) *Admission Policies; Income and Assets Limitations.* In adopting admission regulations in accordance with § 805.302, an IHA may establish admission policies for MH Projects which are different from those for Rental or Turnkey III Projects of the IHA, including different income and assets limits.

(b) *Ability to Meet Homebuyer Obligations.* A family shall not be selected for MH housing unless, in addition to meeting the maximum income limits and other requirements for admission (see § 805.302), the family is able and willing to meet all obligations of an MHO Agreement, including the obligations to provide the required MH Contribution and its own utilities, and to pay the Administration Charge (unless such requirements are modified in exceptional cases in accordance with § 805.404(g)). A family may be selected even if the Administration Charge plus utilities, or the Administration Charge alone, would exceed 25 percent of Family Income, if the family can be expected reasonably to pay the Administration Charge and meet its other obligations under the MHO Agreement (e.g., as demonstrated by the family's income, including public assistance, the family's past history, or the family's ability to supplement its income by providing its own food, fuel or other necessities).

(c) *MH Waiting List.* (1) Families who wish to be considered for selection for MH housing shall apply specifically for such housing. A family on any other IHA waiting list, or a tenant in a Rental Project of the IHA, must also submit an application for selection in order to be considered for MH Projects.

(2) The IHA shall maintain a waiting list, separate from any other IHA waiting lists, of families which have applied for MH housing and which have been determined to meet the admission requirements.

(3) All applications for selection for MH housing shall be dated as received; except that an application from a family on the waiting list for any other IHA Project shall have the same date of application as the date of its application for such other IHA Projects.

(4) The filing of an application for MH housing by a family which is an applicant for other IHA housing, or is a tenant in such housing, shall not in any way affect its status with regard to such other housing. Such applicant shall not lose its place on another IHA housing waiting list until it has been selected for MH housing and the MHO Agreement has been signed.

(d) *Making the Selections.* Promptly after HUD approval of the application for a Project, the IHA shall proceed with selection of as many Homebuyers as there are Homes in the Project. Selection of Homebuyers shall be made from the MH waiting list in accordance with the date of application and other pertinent factors under the IHA's admissions regulations established in accordance with § 805.302. Selection of a Homebuyer shall be made only after the site for that Homebuyer has received HUD final site approval.

§ 805.407 Notifications to applicant families.

(a) *Notification to Families Not Meeting Admission Requirements.* When an IHA determines that a family does not meet the admission requirements, the IHA shall give the family prompt written notice of this determination. The notice shall state the basis for the determination, and shall state that the family is entitled to an informal hearing by the IHA on the determination if request for such hearing is made within a reasonable time as specified in the notice.

(b) *Notification to Selected Families.* A selected family shall be given a written Notice of Selection including the following information:

(1) A statement that the family has been selected for an MH Project and that the site for the family (identify) has been approved;

(2) A statement that the family shall return the enclosed statement of willingness to execute an MHO Agreement and the name(s) of the person(s) who must sign the statement on behalf of the family;

(3) A statement that the family will be advised at a later date of the time and place for execution of the MHO Agreement and the name(s) of the person(s) who must execute it on behalf of the family;

(4) A statement that after execution of the Construction Contract the family will receive a notice of confirmation which will state the estimated date of completion of the unit designated for the Homebuyer, insofar as such date can be reasonably determined; and

(5) A statement that the issuance of the Notice of Selection does not constitute or give rise to any contractual obligation on the part of the IHA or HUD.

(c) *Notification to Families Not Selected for a Project.* If the IHA determines that an applicant meets the admission requirements but is not to be selected for a certain MH Project, the IHA shall so notify the applicant in writing. The notice shall also state that the applicant will remain on the IHA's waiting list for consideration for admission in the event of vacancies or additional MH housing.

§ 805.408 MH contribution.

(a) *Form of Contribution.* MH Contributions toward the Development Cost of a Project may be in the form of (1) land, (2) work, (3) cash, or (4) materials or equipment. Contributions other than work may be made by a tribe on behalf of Homebuyers. The IHA may determine that the MH Contributions to a Project shall consist either wholly of any of these forms of contribution, or of any combination of these forms of contribution. The amount of each form of MH Contribution shall be specified in the Development Program and development cost budget for the Project. Where a tribal contribution is involved, the tribe shall adopt a tribal resolution stating its commitment to the IHA to make the contribution on behalf of Homebuyers, and a copy of this resolution shall be submitted to HUD with the Development Program.

(b) *Amount of MH Contribution to Project.* The minimum aggregate MH Contribution to a Project shall be $1,500 multiplied by the number of Homes in the Project. If any homesite has been purchased for more than $1,500 and the excess has not been covered by funds from a source other than Project funds (see § 805.404(c)), the minimum aggregate contribution for the Project shall be increased by the amount of the excess.

(c) *Credit for MH Land Contribution.* (1) *Credit for Contributed Homesite.* The amount to be credited as an MH Contribution for a contributed homesite shall not exceed $500 or the appraised value determined in accordance with § 805.219, but shall not in any event be more than $1,500 per homesite.

(2) *Sharing of Land Credits.* Whether homesites are contributed by Homebuyers or by the tribe, the total of the MH credits for contributed homesites shall be pooled and shared equally by all the Homebuyers in the Project.

(d) *Non-land Contributions.* (1) If the land contributions aggregate less than the minimum for the Project as stated in paragraph (b) of this section, the difference shall be provided by non-land contributions, and this obligation shall be shared equally by all the Homebuyers in the Project.

(2) The foregoing establishes the minimum non-land contribution. An IHA may require an additional non-land contribution in its discretion.

(e) *Total Contribution to be Furnished Before Occupancy.* A Homebuyer shall not be entitled to commence occupancy of the Home until the total non-land MH Contribution on behalf of the Homebuyer as specified in the MHO Agreement (whether to be furnished by the Homebuyer or the tribe), has been furnished, whether or not the items are necessary for occupancy, e.g., exterior painting. (For exception, see § 805.415(a)(2)(ii).)

§ 805.409 MH contributions in event of substitution of homebuyer.

(a) If an MHO Agreement is terminated and a substitute Homebuyer is selected, the amount and kind of MH Contribution to be provided by the substitute Homebuyer shall be determined in accordance with the principles set forth in § 805.408, i.e., the credits for the land contributions shall be divided equally among all the Homebuyers including the substitute Homebuyer, and the credit for contributions consisting of work, materials or equipment as stated in the Construction Contract shall not be exceeded unless the contractor agrees to reduce the Total Contract Price and Price Payable to Contractor by an equal amount, or the excess is accounted for under paragraph (b) of this section. The distribution of the non-land contribution among the Homebuyers shall, to the maximum extent possible, follow the principles of § 805.408 to achieve an equitable distribution among all the Homebuyers. After consulting the Homebuyers and the contractor, the IHA shall notify each Homebuyer and the contractor, in writing, of the modifications to the MH Contribution requirements, and shall advise them that unless they notify the IHA of any objection within a stated time from receipt of the notification, the modified MH requirements will become effective. In the case of any dispute which cannot be resolved by the IHA, the matter may be referred to HUD for resolution.

(b) Where circumstances so require, the IHA may, provided that the appropriate development account is credited, permit the substitute Homebuyer to complete his MH Contribution within a specified period of time, not later than the first five years of occupancy, in the form of (1) cash in addition to the Required Monthly Payments, (2) clerical, maintenance, professional or technical work for the IHA or (3) another form of contribution satisfactory to the IHA, as set forth in specific provisions to be included in the MHO Agreement.

§ 805.410 MH work contribution.

(a) *Homebuyer's Work Obligation.* (1) Each Homebuyer shall perform the work obligation under the direction of the contractor in accordance with the terms of the MHO Agreement. The work obligation of a Homebuyer may be performed by members of the family. The work may also be performed by an arrangement for others (relatives or friends, for example) to work on the Homebuyer's behalf, but only with the approval of the IHA and the contractor.

(2) The specific jobs to be performed by Homebuyers, and the value of each job, shall be listed in an appendix to the Construction Contract, which shall be available for inspection by the Homebuyers. The listed jobs shall be essential jobs which the contractor would have to pay for in order to complete the Construction Contract if the work were not provided by the Homebuyers. The listed jobs may relate to work on site improvements or community facilities and may include office or clerical work.

(3) The total value of the jobs actually assigned to the Homebuyers shall not exceed the total value of jobs to be performed by MH work, and the total value of the jobs actually assigned to any Homebuyer may not exceed the value of the MH work, the Homebuyer is required to provide.

(b) *Valuation of Jobs.* The jobs listed in the appendix to the Construction Contract shall be valued by the IHA and the contractor as follows:

(1) The jobs to be assigned shall be identified. For example, the jobs could include prefabrication of trusses, wall sections, etc., mixing mortar, cutting and/or nailing lumber, installing lath, exterior and/or interior painting, but in every instance shall be related to a defined quantity or a part of the Home, so that the job can be priced on a per unit basis.

(2) For each of these jobs an estimate shall be made of the time (hours or days) which would be needed if the work were done by journeymen workers.

(3) The amount of time so estimated shall then be multiplied by the journeymen Davis-Bacon wage rate for the type of work involved. The amount so computed shall constitute the value of the job involved.

(c) *Assignment and Performance of Jobs and Homebuyer Credit.* (1) The Homebuyer may be assigned to any of the listed jobs, and may be reassigned from one job to another during the course of construction.

(2) The Homebuyer shall provide as many hours of work as necessary to complete the assigned jobs regardless of the number of hours used to compute the value of the jobs under paragraph (b) of this section. The credit given the Homebuyer shall be the value of the assigned jobs regardless of the number of hours actually worked to perform the jobs.

(3) As an alternative to (c)(2) of this section, the contractor may estimate the number of hours of Homebuyer work required to perform the jobs and may make assignments to the Homebuyers in terms of numbers of hours of work. In that event, the Homebuyer shall be credited for the full MH work contribution when the number of hours of work assigned to him has been completed.

(d) *Record of MH Work.* The contractor shall adopt a system (with the approval of the IHA) for keeping a record of MH work.

(e) *Failure to Provide MH Work.* (1) The IHA shall to the extent feasible monitor the performance of MH work so that problems in the performance of MH work can be anticipated and avoided, or effectively dealt with when they occur. The IHA may terminate the MHO Agreement if the Homebuyer is unable or unwilling to provide, or for any other reason fails to provide, the MH work obligation.

(2) If in the judgment of the contractor a Homebuyer is not meeting his MH work obligations, the contractor may request the assistance of the IHA. Where the deficiency cannot otherwise be remedied, the contractor may request the IHA to terminate the Homebuyer's MHO Agreement and select another Homebuyer to provide the MH work.

(3) If the contractor calls upon the IHA to terminate the MHO Agreement and the contractor furnishes to the IHA sufficient proof of the alleged nonperformance by the Homebuyer, the IHA shall then terminate the MHO Agreement in accordance with the procedures stated in section 805.424(b). In the event of such a termination of an MHO Agreement, the IHA shall, to the extent feasible, select a substitute Homebuyer able to provide an MH work contribution equal to the value of the uncompleted work assignment of the terminated Homebuyer. If the IHA finds it is not feasible to select such a substitute, the contractor shall nevertheless not be excused from his obligation to achieve acceptable completion of all the contract work without an increase in the Total Contract Price or Price Payable to Contractor.

§ 805.411 Cash contribution.

The MHO Agreement may provide for a contribution of cash in a lump sum, or under a planned installment schedule, so long as the full amount of the cash contribution is to be received by the IHA not later than the date the Home is available for occupancy. (For exception, see § 805.415(a)(2)(ii).) Payments of contributed cash shall be made to the IHA and shall be utilized for the payment of Development Costs.

§ 805.412 Materials or equipment contribution.

If any part of a Homebuyer's MH Contribution is to be provided by furnishing materials or equipment, such contribution shall be provided and accounted for in accordance with the special provisions of the Construction Contract covering such contribution, which provisions shall include a statement of the kind, quality and value of such contributed materials and equipment.

§ 805.413 Special requirements for MH construction contracts.

(a) *Special Provisions to be Included in Advertisements.* The advertisement for an MH Construction Contract shall state that:

(1) The Project is an MH Project;

(2) The contractor may obtain a copy of the proposed MH Construction Contract and form of MHO Agreement;

(3) The contractor may obtain a listing of the Homebuyers whose sites have received HUD tentative site approval, and a specification of the sources, forms and amounts of the MH Contributions to be utilized by the contractor;

(4) The contractor shall be permitted to review information relating to the ability and capacity of each Homebuyer to provide MH work, and to interview the Homebuyers;

(5) By submitting a bid or proposal, the contractor agrees that, except as he may specify in his bid, the selected Homebuyers have the ability and capacity to provide the required MH work; and

(6) Substitution of a Homebuyer shall be subject to the approval of the contractor, but only with respect to the ability and capacity of the substitute Homebuyer to provide MH work.

(b) *Workmen's Compensation Insurance.* The contractor shall provide Workmen's Compensation Insurance for Homebuyers and those authorized to provide work on their behalf. If such insurance is not available, the contractor shall obtain private insurance of substantially comparable coverage.

(c) *Responsibility of Contractor.* The Construction Contract shall provide that the contractor shall be responsible for acceptable completion of all the Homes, including the tasks assigned to Homebuyers for MH work credit.

(d) *Total Contract Price and Price Payable to Contractor.* The Total Contract Price shall include the sum of (1) the values of the MH work to be performed, and (2) the value of any materials and equipment to be provided as an MH Contribution. The Price Payable to Contractor shall be the Total Contract Price, less the sum of items (d) (1) and (2) of this section. The Total Contract Price shall not exceed the HUD-approved estimate of the cost of constructing the Project without the use of any MH Contributions.

§ 805.414 Disposition of contributions on termination before date of occupancy.

(a) If an MHO Agreement is terminated by the IHA or the Homebuyer before the Date of Occupancy, the Homebuyer shall not receive any reimbursement or return of property on account of any contribution, unless the IHA makes a determination, subject to HUD approval, that the termination is warranted by reason of unforeseen circumstances beyond the Homebuyer's control, or other unforeseen compelling circumstances. If such a determination is made:

(1) The Homebuyer may be reimbursed for any cash, materials or equipment contributed by the Homebuyer.

(2) If the Homebuyer contributed land as a Project site, the site may be returned if (i) construction has not started on the site or construction on the site is minimal, *and* (ii) if the scope of the Construction Contract is affected, an appropriate reduction in the Total Contract Price and Price Payable to Contractor has been agreed to with the contractor. If the site is not returned and is used in the Project, the terminated Homebuyer shall be reimbursed for the amount specified in the MHO Agreement for the land contribution.

(3) The terminated Homebuyer shall have no right to any reimbursement or return of property on account of any tribal contribution, or on account of the value of any MH work contribution.

(b) The amount of any credit for contributions by a terminated Homebuyer, other than a contribution for which reimbursement or return of property was made in accordance with paragraph (a) of this section, shall be credited in equal shares to the Unrefundable MH Reserves of all the Homebuyers in the Project, including a substitute Homebuyer (see § 805.421(a)).

(c) The amount of any credit on account of any tribal contribution on behalf of any terminated Homebuyer shall be credited to the Unrefundable MH Reserve maintained for the substituted Homebuyer. (see § 805.421(a)).

§ 805.415 Actions upon completion; commencement of occupancy.

(a) *Notice.* (1) Upon acceptance by the IHA from the contractor of the Home as ready for occupancy, the IHA shall determine whether the Homebuyer's full MH Contribution has been provided and, in the event of an affirmative determination, the Homebuyer shall be notified in writing that his Home is available for occupancy as of a date specified in the notice ("Date of Occupancy").

(2) If the IHA determines that the Homebuyer has not fully provided his MH Contribution, the Homebuyer shall be so notified in writing and:

(i) The notice shall specify the time by which the Homebuyer's full MH Contribution shall be provided and shall state that the Homebuyer may not commence occupancy until the Homebuyer's full MH Contribution has been provided, or

(ii) If there is special justification for permitting occupancy prior to completion of the Homebuyer's MH Contribution (such as prevention of vandalism or unacceptable hardship to the family) and there is reasonable assurance that the Homebuyer will complete the MH Contribution within an acceptable time, the notice may contain a Date of Occupancy. In such case the notice shall state that the Home may be occupied on such date provided that a written agreement has been entered into by the Homebuyer, the IHA and the contractor (if MH work is involved) specifying the schedule and other details for completion of the MH Contribution.

(b) *Lease Term Under MHO Agreement.* The term of the Homebuyer's lease under the MHO Agreement shall be as provided in the MHO Agreement.

(c) *Credits to MH Reserves.* Promptly after the Date of Occupancy the IHA shall credit the amount of the MH Contributions to the appropriate Reserves in accordance with § 805.421(a) and shall provide the Homebuyer and the tribal government with a statement, approved by HUD, of the amounts so credited.

§ 805.416 Required monthly payments.

(a) *Amount of Required Monthly Payment.* The Homebuyer shall pay to the IHA during the lease term a monthly payment ("Required Monthly Payment") equal to the greater of: (1) The Administration Charge (see § 805.419(a)); or (2) 25 percent of the Homebuyer's Family Income minus the Utility Deduction. If the Required Monthly Payment exceeds the Administration Charge, the amount of the excess shall be credited to the Homebuyer's Monthly Equity Payments Account (see § 805.421(b)(1)).

(b) *Definitions Used in Determining Required Monthly Payment.* For the purpose of determining the amount of the Required Monthly Payment:

(1) The definitions of "Family Income" and "Total Family Income" as stated in 24 CFR, §§ 860.403(f) and 860.403(o), shall be applicable;

(2) "Utility Deduction" shall mean the amount estimated by the IHA, and approved by HUD, for the monthly cost to the Homebuyer for the reasonable use of utilities which he is obligated to provide under the MHO Agreement; and

(3) "Utilities" shall mean water, electricity, gas, other heating, refrigeration and cooking fuels and sewerage services. (Telephone service is not included as a utility.)

(c) *Adjustments in the Amount of the Required Monthly Payment.* After the initial determination of a Homebuyer's Required Monthly Payment, the IHA shall increase or decrease the amount of such payment to reflect changes in the Homebuyer's Family Income (pursuant to a reexamination of the family's earnings and other income by the IHA), adjustments in the Utility Deduction, or adjustments in the Administration Charge.

§ 805.417 Inspections; responsibility for items covered by warranty.

(a) *Inspection Before Move-In and Identification of Warranties.* (1) In order that there shall be a record of the condition of the Home as of the Date of Occupancy, an inspection of the Home

by the IHA and the Homebuyer shall be made as close as possible to, but not later than, the Date of Occupancy. This inspection shall be independent of the inspection required by § 805.221(c), but may, if feasible, be combined with such inspection. After the inspection, the IHA inspector shall give the Homebuyer a written statement, signed by the inspector, of the condition of the Home and equipment. If the Homebuyer concurs with the statement, he shall sign a copy of the statement. If the Homebuyer does not concur, he shall state his objections. The inspector shall note all such objections on the statement, and the differences shall be resolved by the IHA.

(2) On or before commencement of occupancy of each Home, the IHA shall furnish the Homebuyer with a list of applicable contractor's, manufacturers' and suppliers' warranties, indicating the items covered and the periods of the warranties.

(b) *Inspections During Contractor's Warranty Periods; Responsibility for Items Covered by Contractor's, Manufacturers' or Suppliers' Warranties.* The IHA shall inspect the Home in accordance with the provisions of § 805.222(b) during the contractor's warranty period or periods. Independent of such IHA inspections, and the inspections required under paragraph (a) of this section, it shall be the responsibility of the Homebuyer during the period covered by §§ 805.222(b) and 805.417(a) and subsequently for the duration of the applicable warranties, to promptly inform the IHA of any deficiencies arising during the warranty periods (including manufacturers' and suppliers' warranties) so that the IHA may enforce any rights under the applicable warranties. If a Homebuyer fails to report such a deficiency in time, and the IHA is subsequently unable to obtain redress under the warranty, correction of the deficiency shall be the responsibility of the Homebuyer.

(c) *Inspection Upon Termination of Agreement.* If the MHO Agreement is terminated for any reason after commencement of occupany, the IHA shall inspect the Home, after notifying the Homebuyer of the time for the inspection, and shall give the Homebuyer a written statement of the cost of any maintenance work required to put the Home in satisfactory condition for the next occupant (see § 805.424(d)(1)(i)).

(d) *Homebuyer Participation in Inspections.* The Homebuyer shall be notified that he or his representative may join in the inspection made pursuant to this section.

(e) *Permission for Inspections.* The Homebuyer shall permit the IHA to inspect the Home at reasonable hours and intervals during the lease term in accordance with rules established by the IHA.

§ 805.418 Maintenance, utilities and use of home.

(a) *Maintenance.* (1) *Homebuyer's Responsibility for Maintenance.* The Homebuyer shall be responsible for maintenance of the Home, including all repairs and replacements (including repairs and replacements necessitated by damage from any cause). The IHA shall not be obligated to pay for or to provide any maintenance of the Home other than the correction of warranty items reported during the applicable warranty period.

(2) *Homebuyer's Failure to Perform Maintenance.* (i) Failure of the Homebuyer to perform his maintenance obligations constitutes a breach of the MHO Agreement. Upon a determination by the IHA that a breach has occurred, the IHA shall require the Homebuyer to agree to a specific plan of action to cure the breach and to assure future compliance. The plan shall provide for maintenance work to be done within a reasonable time by the Homebuyer, or to be done by the IHA and charged to the Homebuyer's MEPA. If the Homebuyer fails to agree to a reasonable plan or fails to carry out the agreed to plan, the MHO Agreement shall be terminated in accordance with §§ 805.424(a) and 805.424(b).

(ii) If the condition of the property creates a hazard to the life, health or safety of the occupants, the IHA shall have the work done, and charge the cost thereof to the Homebuyer's MEPA in accordance with § 805.421(c).

(iii) Any maintenance work performed by the IHA shall be accounted for through a work order stating the nature of and charge for the work. The Homebuyer shall receive a copy of all work orders for his Home.

(3) *Homebuyer Maintenance Credit.* The IHA shall establish for each budget period, subject to HUD approval, an amount based upon its estimate of the value of the maintenance for which the Homebuyer is responsible, taking into consideration the relative size and type of the Home. (The amount so determined is referred to as the "Maintenance Credit"). The IHA shall maintain records which show the cumulative amount of the Maintenance Credits for each Homebuyer for the purpose of determining the portion of the Homebuyer's MEPA, if any, which may be refunded to the Homebuyer in accordance with § 805.424(d), if the Homebuyer's MHO Agreement is terminated.

(b) *Homebuyer's Responsibility for Utilities.* The Homebuyer shall furnish his own utilities. The IHA shall have no obligation to do so. However, if the IHA determines that the Homebuyer is unable to provide his utilities, and that this inability creates conditions which are hazardous to life, health or safety of the occupants, the IHA may provide the utilities and charge the Homebuyer's MEPA for doing so (subject, however, to the limitation provided at § 805.421(c)(4)).

(c) *Obligations with Respect to Home and Other Persons and Property.* The Homebuyer shall agree:

(1) To use the Home only as a place to live for (i) himself and the members of his family listed in a schedule appended to the Homebuyer's MHO Agreement, (ii) children born to or adopted by members of such family after the date of the MHO Agreement, and foster children, (iii) persons providing live-in care for a member of the Homebuyer family, and (iv) aged or widowed parents of the Homebuyer or spouse; other family members may live in the Home only with the prior written approval of the IHA;

(2) Not to sublet his Home without the prior written approval of the IHA;

(3) To abide by necessary and reasonable regulations promulgated by the IHA for the benefit and well-being of the Project and the Homebuyers, which shall be prominently posted in the IHA office;

(4) To comply with all obligations imposed upon Homebuyers by applicable provisions of building and housing codes materially affecting health and safety;

(5) To keep the Home and such other areas as may be assigned to him for his exclusive use in a clean and safe condition;

(6) To dispose of all ashes, garbage, rubbish, and other waste from the Home in a sanitary and safe manner;

(7) To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances;

(8) To refrain from, and to cause his household and guests to refrain from, destroying, defacing, damaging, or removing any part of the Home or Project;

(9) To conduct himself and cause other persons who are on the premises with his consent to conduct themselves in a manner which will not disturb the neighbors' peaceful enjoyment of their accommodations and will be conducive to maintaining the Project in a decent, safe and sanitary condition; and

(10) To refrain from illegal or other activity which impairs the physical or social environment of the Project.

(d) *Structural Changes.* A Homebuyer shall not on his own initiative make any structural changes in or additions to his Home unless the IHA has first determined in writing that such change would not (1) impair the value of the Home, the surrounding Homes, or the Project as a whole; or (2) affect the use of the Home for residential purposes; or (3) violate HUD requirements as to construction and design. Any changes made in accordance with this section shall be at the Homebuyer's expense (and not from any Reserve or Account created under the MHO Agreement), and in the event of termination of the MHO Agreement the Homebuyer shall not be entitled to any compensation for such changes or additions.

§ 805.419 Administration charge and operating expense.

(a) *Administration Charge.* The term "Administration Charge" means the amount budgeted per unit month for operating expense exclusive of the costs of Independent Public Accountant audits.

(b) *Components of Operating Expense.* The term "operating expense" means the amount budgeted for the following operating expense categories, and any other operating expense categories

included in the IHA's HUD-approved operating budget for a fiscal year or other budget period:

(1) *Administration.* Administrative salaries; travel; legal expenses; postage; telephone and telegraph; office supplies, space, maintenance, and utilities; accounting services; and Independent Public Accountant audits approved by HUD (the costs of which shall be reimbursed by HUD).

(2) *General Expense.* The cost of premiums for fire and other insurance; payments in lieu of taxes, if any; payroll taxes; etc.

(3) *Contribution to Operating Reserve.* An estimate of the amount required to accumulate an Operating Reserve for the Project as provided in § 805.420.

§ 805.420 Operating reserve.

The IHA shall maintain an Operating Reserve for the Project. The contribution for this reserve pursuant to § 805.419 (b) (3) shall be determined by the IHA with the approval of HUD. The minimum amount during the first budget period following the end of the Initial Operating Period, as defined in the ACC, shall be $2.00 per month. This minimum amount may be subsequently increased or decreased upon a review of its adequacy. At the end of each fiscal year or other budget period the Project Operating Reserve shall be (a) credited with the amount by which operating receipts exceed operating expenses of the Project for the budget period, or (b) charged with the amount by which operating expenses exceed operating receipts of the Project for the budget period to the extent of the balance in the Operating Reserve.

§ 805.421 Homebuyer reserves and accounts.

(a) *Refundable and Unrefundable MH Reserves ("Reserves").* (1) The IHA shall establish as of the Date of Occupancy separate Refundable and Unrefundable MH Reserves for each Homebuyer.

(2) The Refundable MH Reserve shall be credited with the amount of the Homebuyer's non-land MH Contribution.

(3) The Unrefundable MH Reserve shall be credited with the amount of the Homebuyer's share of any credits for land contributed to the Project, as determined in accordance with § 805.408 (c) (2), and the Homebuyer's share of any tribal non-land contribution to the Project.

(4) When it becomes necessary to draw against either the Refundable MH Reserve or the Unrefundable MH Reserve, the IHA shall requisition the funds from HUD as an advance against the Project Loan pursuant to the ACC. The amount of these borrowings, along with other Development Costs, are repaid by HUD annual contributions payments made pursuant to the ACC.

(b) *Equity Accounts ("Accounts").* (1) *Monthly Equity Payments Account ("MEPA").* The IHA shall maintain a separate MEPA for each Homebuyer. The IHA shall, as provided in § 805.416 (a), credit this account with the amount by which each Required Monthly Payment exceeds the Administration Charge.

(2) *Voluntary Equity Payments Account.* The IHA shall maintain a separate Voluntary Equity Payments Account for each Homebuyer. The IHA shall credit this account with the amounts of any periodic or occasional voluntary payments (over and above the Required Monthly Payments) the Homebuyer may desire to make to acquire ownership of the Home within a shorter period of time.

(3) *Investment of Excess.* When the aggregate amount of funds held by the IHA in the MEPAs and Voluntary Equity Payments Accounts of all the Homebuyers in the Project exceeds the estimated expenditure requirements for 90 days, the IHA shall invest the excess in federally insured savings accounts, in federally insured credit unions, or in securities approved by HUD. Income earned on the investment of such funds shall periodically, but at least annually, be prorated and credited to each Homebuyer's MEPA and Voluntary Equity Payments Account, in proportion to the amount in each such account on the date of proration.

(c) *Charges for Maintenance.* (1) If the IHA has maintenance work done in accordance with § 805.418(a) (2), the cost thereof shall be charged to the Homebuyer's MEPA.

(2) At the end of each fiscal year, the debit balance, if any, in the MEPA shall be charged, first, to the Voluntary Equity Payments Account, second, to the Refundable MH Reserve and, third, to the Unrefundable MH Reserve, to the extent of the credit balances in such Account and Reserves.

(3) In lieu of charging the debit balance in the MEPA to the Homebuyer's Refundable MH Reserve and/or Unrefundable MH Reserve (but not in lieu of charging his Voluntary Equity Payments Account), the IHA may allow the debit balance to remain in the MEPA pending replenishment from subsequent credits to the Homebuyer's MEPA.

(4) The IHA shall at no time permit the accumulation of a debit balance in the MEPA in excess of the sum of the credit balances in the Homebuyer's Refundable and Unrefundable MH Reserves unless the expenditure is required to alleviate a hazard to the life, health or safety of the occupants and the source of funds for reimbursement to the IHA is specifically approved by HUD.

(d) *Disposition of Reserves and Accounts Upon Acquisition of Ownership.* When the Homebuyer purchases his Home, the balances in the Homebuyer's Reserves and Accounts shall be disposed of in accordance with § 805.422(d) (3).

(e) *Disposition of Reserves and Accounts Upon Termination of the Agreement.* If the MHO Agreement is terminated by the Homebuyer or the IHA, the balances in the Homebuyer's Reserves and Accounts shall be disposed of in accordance with § 805.424(d).

(f) *Use of Reserves and Accounts; Nonassignability.* The Homebuyer shall have no right to receive or use the funds in any Reserve or Account except as provided in the MHO Agreement, and the Homebuyer shall not, without approval of the IHA and HUD, assign, mortgage or pledge any rights in the MHO Agreement or to any Reserve or Account.

§ 805.422 Purchase of home.

(a) *When Home May Be Purchased and When It Must Be Purchased.* A Homebuyer may at his option purchase his Home on or after the Date of Occupancy, but only if the Homebuyer has met all of his obligations under the MHO Agreement. However, when the Homebuyer's income, Reserves and Account balances are sufficient to enable the IHA to make the determination provided in § 805.422(e), the Homebuyer must purchase the Home.

(b) *Purchase Price and Purchase Price Schedule.* (1) *Determination of Initial Purchase Price.* The IHA shall determine the Initial Purchase Price of a Home for the Homebuyer who first occupies the Home pursuant to an MHO Agreement as follows:

Step 1: From the estimated Total Development Cost (including the MH Contributions and the full amount for contingencies as authorized by HUD) of the Project as shown in the development cost budget in effect at the time of execution of the Construction Contract, deduct the amounts, if any, attributable to (i) relocation costs, (ii) counseling costs, and (iii) the cost of any community, administration or management facilities, including the land, equipment and furnishings attributable to such facilities as set forth in the Development Program for the Project.

Step 2: Deduct the total amount attributable to land for the Project (including MH Contribution credits for land, but not including land attributable to community, administration or management facilities) from the amount determined in Step 1.

Step 3: Multiply the amount determined in Step 2 by a fraction of which the numerator is the prototype cost for the size and type of Home being constructed for the Homebuyer and the denominator is the sum of the unit prototype costs for the Homes of various sizes and types comprising the Project.

Step 4: Determine the amount chargeable to Development Cost for acquisiiton of the homesite (the assigned value of the homesite in accordance with section 805.408(c) (1) or the actual cost of the homesite, and not the Homebuyer's are of the aggregate credit for all the contributed homesites.)

Step 5: Add the amount determined in Step 4 to the amount determined in Step 3. The sum determined under this step shall be the Initial Purchase Price of the Home.

(2) *Purchase Price Schedule.* As promptly as possible after execution of the Construction Contract, the IHA shall furnish to the Homebuyer a statement of the Initial Purchase Price of the Home and a Purchase Price Schedule. The Purchase Price Schedule shall (i) show the monthly amortization of the Initial Purchase Price over a 25-year period, (ii) state the monthly debt service amount upon which the schedule is based, and (iii) state that such amortization shall commence with the first day of the month following the Date of Occupancy. The schedule shall be com-

puted on the basis of a rate of interest equal to the Minimum Loan Interest Rate for the Project as stated in the ACC.

(c) *Initial Purchase Price and Purchase Price Schedule for Subsequent Homebuyer.* (1) *Subsequent Homebuyer.* "Subsequent Homebuyer" means a Homebuyer other than the Homebuyer who first occupies a Home pursuant to an MHO Agreement.

(2) *Determination of Initial Purchase Price.* The Initial Purchase Price for a Subsequent Homebuyer shall be an amount equal to (i) the purchase price shown in the first Homebuyer's Purchase Price Schedule as of the date the lease term of the Subsequent Homebuyer commences, plus (ii) the additional amount, if any, by which the appraised fair market value of the Home, determined or approved by HUD as of the same date, exceeds such purchase price.

(3) *Purchase Price Schedule.* As soon as the appraised value has been determined, the IHA shall furnish to a Subsequent Homebuyer a statement of his Initial Purchase Price and a Purchase Price Schedule. The Subsequent Homebuyer's Purchase Price Schedule shall be the same as the unexpired portion of the first Homebuyer's Purchase Price Schedule except that if his purchase price includes an additional amount as specified in paragraph (c)(2)(ii) of this section, the Subsequent Homebuyer's Purchase Price Schedule shall be comprised of both (i) the unexpired portion of the first Homebuyer's Purchase Price Schedule, and (ii) an additional schedule for such additional amount based upon the same monthly debt service and the same interest rate as applied to the first Homebuyer's Purchase Price Schedule, which additional schedule shall commence at the end of the initial 25-year period, and shall end when amortization of the additional amount is completed.

(d) *Conveyance of Home.* (1) *Amounts To Be Paid.* Except as provided in paragraph (e)(3) of this section, the purchase price shall be the amount shown on the Purchase Price Schedule for the month in which the settlement date falls.

(2) *Settlement Costs.* Settlement Costs are the costs incidental to acquiring ownership, including, e.g., the cost and fees for credit report, field survey, title examination, title insurance, inspections, attorneys other than the IHA's attorney, closing, recording, transfer taxes, financing fees and mortgage loan discounts. Settlement Costs shall be paid by the Homebuyer, who may use any Reserves or Accounts available for this purpose in accordance with paragraph (d)(3) of this section.

(3) *Disposition of Homebuyer Reserves and Accounts.* When the Homebuyer purchases the Home the net credit balances in the Homebuyer's Reserves and Accounts under § 805.421 shall be applied in the following order:

(i) If the IHA finances purchase of the Home in accordance with § 805.423, the MEPA and the Voluntary Equity Payments Account shall be charged, to the extent of the net credit balance of these Accounts, first, for the initial payment for fire and extended coverage insurance on the Home after conveyance and, second, for establishment of a Homeowner's maintenance reserve. Any further amounts necessary for these purposes shall then be charged against the MH Reserves;

(ii) For application to Settlement Costs if the Homebuyer so directs;

(iii) To payment of the purchase price; and

(iv) For refund to the Homebuyer.

(4) *Settlement.* The settlement date shall be mutually agreed upon by the parties. On the settlement date the Homebuyer shall receive the documents necessary to convey to the subject to any applicable restrictions or covenants as expressed in such documents. The required documents shall be approved by the attorneys representing the IHA and HUD, and by the Homebuyer or his attorney.

(5) *Remittance of Purchase Price Payment by IHA to HUD.* After conveyance, the IHA shall remit to HUD the amount applied to payment of the purchase price from the MEPA and the Voluntary Equity Payments Account, together with any cash paid in by the Homebuyer for application to the purchase price.

(e) *Obligation to Purchase.* (1) The Homebuyer must purchase the Home when the IHA determines that:

(i) The net credit balance of the Homebuyer's Reserves and Accounts under § 805.421 is at least equal to the sum of (A) the IHA's estimate, approved by HUD, of a reasonable amount necessary for Settlement Costs, (B) the IHA's estimate of the amount sufficient to cover the initial payment for fire and extended coverage insurance carried on the Home after conveyance, and (C) $1,500 for a Homeowner's maintenance reserve; and

(ii) The Homebuyer's income has reached the level, and is likely to continue at such level, at which 25 percent of monthly Family Income is at least equal to the sum of the monthly debt service amount shown on the Homebuyer's Purchase Price Schedule and the IHA's estimates, approved by HUD, of the following monthly payments and allowances:

(A) Payment for fire and extended coverage insurance;

(B) Payment for taxes and special assessments, if any;

(C) The IHA mortgage servicing charge;

(D) Amount necessary for maintenance of the Home; and

(E) Amount necessary for utilities for the Home.

(2) The IHA shall at the time of each examination or reexamination of the family's earnings and other income, determine among other things whether the Homebuyer is required to purchase the Home in accordance with paragraph (e)(1) of this section. If the IHA determines that the Homebuyer is required to purchase the Home, it shall notify him in writing and shall state that it will make available to the Homebuyer IHA Homeownership Financing in accordance with § 805.423.

(3) After the IHA has given notice in accordance with paragraph (e)(2) of this section that the Homebuyer is required to purchase his Home, and until the Homebuyer purchases his Home, he shall have all the rights of a Homebuyer (including the right to continue accumulating credits in the MEPA and Voluntary Equity Payments Account) and shall be subject to all the obligations under the MHO Agreement (including the obligation to make monthly payments based on income). However, during this period there shall be no reduction in the purchase price pursuant to the Purchase Price Schedule, and the purchase price at the time the Homebuyer purchases his Home shall be the amount shown on the Purchase Price Schedule for the month the IHA gave the notice in accordance with paragraph (e)(2) of this section.

§ 805.423 IHA homeownership financing.

(a) *Eligibility.* The Homebuyer shall be eligible for IHA Homeownership Financing when the IHA determines that:

(1) he can pay: (i) The amount necessary for Settlement Costs, (ii) the initial payment for fire and extended coverage insurance carried on the Home after conveyance, and (iii) $1,500 for the Homeowner's maintenance reserve (these amounts may be paid by application of balances in the Homebuyer's Reserves or Accounts, or from other Homebuyer sources); and

(2) the Homebuyer's income meets the standards stated in § 805.422(e)(1)(ii).

(b) *Promissory Note, Mortgage, and Mortgage Amortization Schedule.* (1) When IHA Homeownership Financing is utilized the Homebuyer shall execute and deliver a Promissory Note and Mortgage. The Mortgage shall be a first lien on the property, shall be in form approved by HUD, shall be recorded by the IHA, and shall secure performance of all the terms and conditions of the Promissory Note. The principal amount of the Promissory Note shall be equal to the unpaid balance of the purchase price of the Home as determined in accordance with § 805.422. The Promissory Note and/or Mortgage shall contain provisions required by HUD which, among other things, will provide for adjustment of monthly mortgage payments in the event of a reduction in income, and for a maintenance reserve of $1,500 to be used if the Homeowner has no other funds reasonably available to pay for expenses such as maintenance, insurance, and taxes.

(2) The IHA shall furnish the Homebuyer a Mortgage Amortization Schedule based on the amount of the Promissory Note. This schedule shall provide for monthly reductions in and complete amortization of the principal amount of the Promissory Note, and shall show the level monthly debt service amount needed to complete the amortization. The amortization period shall commence on the first day of the month following the date

of settlement and shall end on the first day after the end of the period covered by the Homebuyer's Purchase Price Schedule. The rate of interest shall be the FHA maximum interest rate for home mortgages in effect at the time of settlement.

(c) *Insurance.* Fire and extended coverage insurance in an amount and on terms acceptable to HUD shall be obtained by the IHA prior to settlement and shall be maintained until termination of the obligation under the Mortgage. The Homeowner shall make payments to the IHA to cover the cost of the insurance.

(d) *Disposition of Servicing Fees and Mortgage Payments.* The amount of the mortgage servicing fees collected from the Homeowner under Promissory Note may be retained by the IHA, and utilized as Project operating receipts. The total amount of the mortgage payments collected shall be remitted to HUD at the end of each fiscal year or at such other intervals as HUD may direct.

(e) *Occupancy, Care and Use of Home.* The IHA shall promulgate rules and regulations which are consistent with the provisions of § 805.418(c) concerning occupancy, care and use of their Homes by Homeowners.

§ 805.424 Termination of MHO agreement.

(a) *Termination Upon Breach.* In the event the Homebuyer fails to comply with any of his obligations under the MHO Agreement, the IHA may terminate the MHO Agreement. Misrepresentation or withholding of material information in applying for admission or in connection with any subsequent reexamination of income and family composition constitutes a breach of the Homebuyer's obligations under the MHO Agreement. "Termination" as used in the MHO Agreement does not include acquisition of ownership by the Homebuyer.

(b) *Notice of Termination of MHO Agreement by the IHA; Right of Homebuyer to Respond.* Termination of the MHO Agreement by the IHA for any reason shall be by written Notice of Termination. Such notice shall state (1) the reason for termination; (2) that the Homebuyer may respond to the IHA in writing or in person, within a specified reasonable period of time regarding the reason for termination; (3) that in such response he may be represented or accompanied by a person of his choice, including a representative of the tribal government; (4) that the IHA will advise the tribal government concerning the termination; (5) that if, within 30 days after the date of receipt of the Notice of Termination, the Homebuyer presents to the IHA evidence or assurances satisfactory to the IHA that he will cure the breach and continue to carry out his MHO obligations, the IHA may rescind or extend the Notice of Termination; and (6) that unless there is such recision or extension, the lease term and MHO Agreement shall terminate on the 30th day after the date of receipt of the Notice of Termination. The IHA may, with HUD approval, modify the provisions of the Notice of Termination relating to the procedures for presentation and consideration of the Homebuyer's response. In all cases the IHA's procedures for the termination of an MHO Agreement shall afford a fair and reasonable opportunity to have the Homebuyer's response heard and considered by the IHA. Such procedures shall comply with the Indian Civil Rights Act.

(c) *Termination of MHO Agreement by Homebuyer.* The Homebuyer may terminate the MHO Agreement by giving the IHA written notice, and the lease term and MHO Agreement shall terminate on the 30th day after the date of receipt of such notice. If the Homebuyer vacates the Home without notice to the IHA the Homebuyer shall remain subject to the obligations of the MHO Agreement including the obligation to make monthly payments until the IHA terminates the MHO Agreement in writing. Notice of the termination shall be communicated by the IHA to the Homebuyer to the extent feasible and the termination shall be effective on the date stated in the notice.

(d) *Disposition of Funds Upon Termination of the MHO Agreement.* If the MHO Agreement is terminated by the Homebuyer or the IHA the balances in the Homebuyer's Reserves and Accounts shall be disposed of as follows:

(1) The MEPA shall be charged with:

(i) Any maintenance cost incurred by the IHA to put the Home in satisfactory condition for the next occupant;

(ii) Any amounts the Homebuyer owes the IHA including Required Monthly Payments; and

(iii) The Required Monthly Payment for the period the Home is vacant not to exceed 30 days from the date of receipt of the Notice of Termination, or if the Homebuyer vacates the Home without notice to the IHA, for the period ending with the effective date of termination by the IHA.

(2) If after making the charges in accordance with paragraph (d)(1) of this section there is a debit balance in the MEPA, the IHA shall charge that debit balance, first, to the Voluntary Equity Payments Account, second, to the Refundable MH Reserve and, third, to the Unrefundable MH Reserve, to the extent of the credit balances in such Reserves and Account. If the debit balance in the MEPA exceeds the sum of the credit balances in the Voluntary Equity Payments Account and the Refundable and Unrefundable MH Reserves the Homebuyer shall be required to pay to the IHA the amount of such excess.

(3) If, after making the charges in accordance with paragraph (d)(1) of this section there is a credit balance in the MEPA, any credit balance in excess of the total Maintenance Credit (see § 805.418(a)(3)) for the period of the Homebuyer's occupancy shall be paid to HUD and any remainder of the credit balance shall be paid to the Homebuyer.

(4) Any credit balance remaining in the Voluntary Equity Payments Account after making the charges described in paragraph (d)(2) of this section shall be refunded to the Homebuyer.

(5) Any credit balance remaining in the Refundable MH Reserve after making the charges described in paragraph (d)(2) of this section shall be refunded to the Homebuyer.

(6) Any credit balance remaining in the Unrefundable MH Reserve after making the charges described in paragraph (d)(2) of this section is not refundable to the Homebuyer and shall be retained by the IHA on behalf of a Subsequent Homebuyer.

(e) *Settlement upon Termination.* (1) *Time for Settlement.* Settlement with the Homebuyer following a termination shall be made as promptly as possible after all charges provided in paragraph (d) of this section have been determined and the IHA has given the Homebuyer a statement of such charges. The Homebuyer may obtain a settlement before the actual cost of any maintenance required to put the Home in satisfactory condition for the next occupant has been determined if the Homebuyer is willing to accept the IHA's estimate of the amount of such cost. In such case, the amounts to be charged for such maintenance shall be based on the IHA's estimate of the cost thereof.

(2) *Disposition of personal property.* Upon termination, the IHA may dispose of in any lawful manner deemed suitable by the IHA any item of personal property abandoned by the Homebuyer in the Home. Proceeds, if any, after such disposition, may be applied to the payment of amounts owed by the Homebuyer to the IHA.

§ 805.425 Succession upon death, mental incapacity or abandonment.

(a) *Definition of "Event."* "Event" means the death of, or mental incapacity of, or abandonment of the Home by, all of the persons who have executed the MHO Agreement as Homebuyers.

(b) *Designation of Successor by Homebuyer.* A Homebuyer may designate as a successor only a person who, at the time of the designation, is a member of the Homebuyer's family and is an authorized occupant of the Home in accordance with the MHO Agreement, or if the designation is made before completion of the Home, is a member of the Homebuyer's family and is scheduled to be an occupant when the Home is completed. The designation shall be made at the time of execution of the MHO Agreement and the Homebuyer may, at any subsequent time, change the designation by written notice to the IHA, and designate another successor who meets the qualifications of this paragraph. The designated successor shall be entitled to succeed only if, at the time of the Event, he meets the conditions stated in paragraph (c) of this section.

(c) *Succession by Persons Designated by Homebuyer.* Upon occurrence of an Event, the person designated as the successor shall succeed to the former Homebuyer's rights and responsibilities under the MHO Agreement if the designated successor meets the following conditions:

(1) At the time of the Event, (i) the successor is a member of the Homebuyer's family who is entitled to live in the Home pursuant to the IHA's written approval, and (ii) in the case of an Event occurring after commencement of occupancy by the Homebuyer, the successor is living in the Home;

(2) The successor is willing and able to pay the Administration Charge and to perform the obligations of a Homebuyer under an MHO Agreement; and

(3) The successor executes an assumption of the former Homebuyer's obligations under the MHO Agreement.

(d) *Designation of Successor by IHA.* If at the time of the Event there is no successor designated by the Homebuyer, or if any of the conditions in paragraph (c) of this section are not met by the designated successor, the IHA may designate as successor any family member who meets all of the conditions of paragraph (c) of this section.

(e) *Occupancy by Appointed Guardian.* If at the time of the Event there is no qualified successor designated by the Homebuyer or by the IHA in accordance with the foregoing paragraphs of this section, and a minor child or children of the Homebuyer are living in the Home, the IHA may, in order to protect their continued occupancy and opportunity for acquiring ownership of the Home, approve as occupant of the Home an appropriate adult who has been appointed legal guardian of the children with a duty to perform the obligations of the MHO Agreement in their interest and behalf.

(f) *Succession and Occupancy on Restricted Indian Land.* In the case of a Home on Indian land subject to restrictions on alienation under federal or state law (including federal trust or restricted land as defined in § 805.218(a)(2) and land subject to trust or restriction under state law), a person who is prohibited by law from succeeding to the IHA's interest in such land may, nevertheless, continue in occupancy with all the rights, obligations and benefits of the MHO Agreement, modified to conform to these restrictions on succession to the land.

(g) *Termination in Absence of Qualified Successor or Occupant.* If there is no qualified successor in accordance with any of the foregoing paragraphs of this section, the IHA shall terminate the MHO Agreement.

§ 805.426 Miscellaneous.

(a) *Annual Statement to Homebuyer.* The IHA shall provide an annual statement to the Homebuyer which will set forth, at the end of the IHA fiscal year, the amount in each of the following: (1) The Voluntary Equity Payments Account, (2) the MEPA, (3) the Refundable MH Reserve, and (4) the Unrefundable MH Reserve. The statement shall also set forth the remaining balance of the purchase price.

(b) *Insurance Prior to Transfer of Ownership; Repair or Rebuilding.* (1) *Insurance.* The IHA shall carry all insurance prescribed by HUD including fire and extended coverage insurance upon the Home.

(2) *Repair or Rebuilding.* In the event the Home is damaged or destroyed by fire or other casualty the IHA shall consult with the Homebuyer as to whether the Home shall be repaired or rebuilt. If the IHA determines that the Home should not be repaired or rebuilt, but the Homebuyer disagrees, the matter shall be submitted to HUD for final determination. If the final determination is that the Home should not be repaired or rebuilt, the IHA shall terminate the MHO Agreement, and the Homebuyer's obligation to make Required Monthly Payments shall be deemed to have terminated as of the date of the damage or destruction. The Homebuyer shall in no event be entitled to any portion of the insurance proceeds upon such damage or destruction.

(3) *Suspension of Payments.* In the event of termination of an MHO Agreement because of damage or destruction of the Home, or if the Home must be vacated during the repair period, the IHA will use its best efforts to assist in relocating the Homebuyer. If the Home must be vacated during the repair period, Required Monthly Payments shall be suspended during the vacancy period.

(c) *Notices.* Any notice by the IHA to the Homebuyer required under the MHO Agreement or by law shall be delivered in writing to the Homebuyer personally or to any adult member of his family residing in the Home, or shall be sent by certified mail, return receipt requested, properly addressed, postage prepaid. Notice to the IHA shall be in writing, and either delivered to an IHA employee at the office of the IHA or sent to the IHA by certified mail, return receipt requested, properly addressed, postage prepaid.

§ 805.427 Annual contributions contract.

(a) The ACC for MH Projects placed under ACC on or after the effective date of this Part and for MH Projects converted in accordance with section 805.428 shall be in the form prescribed by HUD for such Projects. Projects under this form of ACC shall not be consolidated with Projects under other forms of ACC.

(b) The Minimum Loan Interest Rate shall be a rate specified by HUD in accordance with the Act.

§ 805.428 Conversion of existing projects.

(a) *Applicability.* This § 805.428 shall govern the conversion of an Existing Project to development and operation, or to operation only, under this Subpart. Any such conversion shall become effective upon the date agreed to by the IHA and HUD.

(b) *Obtaining Consent of Homebuyers to Conversion.* (1) Existing Projects shall be converted as soon as the consent of all the Homebuyers in the Project can be obtained. An IHA shall counsel all Homebuyers concerning the effects of the conversion, and shall obtain a written commitment to execute the new form of MHO Agreement from each Homebuyer who consents to conversion of the Project. After conversion the Homebuyers will be entitled to all the benefits of the new MHO Agreement including IHA Homeownership Financing.

(2) Pending conversion, Existing Projects shall be operated in accordance with the ACC and MHO Agreements applicable prior to the effective date of this Part, but any MHO Agreements executed prior to conversion shall be modified to include a commitment to execute the new form of MHO Agreement when the Project is converted.

(c) *Changes not Required for Conversion.* (1) A Project may be converted without any change in the previously approved Development Program or previously executed Construction Contract or previously approved value or form of the MH Contribution.

(2) A Project may be converted without requiring Homebuyers admitted to occupancy prior to the effective date of conversion to make Required Monthly Payments computed on the basis of a higher percentage of Family Income than the HUD-approved schedule in effect at the time of conversion.

(3) Use of the 25-year purchase price amortization period shall not be required as a condition for conversion. Instead the IHA and HUD shall estimate when the shorter amortization period under the existing MHO Agreement would end, and shall provide a Purchase Price Schedule ending at that time.

(d) *Purchase Price.* The purchase price of a Home on the date of conversion shall be (1) the balance of debt attributable to the Home, plus (2) the balance of the MH Contribution not previously funded.

(e) *Transfer of Credits.* The balances in a Homebuyer's accounts shall be credited as of the date of conversion to the appropriate accounts under the new form of MHO Agreement in accordance with the following:

(1) *Unrefundable MH Reserve.* This reserve shall be credited with the balance, if any, of the MH Contribution furnished by the tribe.

(2) *Refundable MH Reserve.* This reserve shall be credited with the balance, if any, of the MH Contribution furnished by the Homebuyer.

(3) *MEPA.* This account shall be credited with the balance in the Homebuyer's individual operating reserve not previously applied to reduce Project debt.

§ 805.429 Counseling of homebuyers.

(a) *General.* The IHA shall provide counseling to Homebuyers in accordance with this section. The purpose of the counseling program shall be to develop (1) a full understanding by Homebuyers of their responsibilities as participants in the MH Project, (2) ability on their part to carry out these responsibilities, and (3) a cooperative relationship with the other Homebuyers and the IHA. Each Homebuyer shall be required to participate in and cooperate fully in all official pre-occupancy and

post-occupancy counseling activities. Failure without good cause to participate in the program shall constitute a breach of the MHO Agreement.

(b) *Contents of the Program.* The counseling program shall consist of a pre-occupancy phase and a post-occupancy phase. While some elements of the program lend themselves more to one phase than the other, counseling in the two phases shall be coordinated and interrelated. The counseling program shall include, but not be limited to, the following areas:

(1) *Explanation of the MH Program.* The Homebuyers should be given a full explanation of the MH Program and how each Homebuyer relates to the program. Each Homebuyer should be made aware of his financial and legal responsibilities and those of the IHA.

(2) *MH Contribution.* Each Homebuyer should be given counseling necessary to assure that he has a full understanding of and will be able to provide the particular form or forms of contribution he is obligated to make under his MHO Agreement, as well as an understanding of his rights in connection therewith.

(3) *Property Care and Maintenance.* Each Homebuyer should be made familiar with the overall operation of the Home, and its equipment (e.g., basic systems of the Home such as electrical, plumbing, heating systems; major appliances such as refrigerators, ranges, dishwashers; minor appliances such as openers, toasters; the surroundings of the Home, i.e. yards and gardens); the care and maintenance to be provided by the Homebuyer; the basic provisions of all applicable warranties; and the Homebuyer's responsibilities in connection with the warranties.

(4) *Budgeting and Money Management.* Each Homebuyer should be counseled in the importance of family budgeting and meeting financial obligations, methods for allocating funds for utilities and other necessities, the use of credit, and consumer matters.

(5) *Information on Community Resources and Services.* Each Homebuyer should be supplied with information relating to resources available in the community to provide services in areas such as educational opportunities, upgrading employment skills, legal services, dental and health care, child care for working mothers, counseling on family problems such as marital problems, alcoholism or drug problems.

(c) *Planning.* (1) The counseling program shall be carefully designed to meet the special needs of the MH Project, and shall be flexible and responsive to the needs of each Homebuyer. While many subjects lend themselves to group sessions, provision should be made for individual instruction as needed. Individuals should not be required to attend classes on material with which they are familiar unless they can actively participate in the instruction process.

(2) Special attention shall be directed to the needs of working members of the family for sessions to be held during a time when they can attend. There shall be recognition of the communication and value systems of the participants and an understanding and respect for their background and experience. Maximum possible use shall be made of local trainers to insure good communication and rapport.

(3) The program may be provided by the IHA staff, or by contract with another organization, but in either case with voluntary cooperation and assistance of groups and individuals within the community. It is essential that the training entity be completely knowledgeable concerning the MH Program. Where contractors are utilized, there shall be a close working relationship with the IHA, and there shall be a program for phasing in the IHA staff who will have the ongoing responsibility for counseling.

(4) In planning the program and use of the counseling funds (see section (e) below), the IHA shall recognize that for a number of years after the initial counseling there are likely to be followup counseling needs. There may also be need for counseling in connection with turnover. Therefore, the IHA shall limit the amounts for the initial counseling, and shall reserve a reasonable amount for future counseling needs.

(d) *Submission of Program for Approval.* (1) The IHA shall submit to HUD an application for approval of a counseling program and approval of funds therefor. The application shall be submitted at the time of the submission of the Development Program or as soon thereafter as possible but no later than the submission of the working drawings and specifications.

(2) If the IHA intends to use the HUD-approved BIA Homebuyer Training Program (see Exhibit to Interdepartmental Agreement, Subpart B—Appendix I), the IHA shall submit, in lieu of an application for approval of the counseling program, a statement that the IHA intends to use the BIA program and an application for approval of the funds therefor.

(3) The application pursuant to paragraph (d)(1) of this section shall include a narrative statement outlining the counseling program, and copies of any proposed contract and other pertinent documents. This statement shall include the following:

(i) A showing that the training entity has the necessary knowledge and capability for effectively carrying out the proposed program, including a statement of the experience and qualifications of the organization and of personnel who will directly provide the counseling.

(ii) A description of the method and instruments to be used to determine individual counseling needs.

(iii) A description of the scope and content of the proposed program, including a detailed breakdown of tasks to be performed, products to be produced, and a time schedule, including provision for progress payments for specific tasks.

(iv) A description of the methods and instruments to be used.

(v) A statement of the local community resources to be used.

(vi) The estimated cost and methods of payment for the tasks and products to be performed or produced, including separate estimates of costs for the pre-occupancy and post-occupancy phases of the program, and a description of services and funds to be obtained from non-HUD sources, if any.

(4) No counseling costs shall be incurred until HUD has approved the counseling program (or the submission of proposed costs in the case of the BIA Homebuyer Training Program).

(e) *Funding.* The development cost budget submitted with the Development Program shall include an estimated amount for costs of the counseling program not to exceed $500 multiplied by the number of Home in the Project (including follow-up needs during the management stage, and counseling in connection with turnover). The approved amount for counseling shall be included in the Contract Award Development Cost Budget. If the approved amount is less than $500 per Home, the amount may, if necessary, be amended up to the $500 per Home limitation with HUD approval, but not later than the Final Dvelopment Cost Budget.

(f) *Progress Reports.* IHAs shall submit quarterly progress reports to HUD (and to BIA in the case of the BIA Homebuyer Training Program), which shall include the following:

(1) A list of expenditures under the program, including salaries, cost of transportation, training materials, office expenses and other justifiable expenditures. All expenditures must be identified and supported by appropriate books and records of the IHA and must be certified as correct by the Executive Director and the Chairman of the IHA.

(2) Names of Homebuyers, the number of training sessions, descriptions of training activities, degree of participation, deficiencies noted, and other relevant information or observations.

(3) Efficacy of training as shown by reports, results of tests, reduction in Required Monthly Payment delinquencies, reduction in maintenance costs or other factors.

(4) Proposed changes during the next period of training, including program changes to overcome deficiencies, and to provide training to any additional or substitute Homebuyers.

(g) *Termination of Counseling Program.* If HUD determines that an IHA's counseling is not being properly implemented in accordance with the approved program, the program may be terminated after notice to the IHA stating the deficiencies in program implementation, and giving the IHA 90 days from the date of notification to take corrective action, and in the event of termination the amount included in the development cost budget for the program shall be reduced so as not to exceed expenses already incurred at the time of termination.

§ 805.430 Cross references to defined terms.

ACC. § 805.102.
Act. § 805.102.
Administration Charge. § 805.419(a).
Annual Contributions Contract. § 805.102.
BIA. § 805.102.
Construction Contract. § 805.102.
Conventional (production) method. § 805.203(c).
Conversion. §§ 805.102, 805.428.
Date of Occupancy. § 805.415(a)(1).
Development Program. § 805.102.
Event. § 805.425(a).
Existing Project. § 805.102.
Family Income. § 805.416(b).
Federally Recognized Tribe. § 805.104.
Force Account (production) method. § 805.-203(e).
Home. § 805.102.
Homebuyer. § 805.102.
Homeowner. § 805.102.
HUD. § 805.102.
IHA. § 805.102.
IHA Homeownership Financing. §§ 805.102, 805.423.
IHS. § 805.102.
Indian. § 805.102.
Indian Area. § 805.102.
Indian Housing Authority. § 805.102.
Individually owned land. § 805.218(a)(2).
Initial Purchase Price. § 805.422(b).
Interdepartmental Agreement. § 805.102.
Maintenance Credit. § 805.418(a)(3).
MEPA. §§ 805.102, 805.421(b)(1).
MH. § 805.102.
MH Construction Contract. § 805.102.
MH Contribution. § 805.102.
MHO Agreement. § 805.102.
MH Program. § 805.102.
MH Project. § 805.102.
Mortgage. § 805.423(b).
Mortgage Amortization Schedule. § 805.423(b)(2).
Multi-unit site. § 805.216(1)(1).
Notice of Selection. § 805.407(b).
Notice of Termination. § 805.424(b).
Operating expense. § 805.419(b).
Operating Reserve. § 805.420.
Preliminary Loan. § 805.209.
Preliminary Loan Contract. § 805.209(a).
Preliminary Site Report. § 805.217(a).
Price Payable to Contractor. § 805.413(d).
Program Reservation. § 805.102.
Project. § 805.102.
Project Coordination Meeting. § 805.208.
Project Loan. § 805.405(b).
Project Loan Note. § 805.405(b).
Project Note. § 805.405(c).
Promissory Note. § 805.423(b).
Purchase Price Schedule. § 805.422(b)(2).
Refundable MH Reserve Account. § 805.421(a).
Required Monthly Payment. § 805.416.
Scattered sites. § 805.216(1)(1).
Settlement Costs. § 805.422(d)(2).
Subsequent Homebuyer. § 805.422(c)(1).
Termination. § 805.424(a).
Total Contract Price. § 805.413(d).
Total Development Cost. § 805.102.
Total Family Income. § 805.416(b).
Tribal land. § 805.218(a)(2).
Tribe. § 805.102.
Trust or restricted land. § 805.218(a)(2).
Turnkey (production) method. § 805.203(b).
Unrefundable MH Reserve Account. § 805.421(a).
Utilities. § 805.416(b).
Utility Deduction. § 805.416(b).
Voluntary Equity Payments Account. § 805.-421(b)(2).
Work order. § 805.418(a)(2)(iii).

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

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TUESDAY, MARCH 9, 1976



PART III:

ENVIRONMENTAL PROTECTION AGENCY

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EXPLOSIVES MANUFACTURING POINT SOURCE CATEGORY

Interim Final and Proposed Limitations, Guidelines, and Standards

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT LIMITATIONS, GUIDELINES AND STANDARDS

[FRL 500-1]

PART 457—EXPLOSIVES MANUFACTURING POINT SOURCE CATEGORY

Notice of Interim Final Rule Making

Notice is hereby given that effluent limitations and guidelines for existing sources to be achieved by the application of best practicable control technology currently available as set forth in interim final form below are promulgated by the Environmental Protection Agency (EPA). The explosives manufacturing point source category covers both the military and commercial manufacturing operations. The regulation set forth below establishes Part 457—explosives manufacturing point source category and will be applicable to existing sources for the manufacture of explosives subcategory (Subpart A) and the explosives load, assemble and pack plants subcategory (Subpart C) of the explosives manufacturing point source category pursuant to sections 301, 304 (b) and (c), of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 (b) and (c), 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act). Simultaneously, the Agency is publishing in proposed form effluent limitations and guidelines for existing sources to be achieved by the application of best available technology economically achievable, standards of performance for new point sources and pretreatment standards for existing sources and for new sources for the manufacture of explosives subcategory (Subpart A) and the explosives load, assemble and pack plants subcategory (Subpart C).

(a) Legal authority.

(1) Existing point sources.

Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of the Act.

Section 304(b) of the Act requires the Administrator to publish regluations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedural innovations, operating methods and other alternatives. The regulation herein sets forth effluent limitations and guidelines, pursuant to sections 301 and 304(b) of the Act, for the manufacture of explosives subcategory (Subpart A) and the explosives load, assemble and pack plants subcategory (Subpart C) of the explosives manufacturing point source category.

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of the Act. The report or "Development Document" referred to below provides, pursuant to section 304(c) of the Act, information on such processes, procedures or operating methods.

(2) New sources.

Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306 also requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306 of the Act. The regulations proposed herein set forth the standards of performance applicable to new sources for the manufacture of explosives subcategory (Subpart A) and the explosives load, assemble and pack plants subcategory (Subpart C) of the explosives manufacturing point source category.

Section 307(b) of the Act requires the establishment of pretreatment standards for pollutants introduced into publicly owned treatment works and 40 CFR 128 establishes that the Agency will propose specific pretreatment standards at the time effluent limitations are established for point source discharges.

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that standards of performance for new sources are promulgated pursuant to section 306. In another section of the FEDERAL REGISTER regulations are proposed in fulfillment of these requirements.

(b) Summary and basis of interim final effluent limitations and guidelines for existing sources, proposed effluent limitations and guidelines for existing sources to be achieved by the application of the best available technology economically achievable, proposed standards of performance for new sources, and proposed pretreatment standards for both new and existing sources.

(1) General methodology.

The effluent limitations and guidelines set forth herein were developed in the following manner. The point source category was first studied for the purpose of determining whether separate limitations are appropriate for different segments within the category. This analysis included a determination of whether differences in raw material used, product produced, manufacturing process employed, age, size, waste water constituents and other factors require development of separate limitations for different segments of the point source category. The raw waste characteristics for each such segment were then identified. This included an analysis of the source, flow and volume of water used in the process employed, the sources of waste and waste waters in the operation and the constituents of all waste water. The constituents of the waste waters which should be subject to effluent limitations were identified.

The control and treatment technologies existing within each segment were identified. This included an identification of each distinct control and treatment technology, including both in-plant and end-of-process technologies, which is existent or capable of being designed for each segment. It also included an identification of, in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants, the effluent level resulting from the application of each of the technologies. The problems, limitations and reliability of each treatment and control technology were also identified. In addition, the nonwater quality environmental impact, such as the effects of the application of such technologies upon other pollution problems, including air, solid waste, and noise. The energy requirements of each control and treatment technology were determined as well as the cost of the application of such technologies.

The information, as outlined above, was then evaluated in order to determine what levels of technology constitute the "best practicable control technology currently available." In identifying such technologies, various factors were considered. These included the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, nonwater quality environmental impact (including energy requirements) and other factors.

The data upon which the above analysis was performed included EPA permit applications, EPA sampling and inspections, consultant reports and industry submissions.

(2) Summary of conclusions with respect to the manufacture of expolsives subcategory (Subpart A) and the ex-

plosives load, assemble and pack plants subcategory (Subpart C) of the explosives manufacturing point source category.

(i) Categorization.

For the purpose of establishing effluent limitations, guidelines and standards, the manufacture of explosives was divided into four subcategories which facilitated the study of explosives manufacturing. Only two subcategories, the manufacture of explosives (Subpart A) and the explosive load, assemble and pack plants (Subpart C), are being promulgated at this time.

Factors such as type of product, raw waste loads, water requirements, type of manufacturing processing, treatability of wastewaters and other means were used to establish effluent limitations guidelines and standards of performance for each of the specific subcategories. In general, the largest contributing factors are processing and treatability based on production volume and specific water requirements.

Hence, this broad base subcategorization scheme simplifies the application of effluent limitations and guidelines for a complex mix of production activity and a large number of selected explosives groupings. This scheme reflects differences in the character, the volume and the treatability of wastewater streams due to manufacturing process variables unique to each grouping of explosive products.

(ii) Waste characteristics.

The known significant wastewater pollutants and pollutant properties resulting from the explosives manufacture include pH, TSS, BOD5, COD, TOC, O&G and metals. BOD5, COD, and TOC, which are primary measurements for organic pollution, are evident in wastewaters from explosives manufacturing.

(iii) Origin of waste water pollutants.

Sources of wastewater pollutants in aqueous wastes from reactors, filtration systems, decanting systems, distillation vacuum exhaust scrubbers, caustic scrubbers, process equipment cleanouts, production area washdowns, refining area washdowns, formulation equipment cleanup and spill washdowns.

Pollutant parameters for explosives manufacturing pertain to waste waters from process operations. Process waste water pollutants are proportional to the level of production and it was therefore possible to establish limitations and standards on the basis of production. Other pollutant sources within explosives manufacturing plants from nonprocess sources such as utilities, labs, terminals and others are generally not related to production unless otherwise noted.

(iv) Treatment and control technology.

Wastewater treatment and control technologies have been studied for each subcategory to determine what is the best practicable control technology currently available.

The following discussion of treatment technology provides the basis for the effluent limitations guidelines. This discussion does not preclude the selection of other wastewater treatment alternatives which provide equivalent or better levels of treatment.

Wasterwater impoundments, if not properly designed, maintained and operated, may be subject to runoff from their drainage area. New sources can be properly located and designed to avoid this problem. Furthermore, existing impoundments can be modified by construction of diversion ditches or by increasing the amount of surge capacity of the impoundment with either a higher dam or a lower operating water level. Through use of these techniques, a rainfall up to the 25 year-24 hour event can be prevented from causing the discharge of process waste water pollutants.

The application and performance of various control and treatment technologies to reduce the quantities of pollutants discharged to navigable waters as a result of the production or processing operations in the explosives manufacturing are specific to the product manufactured or processed. However, many in-process control measures, as well as end-of-pipe treatment systems, may be generally applied to several product subcategories.

Good in-process control is a significant pollution abatement technique for all products produced in the manufacture of explosives. Practices such as minimization and containment of spills and leaks, segregation of waste streams, monitoring process waste water, water conservation and reuse, waste water equalization and good housekeeping, process operation and equipment maintenance are necessary to eliminate or reduce the volume of process waste water requiring treatment.

All subcategories generate process waste water streams which must be controlled and treated. The constituents contained in the process waste water vary with the chemical or explosive product produced. Suspended solids are present as a result of most production processes. These may generally be removed by sedimentation basins, clarifiers, filters, centrifuges and evaporation. These treatment technologies can be used when combined with disposal of residue.

Numerous metal ions and metal compounds are generated by the processes used to manufacture many explosives. Treatment of these wastes generally consists of various precipitation processes and subsequent solids removal.

Solid waste control must be considered. Pollution control technologies generate many different amounts and types of solid wastes and liquid concentrates through the removal of pollutants. These substances vary greatly in their chemical and physical composition and may be either hazardous or non-hazardous. A variety of techniques may be employed to dispose of these substances depending on the degree of hazard.

If thermal processing (incineration) is the choice for disposal, provisions must be made to ensure against entry of hazardous pollutants into the atmosphere. Consideration should also be given to recovery of materials of value in the wastes.

For those waste materials considered to be nonhazardous where land disposal is the choice for disposal, practices similar to proper sanitary landfill technology may be followed. The principles set forth in the EPA's Land Disposal of Solid Wastes Guidelines 40 CFR Part 241 may be used as guidance for acceptable land disposal techniques.

Best practicable control technology as known today requires disposal of the pollutants removed from waste waters in this point source category in the form of solid wastes and liquid concentrates. In most cases these are nonhazardous substances requiring only minimal custodial care. However, some constituents may be hazardous and may require special consideration. In order to ensure long-term protection of the environment from these hazardous or harmful constituents, special consideration of disposal sites must be made. All landfill sites where such hazardous wastes are disposed should be selected so as to prevent horizontal and vertical migration of these contaminants to ground or surface waters. In cases where geologic conditions may not reasonably ensure this, adequate legal and mechanical precautions (e.g., impervious liners) should be taken to ensure long-term protection to the environment from hazardous materials. Where appropriate, the location of solid hazardous materials disposal sites should be permanently recorded in the appropriate office of legal jurisdiction.

(v) Cost estimates for control of waste water pollutants.

Capital and annual costs were computed for each product type/process within a subcategory on the basis of the cost per 1,000 pounds. Due to the complexity and degree of integration in this point source category, it was necessary to make some simplifying assumptions in order to determine costs on a product by product basis. These assumptions are:

(1) that each product type process is a discrete plant whose process wastewater is treated in a single end-of-process waste treatment system.

(2) that all wastewaters are treated by the model end-of-process system regardless of alternate disposal techniques and in-process changes.

Removal of dissolved solids is expensive at this time. The disposal of soluble solids once they have been removed from the waste water is another difficult problem. New plants have more options in solving these problems economically than do existing plants. New source facilities with heavy dissolved solids effluents and/or heavy solid waste loads may avoid costly waste water treatments by geographical location. A favorable balance of climatic evaporation to rainfall eases these problems. Land storage or landfill space should be available for solids disposal.

Methods which may be employed to avoid major pollution problems include

use of: (1) dikes, emergency holding ponds, catch basins and other containment facilities, for leaks, spills and wash downs, in those cases where it is not possible to minimize these by modifications to in-plant operations, (2) piping, trenches, sewers, sumps, and other isolation facilities to keep leaks, spills and process water separate from cooling and (3) non-contact condensers for cooling water, (4) efficient reuse, recycling and recovery of all possible raw materials and by-products and (5) closed cycle water utilization whenever possible. Closed cycle operation eliminates all waterborne wastes to surface water.

Alternate disposal methods such as incineration or like processes are also commonly used for disposal of highly concentrated and difficult wastes. In any specific case, the manufacturer can best determine the most attractive economic alternatives for in-process controls and end-of-process treatment which will meet the limitations required.

Cost information was obtained directly from manufacturers, from engineering firms, equipment suppliers, government sources and available literature whenever possible. Costs are based on actual industrial installations or engineering estimates for projected facilities as supplied by contributing companies. In the absence of such information, costs estimates have been developed from either plant-supplied costs for similar waste treatment installation at plants making similar chemicals or general cost estimates for treatment technology.

(vi) Energy requirements and non-water quality environmental impacts.

The major nonwater quality consideration which may be associated with in-process control measures is the use of alternative means of ultimate disposal. As the process raw waste load (RWL) is reduced in volume, alternate disposal techniques may become feasible. Recent regulations are tending to limit the use of ocean discharge and deep-well injection because of the potential long-term detrimental effects associated with these disposal procedures. Incineration is a viable alternative for concentrated waste streams. Associated air pollution and the need for auxiliary fuel, depending on the heating value of the waste, are considerations which must be evaluated on an individual basis for each use.

Other nonwater quality aspects, such as noise levels, will not be perceptibly affected. Most chemical plants generate fairly high noise levels [(85–95) dB] within the battery limits because of equipment such as pumps, compressors, steam jets, flare stacks, etc. Equipment associated with in-process or end-of-pipe control systems would not add significantly to these levels.

Energy requirements associated with treatment and control technologies are estimated to be less than 2% of total plant energy requirements and are not significant when compared to the total energy requirements for this industry.

(vii) Economic impact analysis.

Executive Order 11821 (November 27, 1974) requires that major proposals for legislation and promulgation of regulations and rules by Agencies of the executive branch be accompanied by a statement certifying that the inflationary impact of the proposal has been evaluated, and OMB Circular A–107 (January 28, 1975) prescribes guidelines for the identification and evaluation of major proposals requiring preparation of inflationary impact certifications. The approved EPA criteria provide that all regulatory actions which are, likely to result in capital investment exceeding $100 million or annualized costs in exess of $50 million will require certification. The Agency's analysis indicates a $3.9 million annual cost and a $13.0 million investment for the manufacture of explosives and load, assemble and pack subcategories to meet both the 1977 and 1983 effluent limitations and guidelines, which do not exceed the specified amounts. However, the following economic and inflationary impact statement has been performed and meets all the necessary requirements.

The Agency has considered the economic impact of the internal and external costs of the effluent limitations guidelines. Internal costs given in 1975 dollars are defined as investment and annual cost, where annual cost is composed of operating costs, maintenance cost, the cost of capital and depreciation. External cost deals with the assessment of the economic impact of the internal costs in terms of price increases, production curtailments, plant closures, resultant unemployment, community and regional impacts, international trade, and industry growth.

The total investment required by both subcategories to comply with these regulations is $6.3 million for 1977 effluent limitations and an additional $6.7 million for 1983 effluent limitations. The annual costs are $2.1 million for 1977 effluent limitations and an additional $1.8 million for 1983 effluent limitations. The manufacture of explosives subcategory and the load, assemble, and pack subcategory both have relatively small internal cost, causing the external cost to be minimal.

The manufacture of explosives subcategory needs an investment of $3.5 million to meet the 1977 effluent limitations and an additional $2 million investment is necessary to meet the 1983 effluent limitations. The annual costs for this subcategory are $0.8 million for meeting the 1977 effluent limitations and an additional $0.7 million for meeting the 1983 effluent limitations. The unit treatment cost is only 0.9 to 1.9 percent of selling price for the 1977 effluent limitations and 1.7 to 3.4 percent of selling price for the 1983 effluent limitations. Most of the treatment cost for 1983 would not be required, since there is currently a strong trend towards producing ammonium nitrate based explosives rather than the more polluting nitroglycerin based explosives. Due to this industry trend and the fairly small magnitude of the costs due to 1977 standards, it is estimated that the economic impact on this subcategory is minimal.

The load, assemble and pack plant subcategory requires an investment of $2.8 million to meet the 1977 effluent limitations and an additional $4.7 million investment is necessary to meet the 1983 effluent limitations. The annual costs for this subcategory are $1.3 million for meeting the 1977 effluent limitations and an additional $1.1 million for meeting the 1983 effluent limitations. The unit treatment cost is 0.9 percent of selling price for the 1977 effluent limitations and 1.7 percent of selling price for 1983 effluent limitations. These percentages are based on the least expensive product, and would be even lower for the higher priced products. Additionally, recent historical data indicates that the demand elasticity for these products is fairly high. Therefore, it is expected that most of these costs will be passed on to the consumers of the products. For these reasons, combined with the relatively low treatment costs, the potential economic impact is expected to be insignificant.

The report entitled "Development Document for Interim Final Effluent Limitations, Guidelines and Proposed New Source Performance Standards for the Explosives Manufacturing Point Source Category" details the analysis undertaken in support of the interim final regulation set forth herein and is available for inspection in the EPA Public Information Reference Unit, Room 2922 (EPA Library), Watersickle Mall, 401 M St., SW., Washington, D.C. 20460, at all EPA regional offices, and at State water pollution control offices. A supplementary analysis prepared for EPA of the possible economic effects of the regulation is also available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by the proposed regulation or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH–552.

When this regulation is promulgated in final rather than interim form, revised copies of the Development Document will be available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis document will be available through the National Technical Information Service, Springfield, VA 22151.

(c) Summary of public participation.

Prior to this publication, the agencies and groups listed below were consulted and given an opportunity to participate in the development of effluent limitations, guidelines and standards proposed for the explosives manufacturing category. An initial draft of the Development Document was sent to most participants and comments were solicited on that report. The following are the principal agencies and groups consulted: Effluent Standards and Water Quality Information Advisory

Committee (established under section 515 of the Act); all State and U.S. Territory Pollution Control Agencies; Naval Facilities Engineering Command; Olin Corporation; Hercules, Inc.; E. I. DuPont de Nemours and Company; Tennessee Eastman Company; Environmental Defense Fund, Inc.; Natural Resources Defense Council; American Society of Civil Engineers; Water Pollution Control Federation; U.S. Army Corps of Engineers; Institute of Makers of Explosives; Bureau of Explosives, Association of American Railroads; U.S. Army Environmental Hygiene Agency; American Defense Preparedness Association; The Fertilizer Institute; Manufacturing Chemists Association; U.S. Department of Defense; U.S. Department of Interior; Atlas Powder Company; and U.S. Department of the Army.

The following responded with comments: Manufacturing Chemists Association; U.S. Water Resources Council; U.S. Department of Defense; U.S. Department of Interior; State of Delaware Department of Natural Resources and Environmental Control; North Carolina Department of Natural and Economic Resources; Michigan Department of Natural Resources; Effluent Standards and Water Quality Information Advisory Committee; National Ecological Research Center; Atlas Powder Company; Bureau of Explosives, Association of American Railroads; E. I. DuPont de Nemours and Company; Department of the Army; and Picatinny Arsenal.

The primary issues raised in the development of the interim final effluent limitations and guidelines and the treatment of these issues herein are as follows:

(1) A commenter stated that water gel manufacturing did not belong in the load, assemble and pack plant subcategory.

Water gels are manufactured from similar raw materials, generate only clean-up wastewater, and have similar raw waste loads as ANFO and other load, assemble and pack plant products, and therefore have been included in Subcategory C.

(2) It was commented that the nitroglycerin (NG) preparation described in the draft document is not currently used by the military. The Army currently uses the Biazzi process for continuous manufacture of NG.

The intent of the draft document is to cover both commercial and military explosives manufacturing operations. Commercial NG production is by the batch method and is therefore considered appropriate. The Agency is continuing to collect data on the military sector where continuous processes have been installed for nitrocellulose, nitroglycerin, and trinitrotoluene and may in the future issue different regulations for these processes.

(3) Several commenters questioned the BATEA treatment technology which is defined as filtration and activated carbon added on to the BPCTCA treatment system. Concern was expressed over the safety of the carbon regeneration step.

A number of full size activated carbon columns are currently in operation at several military manufacturing sites. To our knowledge, these operations have been executed safely. The Agency is continuing to develop a reliable data base and is charged with the responsibility to review regulations as new data becomes available.

(4) Various commenters expressed concern with the heavy reliance on biological treatment of wastes from explosives and propellants.

Treatment systems studied in the field survey were biological. The exemplary plant utilized an activated sludge system. As noted in the Development Document, the reliance on biological systems in establishing the effluent limitations does not mean that this is the only method of achieving the effluent limitations. The waste treatment models are used to facilitate economic analysis.

(5) Two commenters noted that the contractors list of significant waste water pollutant parameters is incomplete. It was suggested that pH, oil and grease, phenols, ammonia nitrogen, heavy metals, color, sulfate, nitrates and total Kjeldahl nitrogen be added.

The Agency has revised the original list of pollutant parameters printed in the draft development document. Those which are to be controlled are shown in this regulation for the subcategories being promulgated today. Some waste water pollutant parameters which were found to be present in small quantities are not proposed to be controlled at this time; however, additional studies are continuing and these may be controlled in the future.

(6) One commenter pointed out that pH variations in industry wastewater effluents are a result of the manufacture of acids and their recovery in addition to the explosives manufacturing operations. Because there is such a wide variation of pH levels and because treatment technology is available, effluent limitations should be established for this parameter.

The use of a biological treatment technology requires a pH range of 6 to 9 with the appropriate neutralization and equalization facilities to avoid shock loads to the microorganisms. The pH limitation for these explosives subcategories will be set for that range.

(7) It was suggested that additional emphasis be placed on alternative physical-chemical treatment methods which would convert the nitroglycerin, in situ, to less hazardous components rather than depend wholly on biological treatment.

The Agency agrees that the above method is a viable procedure and is an appropriate technique. The Agency has repeatedly advised that the proposed treatment model technology is only one method of meeting the limitation and that other technology can be used wherever appropriate to meet the limitations.

(8) A commenter stated that ultimate disposal methods, such as spray irrigation and deep wells, have apparently not been considered, but should be considered if only to document their relevance in terms of treatment.

Deep well disposal of explosive waste is a potential hazard to the aquifier. Therefore, this technology is not practiced by the industry and is not recommended. Spray irrigation appears to be an acceptable system where adequate land is available.

(9) Two commenters stated that they challenged the selection of biological treatment for BPCTCA based on one commercial plant.

Pollution treatment in this industry is almost uniformly inadequate. Therefore, the best information available from the industry and transfer technology between subcategories within the same industry was used in developing the limitations based on the use of a biological waste treatment system or its equivalent.

(10) One commenter pointed out that the draft document does not illustrate a prilling process.

Prill towers for ammonium nitrate are covered under existing limitations for fertilizers. The regulation for the load, assemble and pack plants subcategory applies to the production of ammonium nitrate fuel oil (ANFO) for blasting purposes.

(11) It was claimed that downflow fixed-bed carbon columns are not the recommended current treatment for TNT. One commenter stated that the Army concluded that the up flow series of fixed beds was most effective, operable and economic.

The Agency has available to it a number of sources of information on application of activated carbon including trade literature from companies who both sell activated carbon and who will be impacted by this regulation. In addition, texts on carbon adsorption are available to the public, including Agency publications. These publications do not constitute endorsement or recommendation by the U.S. Environmental Protection Agency. It is expected that plant management and its engineers will use the best available information from all sources in designing and operating the needed carbon columns.

(12) In regards to the limitations presented in Section II for BPCTCA, BATEA and BADCT in the draft document, a commenter questioned the fact that the daily maximum is increased over the daily average (maximum thirty day limitation) by a factor less than two. His experience showed that a twofold increase is insufficient to cover the statistically significant variations encountered in the biological treatment facilities operated by his company.

Because treatment is almost non-existent for this point source category and only one plant has been considered exemplary a very limited data base exists. The daily maximum and daily average for BOD and COD have been developed from this data. Our numbers show approximately a two-fold ratio of maximum values to average values; the Agency has used a factor of three to establish the maximum day limitation on the basis of information gained by the use of technology transfer. When a more reliable data base is developed the Agency is

charged with the responsibility to review the regulations. At that time the variability factors will be reevaluated.

(13) It was stated by one commenter that the contractor draft document should have indicated restrictions on the allowable discharge of specific pollutants (such as TNT, RDX, etc.).

The time constraints imposed upon the Agency precluded an exhaustive testing and sampling program for trace quantities of explosives by specific compound(s) at this time. The data base available on trace quantities of specific explosives is very limited and judged to be insufficient to develop regulations at this time. Therefore, gross parameters such as BOD5, COD, TOC and TSS have been relied upon for these effluent limitations.

(14) Various commenters made statements that performance factors from the pharmaceutical industry should not have been used to establish TSS (total suspended solids) effluent limitations guidelines in explosives manufacturing.

Due to the similarity of the wastes generated and treatment systems available for use in both the pharmaceutical and explosives point source categories, the technology has been transferred. Both are generally batch type operations using non-dedicated equipment and generating a wide pH range of effluents. In addition, the treatment technology from the inorganic chemicals manufacturing point source category, the fertilizer manufacturing point source category and the petroleum refining point source category have been transferred to applicable subcategories in this point source category. The wastes from the fertilizer and petroleum manufacturing processes and their treatability are quite similar to treatment in this point source category and the model technologies are therefore used.

(15) Current economic impact data indicates that the original treatment model (filtration and activated carbon added on to BPCTCA) used for BAT in subcategory C may be excessive.

In order to compensate for this potential problem, more appropriate limitations and technology have been set forth in Section XI (New Source Performance Standards) of the development document and § 457.35 of the regulations shall be applied as BATEA for subcategory C. The Agency is developing additional data in this respect and it is possible that at a future date the activated carbon step may again be considered in the waste treatment system.

A number of other comments were received and were considered not to be applicable to the subcategories being promulgated today and have been omitted from the preceding discussion. Appropriate consideration and responses will be made at the time of publication of the regulations applicable to those subcategories.

The Agency is subject to an order of the United States District Court for the District of Columbia entered in *Natural Resources Defense Council* v *Train* et al. (Cv. No. 1609–73) motion for modification which requires the promulgation of regulations for this point source category no later than March 1, 1976. This order also requires that such regulations become effective immediately upon publication. In addition, it is necessary to promulgate regulations establishing limitations on the discharge of pollutants from point sources in this category so that the process of issuing permits to individual dischargers under section 402 of the Act is not delayed.

It has not been practicable to develop and publish regulations for this category in proposed form, to provide a 30 day comment period, and to make any necessary revisions in light of the comments received within the time constraints imposed by the court order referred to above. Accordingly, the Agency has determined pursuant to 5 USC § 553 (b) that notice and comment on the interim final regulations would be impracticable and contrary to the public interest. Good cause is also found for these regulations to become effective immediately upon publication.

Interested persons are encouraged to submit written comments. Comments should be submitted in triplicate to the Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, Attention: Distribution Officer, WH–552. Comments on all aspects of the regulation are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data are essential to the amendment or modification of the regulation. In the event comments address the approach taken by the Agency in establishing an effluent limitation or guideline EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301 and 304(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St. SW., Washington, D.C. 20460. A copy of preliminary draft contractor reports, the Development Document and economic study referred to above, and certain supplementary materials supporting the study of the industry concerned will also be maintained at this location for public review and copying. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

All comments received on or before April 8, 1976 will be considered. Steps previously taken by the Environmental Protection Agency to facilitate public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973 (38 FR 21202). In the event that the final regulation differs substantially from the interim final regulation set forth herein the Agency will consider petitions for reconsideration of any permits issued in accordance with these interim final regulations.

In consideration of the foregoing, 40 CFR Part 457 is hereby established as set forth below.

Dated: February 27, 1976.

RUSSELL E. TRAIN,
Administrator.

Subpart A—Manufacture of Explosives Subcategory

Sec.
457.10 Applicability; description of the commercial manufacturer of explosives subcategory.
457.11 Specialized definitions.
457.12 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart B—[Reserved]

Subpart C—Explosives Load, Assemble, and Pack Plants Subcategory

Sec.
457.30 Applicability; description of the commercial explosives load, assemble and pack plants subcategory.
457.31 Specialized definitions.
457.32 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

AUTHORITY: Secs. 301, 304(b) and (c), 306 (b), 307(b) and (c), Federal Water Pollution Control Acts, as amended (33 U.S.C. 1251, 1311, 1314(b) and (c), 1316(b) and 1317(b) and (c), 86 Stat. 816 et seq.; Pub. L. 92–500) (the Act).

Subpart A—Manufacture of Explosives Subcategory

§ 457.10 Applicability; description of the commercial manufacture of explosives subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of explosives.

§ 457.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "product" shall mean dynamite, nitroglycerin, cyclotrimethylene trinitramine (RDX), cyclotetramethylene tetranitramine (HMX), and trinitrotoluene (TNT).

§ 457.12 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, FPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products, produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Re-

gional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the manufacture of explosives by a point source subject to the provisions of this paragraph after application of the best practical control technology currently available:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

Effluent characteristic	Effluent limitations	
	Maximum for any one day	Average of daily values for 30 consecutive days shall not exceed—
COD	7.77	2.59
BOD5	0.72	0.24
TSS	0.25	0.084
pH	Within the range 6.0 to 9.0.	

Subpart B—[Reserved]

Subpart C—Explosives Load, Assemble, and Pack Plants Subcategory

§ 457.30 Applicability; description of the commercial explosives load, assemble and pack plants subcategory.

The provisions of this subpart are applicable to discharges resulting from explosives load, assemble and pack plants.

§ 457.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) The term "product" shall mean products from plants which blend explosives and market a final product, and plants that fill shells and blasting caps. Examples of such installations would be plants manufacturing ammonium nitrate and fuel oil (ANFO), nitrocarbonitrate (NCN), slurries, water gels, and shells.

§ 457.32 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged from the explosives load, assemble and pack plants by a point source subject to the provisions of this paragraph after application of the best practical control technology currently available:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
O&G	0.11	0.035
TSS	0.26	0.088
pH	Within the range 6.0 to 9.0.	

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 457]

[FRL 500-2]

STANDARDS OF PERFORMANCE FOR NEW SOURCES AND PRETREATMENT STANDARDS FOR EXISTING AND FOR NEW SOURCES FOR THE EXPLOSIVES MANUFACTURING POINT SOURCE CATEGORY

Notice of Proposed Rule Making

Notice is hereby given that effluent limitations and guidelines for existing sources, standards of performance and pretreatment standards for new sources and pretreatment standards for existing sources set forth in tentative form below are proposed by the Environmental Protection Agency (EPA). The explosives manufacturing point source category covers both the military and commercial manufacturing operations. Simultaneously with this notice of proposed rulemaking, EPA is promulgating a regulation adding Part 457 to Chapter 40 of the Code of Federal Regulations. That regulation establishes effluent limitations and guidelines for existing sources based on the best practicable control technology currently available for the explosives manufacturing point source category. The regulation proposed below will amend 40 CFR 457—explosives manufacturing point source category by adding §§ 457.14, 457.15 and 457.16 to the manufacture of explosives subcategory (Subpart A) and §§ 457.34, 457.35 and 457.36 to the explosives load, assemble, and pack plants subcategory (Subpart C) pursuant to sections 306(b) and 307 (b) and (c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1316(b) and 1317 (b) and (c), 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act). Simultaneously with this proposed rule making EPA is promulgating interim final regulations which establish the above listed subparts.

(a) Legal authority.

Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of the Act.

Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedural innovations, operating methods and other alternatives. The regulation herein sets forth effluent limitations and guidelines, pursuant to sections 301 and 304(b) of the Act, for the manufacture of explosives subcategory (Subpart A) and the explosives load, assemble and pack plants subcategory (Subpart C) of the explosives manufacturing point source category.

Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306(b)(1)(B) of the Act requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306(b)(1)(A) of the Act. Simultaneously with the appearance of the proposed rulemaking is a FEDERAL REGISTER notice titled "Addition to the List of Categories of Sources." This notice adds the Part 457—explosives manufacturing point source category and is in accordance with the provisions of section 306(b)(1)(A) of the Act. The regulations proposed herein set forth the standards of performance applicable to new sources for the manufacture of explosives subcategory (Subpart A) and the explosives load, assemble and pack plants subcategory (Subpart C) of the explosives manufacturing point source category.

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that standards of performance for new sources are promulgated pursuant ta section 306. Sections 457.16 and 457.36, proposed below, provide pretreatment standards for new sources within the manufacture of explosives subcategory (Subpart A) and the explosives load, assemble and pack plants subcategory (Subpart C), respectively, of the explosives manufacturing point source category. Section 307(b) of the Act requires the establishment of pretreatment standards for pollutants introduced into publicly owned treatment works and 40 CFR Part 128 establishes that the Agency will propose specific pretreatment standards at the time effluent limitations are established for point source discharges. Sections 457.14 and 457.34 proposed below provide pretreatment standards for existing sources within the manufacture of explosives subcategory (Subpart A) and the explosives load, assemble and pack plants subcategory (Subpart C), respectively, of the explosives manufacturing point source category.

(b) Summary and basis of proposed standards of performance and pretreatment standards for new sources and pretreatment standards for existing sources.

The general methodology and summary of conclusions are discussed in considerable detail in the preamble of the interim final regulations for the manufacture of explosives subcategory (Subpart A) and the explosives load, assemble and pack plants subcategory (Subpart C) which are being promulgated by EPA simultaneously with publication of this proposed regulation. The information contained in the preamble to the interim final regulation is incorporated herein by reference. The proposed regulation set forth below proposes pretreatment standards for pollutants introduced into publicly owned treatment works. The proposal will establish for each subpart the extent of application of effluent limitations to existing sources and to new sources which discharge to publicly owned treatment works. This regulation is intended to be complementary to the general regulation for pretreatment standards for existing sources set forth at 40 CFR Part 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982). The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the limitations and standards apply. However, the proposed pretreatment regulation applies to the introduction of pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories; "compatible" and "incompatible." Compatible pollutants are generally not subject to specific numerical pretreatment standards. However, 40 CFR 128.131 (prohibited wastes) may be applicable to compatible pollutants. Additionally, local preatment requirements may apply (See 40 CFR 128.110). Incompatible pollutants are subject generally to pretreatment standards as provided in 40 CFR 128.133.

Sections 457.14 and 457.34 of the regulation proposed below are intended to implement the intent of § 128.133, by setting forth specific numeric limitations for particular pollutants subject to pretreatment requirements.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations and guidelines is adequate to make a determination regarding the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the applica-

tion of effluent limitations and guidelines to users of publicly owned treatment works.

The report entitled "Development Document for Interim Final Effluent Limitations, Guidelines and New Source Performance Standards for the Explosives Manufacturing Point Source Category" details the analysis undertaken in support of the regulation being proposed herein and is available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St., SW., Washington, D.C., 20460, at all EPA regional offices, and at State water polution control offices. A supplementary analysis prepared for EPA of the possible economic effects of the proposed regulation is also available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by the proposed regulation or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 F.R. 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH-552.

When this regulation is promulgated, revised copies of the Development Document will be available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the Economic Analysis will be available through the National Technical Information Service, Springfield, Virginia 22151.

(c) Summary of public participation.

A full listing of participants and discussion of comments and responses is included in the preamble of the interim final regulation for the manufacture of explosives subcategory (Subpart A) and the explosives load, assembly and pack plants subcategory (Subpart C) being simultaneously promulgated by EPA and are incorporated herein by reference.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460. Attention: Distribution Officer, WH-552. Comments on all aspects of the proposed regulation are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data are essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing a standard of performance or pretreatment standard, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 306 and 307 (b) and (c) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A copy of the preliminary draft contractor reports, the development documents and economic study referred to above, and certain supplementary materials supporting the study of the industry concerned will also be maintained at this location for public review and copying. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

All comments received on or before April 8, 1976 will be considered. Steps previously taken by the Environmental Protection Agency to facilitate public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973 (38 FR 21202).

Dated: February 27, 1976.

RUSSELL E. TRAIN,
Administrator.

PART 457—EXPLOSIVES MANUFACTURING POINT SOURCE CATEGORY

Subpart A—Manufacture of Explosives Subcategory

Sec.

457.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

457.14 Pretreatment standards for existing sources.

457.15 Standards of performance for new sources.

457.16 Pretreatment standards for new sources.

Subpart B—[Reserved]

Subpart C—Explosives Load, Assemble, and Pack Plants Subcategory

Sec.

457.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

457.34 Pretreatment standards for existing sources.

457.35 Standards of performance for new sources.

457.36 Pretreatment standards for new sources.

AUTHORITY: Sec. 301, 304(b) and (c), 306 (b), 307(b) and (c), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316(b) and 1317 (b) and (c), 86 Stat. 816 et. seq.; Pub. L. 92-500) (the Act).

Subpart A—Manufacture of Explosives Subcategory

§ 457.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged from the manufacture of explosives subcategory by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
COD	0.85	0.55
BOD5	0.11	0.067
TSS	0.034	0.017
pH	Within the range 6.0 to 9.0.	

§ 457.14 Pretreatment Standard for Existing Sources.

The pretreatment standard under section 307(b) of the Act for a source within the manufacture of explosives subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
Oil and grease	100 mg/1.

§ 457.15 Standards of performance for new sources.

The folowing standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged from the manufacture of explosives subcategory by a new source subject to the provisions of this subpart:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
COD	3.6	2.3
BOD5	0.35	0.22
TSS	0.067	0.034
pH	Within the range 6.0 to 9.0.	

§ 457.16 Pretreatment Standard for New Sources.

The pretreatment standard under section 307(c) of the Act for a new source within the manufacture of explosives subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
Oil and grease	100 mg/1.

Subpart B [Reserved]

Subpart C—Explosives Load, Assemble and Pack Plants Subcategory

§ 457.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged from the explosives load, assemble, and pack plants subcategory by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
TSS	0.070	0.035
Oil and grease	0.035	0.018
pH	Within the range 6.0 to 9.0.	----------

§ 457.34 Pretreatment Standard for Existing Sources.

The pretreatment standard under section 307(b) of the Act for a source within the explosives load, assemble, and pack plants subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be an existing point source subject to section 301 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a point source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
Oil and grease	100 mg/1.

§ 457.35 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged from the explosives load, assemble, and pack plants subcategory by a new source subject to the provisions of this subpart:

[Metric units, kg/kkg of product; English units, lb/1,000 lb of product]

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
TSS	0.070	0.035
Oil and grease	0.035	0.018
pH	Within the range 6.0 to 9.0.	----------

§ 457.36 Pretreatment Standard for New Sources.

The pretreatment standard under section 307(c) of the Act for a new source within the explosives load, assemble, and pack plants subcategory which is a user of a publicly owned treatment works and a major contributing industry as defined in 40 CFR Part 128 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the same standard as set forth in 40 CFR Part 128, for existing sources, except that, for the purpose of this section, 40 CFR 128.121, 128.122, 128.132 and 128.133 shall not apply. The following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to a publicly owned treatment works by a new source subject to the provisions of this subpart:

Pollutant or pollutant property	*Pretreatment standard*
BOD5	No limitation.
TSS	Do.
Oil and grease	100 mg/1.

[FR Doc.76-6598 Filed 3-8-76;8:45 am]

federal register

TUESDAY, MARCH 9, 1976



PART IV:

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

Guarding of Farm Field Equipment, Farmstead Equipment and Cotton Gins

Title 29—Labor

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

[S-74-3]

PART 1928—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

Guarding of Farm Field Equipment, Farmstead Equipment, and Cotton Gins

Pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655), Secretary of Labor's Order No. 12–71 (36 FR 8754) and 29 CFR Part 1911, Chapter XVII of Title 29, Code of Federal Regulations, is hereby amended in the manner set forth below, by adding a new Subpart D and § 1928.57 in Part 1928, to provide a new standard for the guarding of farm field equipment, farmstead equipment, and cotton gins.

I. *Background.* Machinery accidents have been a major cause of employee injury and death on the farm. In recognition of this serious problem, the Standards Advisory Committee on Agriculture ("SACA") convened a subcommittee to study possible solutions in Iowa City, Iowa, on December 19, 1972. The subcommittee subsequently met in Denver, Colorado, on March 14 and 15, 1973, in St. Louis, Missouri, on April 13, 1973, and in Washington, D.C. on June 7 and 8, and August 20 and 21, 1973. The subcommittee's recommendations were adopted by the full Committee and submitted to the Assistant Secretary of Labor for Occupational Safety and Health on September 19, 1973.

On February 8, 1974, a proposed standard for guarding of agricultural equipment was published in the FEDERAL REGISTER (39 FR 4925). It was substantially based on the recommendations of the SACA. Interested persons were given 60 days to submit written data, views, and arguments concerning the proposal. Objections and requests for an informal hearing were also invited.

Following an extension of the time period for receipt of written comments (39 FR 11432; March 28, 1974), and upon receipt of numerous requests for a hearing, a notice was published in the FEDERAL REGISTER on July 31, 1974 (39 FR 27708) pursuant to section 6(b)(3) of the Act, scheduling an informal public hearing on the proposal at four locations. A correction to that notice was published on August 2, 1974 (39 FR 27916). The hearing requests raised 12 major issues, which were specified in the notice of hearing as issues to be addressed at the hearing.

The informal public hearings were held on August 22, 1974, in Washington, D.C.; on August 26, 1974, in Madison, Wisconsin; on August 29, 1974, in Phoenix, Arizona; and on September 4, 1974, in Oklahoma City, Oklahoma. The record of the rulemaking proceeding includes all evidence considered by the SACA and the Assistant Secretary in developing the proposed standard including approximately 450 pages of testimony received by the Committee and subcommittee, the recommendations of the SACA, over 350 written comments submitted by interested persons in response to the proposal, evidence submitted into the record by the Occupational Safety and Health Administration (OSHA), approximately 540 pages of testimony and 67 exhibits received at the hearing and over 30 post-hearing comments. The entire record was thoroughly reviewed and evaluated in reaching the determinations set forth below and in developing this final standard.

II. *The final standard.* (1) *Generally.* Briefly, the final standard contains general requirements applicable to all covered agricultural equipment (paragraph (a)), and, in paragraphs (b), (c) and (d), contains particular requirements for farm field, farmstead and cotton ginning equipment respectively. Provisions which are equally applicable to all covered equipment, such as the basic requirement for guarding farm machinery, the priority for the use of guards or guarding by location over the use of guardrails, certain design requirements of these guarding methods, special provisions for servicing and maintenance of equipment, and general requirements for training of employees are, where possible, included in paragraph (a). This has necessitated some reorganization of the provisions contained in the proposal and the movement of some requirements from proposed paragraphs (b), (c) and (d) into paragraph (a) of the final standard. Minor, insubstantial changes of language have also been made in order to accommodate this organizational framework of the standard. In addition, the applicability of certain proposed requirements to farm field and/or farmstead equipment has been clarified in the final on the basis of comments received as to the appropriateness of particular provisions of the proposal for particular types of agricultural machinery.

The final standard requires that all farm field and farmstead equipment, regardless of date of manufacture, be provided with guarding of the power take-off drive. The proposed requirement that all power transmission components be fully guarded has been changed to require only nip-point guarding, and the proposed retrofit requirement has been eliminated for guarding of power transmission components other than power take-off drives. Nip-point guarding of power transmission components will be required on all farm field and farmstead equipment manufactured on or after June 7, 1976.

The final standard retains the requirement contained in the proposal that employee operators be instructed in the safe operation and servicing of machinery which they operate, and retains, with some modification, requirements that functional components be guarded. In addition, means must be provided to prevent inadvertent application of electrical power to farmstead equipment. Further, all cotton gin power transmission and functional components must be guarded by June 30, 1977. The final standard, modifying the proposal in this regard, requires that a warning sign be posted where a component continues to rotate after power is shut off and that, on new equipment, a visible or audible warning be installed as well.

(2) *Issues involved in the proceeding.* Following is a discussion of the major issues which were specified in the notice of hearing and involved in the proceeding, and of the significant changes reflected in the final standard.

(a) *Whether an agricultural machinery guarding standard will improve safety in the agricultural workplace.* It was a matter of general agreement that unguarded agricultural machinery presents a significant hazard. (See e.g. Transcript ("Tr.") I–20, 123). The National Safety Council ("NSC") estimated, in "Accident Facts," (1973) (Exhibit ("Exh.") 8), that agriculture is the country's third most hazardous industry, involving an estimated 2,200 fatalities and 200,000 disabling injuries in 1972. The NSC also estimated that 20% of all injuries reported in agriculture between 1969–1972 were related to the use of farm machinery, and that the average time lost for injuries of the "caught in between" category was 18.7 days, with an average medical cost of $228. (See Exh. 8: "Accident Facts," (1973), p. 86; and NSC's 10 State Accident Survey ("10 State Study"). See also Tr. I–10). The "Study of Work Injuries in California Agriculture" (1970) (Exh. 8), one of the state studies included in the record, found that approximately 9% of disabling injuries in 1970 in California agriculture involved machines, and that 6% of disabling injuries were of the "caught in or between" type. A substantial hazard to employees is clearly presented by unguarded agricultural machinery.

While these statistics are helpful in reaching the conclusion that unguarded machinery is hazardous, they are admittedly deficient in several respects. First, although a significant number of accidents categorized as "caught in between" have clearly been caused by moving machinery parts, not all "caught in between" accidents are necessarily accidents resulting from persons being "caught in between" moving machinery parts. Second, these statistics are not very helpful in determining the relative hazard of the various types of agricultural machinery. Nevertheless, in view of the clear hazard involved, we cannot withhold regulation until indisputable evidence establishes the precise degree of hazard associated with the various types of agricultural machinery. We have therefore exercised our best judgment, based on the evidence which is available as to what is appropriate and necessary to protect employees.

As will be discussed more fully below, we believe that a farm machine guarded against the hazards which are known to cause injury, and operated by an employee well-instructed in the methods of operating the machine, will significantly improve safety in agricultural workplaces (Tr. I–31).

(b) *Whether a retrofit requirement is feasible and necessary to provide adequate safety for employees.* Most of the participants in the rulemaking proceeding were opposed to the proposed requirement for retrofit of all machinery. While the final rule does not require retrofit of all machinery, it is required for certain machinery. The issue of retrofit will be addressed fully below in connection with the discussion of specific machinery.

(c) *Whether a warning device indicating rotation of those components which may continue to rotate after the power is disengaged is helpful, feasible, or necessary for improved safety, and, if so, the type of device that should be used.* This issue arose out of the requirement in paragraphs (b)(4)(iii) and (c)(4)(iii) of the proposal that an audible warning be provided in the immediate area of any component which continues to rotate after the power is disengaged. The comments and hearing testimony on this issue were directed not to the question of whether some type of warning was necessary, which was conceded, but as to whether such warnings should be restricted to an audible device.

It is clear that an effective warning device is necessary to protect employees, since certain components continue to rotate at extremely high speeds after power is disengaged and such movement is not readily apparent to an employee operator (e.g. Tr. I–50–51, II–57–59, IV–79–80, 107, Exhs. 13, 62, 65). The SACA recommended that "a suitable warning" be required. (See Exh. 6). After the proposed audible warning requirement was published, the SACA, acting on its own, reiterated its recommendation that any suitable warning be required. In addition, manufacturers, farmers, and employees all agreed that, while audible warnings are effective, an audible warning requirement was too restrictive, since a visual warning could also adequately inform the employee of the rotating component. Moreover, in some circumstances, an audible warning may be less reliable than a visual warning. For example, an audible warning may not be discernible in an area where other machinery is operating. Manufacturers in particular also testified that permitting "only a single type of warning device in all situations unnecessarily restricts design and prevents engineers from deciding what type of warning is most appropriate and reliable for a given machine." (John Deere testimony, Tr. II–57). Finally, depending upon the type of machine and the type of hazard, "more than one type of safety communication may be desirable to provide adequate warning." (Tr. II–57). In view of this evidence, there appears to be no reason to limit the warning mechanism to an audible one.

Accordingly, the final standard in paragraphs (b)(4)(ii)(A) and (c)(4)(ii)(A), requires a readily visible or audible warning of rotation where removal of a guard or access door exposes an employee to any component which continues to rotate after the power is disengaged. This warning of rotation need not be a special device, such as a bell or flashing light, as long as it adequately warns the employee, for example through the clicking sound of an overriding clutch, that the component is still rotating. In addition, a new provision has been added requiring that a sign must be conspicuously posted which tells the employee to look and listen for evidence of rotation and not to remove the guard or access door until all components have stopped. This sign is viewed as an element of the requirement in paragraph (a)(6) that employees be trained regarding the safe servicing and maintenance of equipment; it is also related to the requirements for warning signs near other moving machinery parts, such as power take-off shafts. We believe that the above requirements are necessary to protect employees from this hazard.

The final rule requires the warning sign to be conspicuously posted on all machinery, regardless of the date of manufacture. The requirement to retrofit existing machinery with warning signs does not appear to pose any unusual technological difficulties. However, contrary to the proposal, a visible or audible warning is not required for existing machinery because of the technological difficulties inherent in meeting such a requirement. Thus, in order to be effective, a warning device must be an integral part of the machine and often must be protected against the agricultural environment. It is clear that a warning device which is not functioning properly may well present a greater hazard to employees than no warning device, by creating a false sense of security. Yet, if retrofit were required, we do not have reasonable assurances that effective warning devices would be installed. Thus, in many instances, farm machinery was not designed for an audible or visual warning. Employers, who often may not be technically qualified to design and install such a device, would be forced to either install a "homemade" device or seek the services of a custom machine shop, which itself may not be qualified to design and install an effective visual or audible warning device. In these circumstances, we do not believe that a retrofit requirement would meaningfully increase employee safety.

The requirement for a visible or audible warning device applies to equipment manufactured after June 7, 1976. This will allow manufacturers a period to install warning devices on new equipment.

(d) *Whether full guarding of power transmission components (other than power take-off shafts) is necessary and feasible to provide safety for employees, or whether nip-point guarding is adequate.* Employers and manufacturers contended that the proposal, which would have required full guarding of all power transmission components of farm field and farmstead equipment, should be changed in the final rule to require only nip-point guarding. This suggestion was consistent with the SACA recommendations, which would have required only nip-point guarding. In large part, this argument was based on the lack of showing any safety need for full guarding, with the exception of the power take-off shaft (see issue (g) below, e.g. Tr. I–110, II–64–65, IV–81).

The accident statistics indicate that either full guarding or nip-point guarding will significantly increase employee safety. However, these statistics are not helpful in determining the relative effectiveness of full guarding vs. nip-point guarding, particularly with respect to preventing serious injuries. It is clear from the record, however, that nip-point guarding is far more feasible than full guarding. Thus, full guarding, unlike nip-point guarding, would often seriously impede the function of the machine, so that it would be impossible for such machinery to efficiently perform its intended function. The nature of agricultural operations, unlike general industry operations, inevitably exposes agricultural machinery to conditions which require continual unclogging, maintenance, monitoring, servicing, and adjusting. (Tri. II–99–101). Clearly, full guarding would impede these functions far more than nip-point guarding (e.g. Tr. I–32, 105, 106; Tr. IV–80–82).

Additionally, the economic impact of requiring full guarding would be substantially greater than the economic impact of requiring nip-point guarding. Thus, a manufacturer estimated that full guarding would increase the cost of certain machinery by 10% (Tr. I–106). Factors such as new design, a two season testing period, and an increase in the amount of materials used would contribute to the increased cost. On the other hand, since nip-point guarding is presently provided by manufacturers of agricultural machinery (e.g. Tr. I–118, 126; Tr. II–65), the economic impact of requiring nip-point guarding for all hazardous exposed moving machine parts would be expected to be relatively minor. Accordingly, in view of the questionable value of full guarding over nip-point guarding in preventing serious injuries and in view of the significant feasibility problems associated with a requirement for full guarding, the final rule requires nip-point guarding of power transmission components (other than power take-off shafts) in farm field and farmstead equipment. (The requirements for full guarding in cotton gins is retained, however. See discussion below.)

Most participants were against the proposed retrofit requirement for guarding of power transmission components other than power take-off shafts. Among the arguments presented against retrofit were the following: (1) the accident statistics do not support a retrofit requirement (e.g. Tr. II–56; IV–77–78); (2) such guarding is not presently available in sufficient quantities to meet the anticipated demand (e.g. Tr. I–118–120); (3) manufacturers are having difficulty meeting the demand for new equipment and an additional heavy demand for guards for old equipment could probably not be adequately met until the availability of materials increases and/

or demand for new equipment decreases (e.g. Tr. II–75, Exh. 58); (4) the cost of retrofit is not warranted and may result in the premature obsolescence of some farm machinery (Exh. 7); and (5) employers who are unable to obtain guards from manufacturers will be required to purchase costly custom made guards or make their own guards, which may be of questionable quality and contribute to a false sense of security on the part of employee operators (e.g. Tr. I–107; II–56).

After careful consideration of the above arguments and the SACA's recommendation against a retrofit requirement for nip-point guarding, we have decided for the following reasons not to require employers to retrofit.

While it is true that unguarded nip-points do present a hazard to employees, it is clear that the hazard is not as severe as that presented by other farm machinery parts, such as power take-off shafts (e.g. Tr. I–121, and issue (g), below.)

In addition, a retrofit requirement would present severe technological and economic difficulties. Thus, in many instances, existing farm machinery was not designed for guarding of many nip-points. Therefore, in order to meet the demand which would be created by a retrofit requirement, manufacturers would have to direct their resources from the manufacture of new machinery which meets the requirements of the standard, and from research and development of new technology which is intended to increase safety in agricultural workplaces, into attempts to design and manufacture guards for existing machinery. And, those employers who are unable to obtain guards from manufacturers would either purchase costly guards which are custom designed, manufactured, and installed, or be forced to make their own guards, which may provide inadequate protection.

The economic impact of requiring retrofit of nip-point guarding would, in our view, be substantial. Evidence in the record put the cost of retrofitting farm machinery with full guards at up to one billion dollars (e.g. Exh. 7). While we recognize that this estimated impact for full guarding retrofit is substantially higher than the cost of a retrofit requirement limited to nip-point guarding, and while we cannot on the record before us precisely determine the economic impact of a retrofit requirement for nip-point guarding, we believe it is clear that the impact would be substantial. In addition, we agree that premature obsolescence of some machinery would result if retrofit were required. That is, employers could be placed in a position in which the cost of retrofit would force them to purchase a new machine rather than retrofit an older machine which is still adequately performing its intended function.

Attempts to arrive at a solution between no retrofitting and full retrofitting of nip-point guarding were made, including consideration of the possibility of requiring machines to be provided with the type of guard originally supplied with the machine, i.e., to ensure that farm employers would at least maintain the equipment in its original safety condition rather than allowing broken and worn out guarding to go unreplaced. While many favorable comments were received with respect to this suggestion (e.g. Tr. II–22, 32), and while it would meet some of the technological and economic feasibility problems of full retrofitting, more substantial opposing testimony was received. In particular manufacturers pointed out that although some backlog of parts was kept, their stock of old guards would clearly be inadequate to meet the demand that would be created by a retrofit requirement. (E.g. Tr. I–98, 119–120, II–78–81). Many of such guards were manufactured by companies that have since gone out of business. (Tr. I–119). In any event, where retooling is needed to produce these guards, the cost of such guards might be quite high for the hazard being protected against. In addition to the general unavailability of guards to meet a retrofit requirement, very serious enforcement problems would be created by a requirement contingent not on a readily ascertainable date of manufacture, as is the case with the final standard promulgated herein, but on whether the machinery had been designed for guarding.

In view of these factors, the final standard applies the guarding requirements of paragraphs (b)(2) and (b)(3), and (c)(2) and (c)(3) only to equipment manufactured after June 7, 1976. We believe that the final rule represents an appropriate consideration of safety and feasibility factors. Thus, under the final rule, a significant and growing number of employees will be protected from the hazards associated with unguarded machinery, while the substantial technological and economic difficulties which would result from a retrofit requirement in this case will be avoided.

As discussed more fully below, however, power take-off shafts must be retrofitted in view of the significantly greater hazard presented by power take-off shafts and in view of the fact that PTO guarding has been provided for many years. In addition, as noted below, cotton gins will have to be retrofitted when the requirements of paragraph (d) become effective on June 30, 1977.

(e) *Whether strength requirements for guards should be included in the standard and, if so, in what manner the requirement should be stated.* This issue principally involved the extent to which strength requirements for guards should be specified, rather than be phrased in terms of the performance required. Manufacturers testified that the specification of strength requirements would unnecessarily restrict the design of guards (e.g., Tr. I–111–112, 123–124; Tr. II–65–66, 84–85), which should be designed to perform a particular function, and which, depending upon the location of the guard, might have to withstand forces ranging from a few pounds to several hundred pounds. We agree. Accordingly, the final rule establishes a performance standard which requires every guard to be capable of withstanding the force that a 250 pound individual, leaning or falling against the guard, would be expected to exert upon that guard. The actual strength that a particular guard must have will therefore be dependent on a consideration of this parameter along with location of the guard, materials used, etc. In addition to the adoption of performance language with respect to the strength of guards, the final standard, in paragraph (a)(10), has eliminated the specification requirements of the proposal as to standard railings and replaced them with performance language. Thus for farm field and farmstead equipment in particular, the usual requirements as to height and construction of guardrails would often prove inappropriate. For cotton gins, however, which more closely resemble conditions in general industry, some of the design requirements for guardrails have been retained in paragraph (d)(1)(ii).

(f) *Whether there are instances where a guard should not be required at all because of the component's location and, if so, specifically what these instances are.* The proposed concept of guarding by location was universally endorsed. Clearly, where a component is located so that it does not present a hazard, it is unnecessary to also require a guard. Accordingly, the final rule establishes a performance standard which permits guarding by location.

Under the proposal, all components which are seven feet or more above the working surface would have been considered guarded by location. However, it was pointed out that this provision failed to take into account the possibility that certain components which are more than seven feet above the working surface may nevertheless present a hazard (comment 330). Difficulties are inherent in any attempt to select a specific height requirement which will be appropriate in all circumstances. The final rule, therefore, permits employers to guard by location only where no employee can inadvertently come into contact with the hazard, regardless of the distance between the component and the working surface.

(g) *Whether the requirements for power take-off guarding are adequate or necessary to provide safety for employees.* It was generally agreed that an unguarded power take-off shaft is recognized throughout the agricultural industry as extremely hazardous; that power take-off injuries are usually quite severe; and that because of the extreme hazard, power take-off guarding is necessary for old as well as new equipment (e.g. Tr. I–15, 36, 44, 66, 108, 128, II–19, 67–69, Exhs. 11 and 32). The principal issue regarding power take-off (PTO) shaft guarding that arose during the rulemaking proceeding was the amount of time necessary to install guards on existing power take-off shafts.

PTO guarding has been provided by farm machinery manufacturers for many years, "probably 50 years" by International Harvester (Tr. I–117) and over

34 years by John Deere (Tr. II–77). Manufacturers and others testified, however, that they needed time to produce guards to meet the anticipated increased demand resulting from a final rule, and that particularly for older machines an extended time lag was necessary (e.g. Tr. II–74–75). Nevertheless, it appears clear to us that allowing a delayed retrofit for PTO guarding cannot be reconciled with the fact that an unguarded PTO shaft is clearly a recognized hazard likely to cause death or serious physical harm to exposed employees and has been enforced as such under section 5(a)(1) of the Act (84 Stat. 1593, 29 U.S.C. 654). The SACA also recognized the need for PTO retrofit and included a PTO retrofit requirement in the recommendations to the Assistant Secretary.

In making their estimates that extra time was needed to manufacture PTO guards for retrofit purposes, manufacturers admitted that these time figures were just estimates, and that there was no way to determine the increase in demand for such guards for existing equipment (e.g. Tr. I–116–117, II–79). In light of the gravity of the hazard, we decline to sanction any delay in retrofit simply because there is some possibility that PTO guards may not be immediately available to all employers. Accordingly, the standard does not provide any delay in the PTO guarding requirement beyond the effective date of the rest of the standard.

Manufacturers testified that retrofit should not be required for tractor mounted implements attached by three-point hitches, since the shafts of three-point hitch tractors are guarded by location (e.g. Tr. I–92–95). While it is true that these shafts are less accessible to operators than the ones on towed equipment (Exh. 18), they are located within an arm's length and can be contacted and cause injury if unguarded. Manufacturers have recognized this fact and have guarded such PTO shafts in recent years. An exemption for this type of shaft cannot be justified.

Accordingly, based upon the foregoing, and particularly noting the severe hazard presented by an unguarded power take-off shaft, the final rule continues our present policy of requiring full guarding of all power take-off shafts, regardless of the date of manufacture.

In addition, to clarify the intent of proposed paragraph (c)(1), which required the guarding of power take-off driven equipment and any portion of the PTO shaft which protrudes from the tractor, an explicit provision has been included in paragraph (c)(1)(i) of the final standard requiring guarding of PTO shafts on farmstead equipment.

(h) *To what extent functional components (points of operation) should be required to be guarded and how these requirements should be specified.* The relatively few comments received on this issue were concerned principally with the clarity of wording of paragraph (b)(3) of the proposal (e.g. Tr. I–60–61). The intent of the proposal was to require guarding of these components to the extent possible, recognizing that such components often cannot be guarded without substantially impeding normal operation of the equipment. We have attempted to clarify paragraph (b)(3) by changing the proposed requirement from "shall be shielded to a degree consistent with the intended function of the component," to "shall be guarded to the fullest extent which will not substantially interfere with normal functioning of the component." A paragarph (c)(3)(i), with language similar to paragraph (b)(3), has been added, to make explicit the application of this principle to farmstead equipment.

Comments were also received concerning the proposed paragraph (c)(3)(ii) requirements on auger flighting. These comments argued that the American Society of Agricultural Engineers (ASAE) recommendation R354, "Safety for Farmstead Equipment," from which this language was adopted, was intended to apply only to portable augers, and that the restrictions in the proposed rule would prevent normal use of other than portable augers, since the size of openings would not allow certain materials to pass through (e.g., comment 291, 330). It was also pointed out, citing the same ASAE recommendation that the requirement, contained in paragraph (c)(3)(i) of the proposal, for the guarding of sweep arm gathering mechanisms in bulk storage structures was intended in its application to be limited to silos, and would not be appropriate for all bulk material storage facilities (comment 330). This is because the sweep arm gathering mechanisms in silos is located on the top surface of materials, whereas in other bulk storage facilities they are located on the bottom of the structure and are buried under the stored material. Since it is inappropriate to apply paragraph (c)(3)(i) of the proposal to all bulk material storage structures and to apply paragraph (c)(3)(ii) of the proposal to non-portable augers, the final rule reflects the appropriate limitations in paragraphs (c)(3)(ii) and (c)(3)(iii) respectively. In addition, since the record does not provide any information as to specific requirements necessary or appropriate to protect employees working with non-portable augers or in other bulk material storage facilities, the final rule contains no specific requirements for these situations. However, the general requirements of the final rule apply in these circumstances and, if appropriate, future rulemaking proceedings will be initiated to determine whether specific requirements are necessary or appropriate for nonportable augers and bulk material storage structures.

(i) *What method should be specified to prevent inadvertent application of electrical power.* The two principal areas of comment on the proposed requirements on inadvertent application of electrical power to farmstead equipment (paragraph (c)(5) of the proposal) were with respect to equipment driven by more than one electric motor (e.g., Exhibit 51, Tr. III–18–26) and the issue of whether locking out of power should be required. It was generally agreed that a manual reset requirement for circuit protection devices is appropriate to protect employees servicing machinery from the unexpected application of power to the motor. The final rule, therefore, incorporates this requirement for manual reset, except as noted below, with respect to all equipment, regardless of the date of manufacture. However, manufacturers of center pivot irrigation equipment argued that manual resets are impractical for most center pivot irrigation equipment because the equipment is designed to automatically turn off when an obstruction is encountered, and automatically turn on again after a preset time period. The equipment is often located considerable distances away from areas where employees ordinarily work; it is routinely checked only on a daily basis; and the equipment is ordinarily spread out over many acres. Recognizing the hazard, they recommend that a circuit disconnect switch be required within 15 feet of each motor to protect employees (Tr. III–18–26). Other equipment such as well pumps for cattle watering would be similarly impacted by a manual reset requirement. Based upon the above considerations, we have decided, in paragraph (c)(5)(ii)(A) of the final standard, to allow automatic resets where manual resets would be infeasible because of the nature of the operation, the distances involved, and the amount of time normally spent by employees in the area of the affected equipment.

The final rule, in paragraphs (c)(5)(ii)(B) and (C), requires employers who meet the above criteria and choose to use automatic resets to locate an electrical disconnect switch within 15 feet of the equipment. In addition, a sign must be prominently displayed near each hazardous component which warns employees that the motor could automatically start unless the electrical disconnect switch is utilized.

Some commenters objected to the provisions of the proposal requiring locking out of power, arguing that no lockout should be required if the equipment to which power is to be applied is entirely visible from the switch location (comment 66). It was also argued that pulling the plug at the electrical outlet and tagging it should be considered a lockout means (e.g., comments 7, 89). It was recognized by other witnesses, however (e.g. Tr. I–33–34, II–116–119) that lockouts are a common and inexpensive measure to protect employees working on machinery. We believe that relying on visibility of the equipment, where vision may be obstructed or other individuals may not look carefully before switching on power, is not justified, particularly in light of the relatively low cost of installing a locking means on a switch. Similarly, reliance on the mere pulling and tagging of the plug is not justified. Accordingly, we decline to allow non-lockout means as a method for preventing inadvertent application of electrical power. Since the final standard, in paragraph (c)(5)(i)(A), requires an exclusive posi-

tive locking means on the main switch, the proposed requirement that equipment not be designed for remote start-up has been eliminated, as it is unnecessary and redundant (see e.g., comment 330).

In light of the foregoing considerations, and the fact that none of the comments opposed the proposed retrofit, the final standard requires retrofit of existing farmstead equipment with the electrical disconnect means of paragraph (c)(5). However, to provide sufficient time to implement this requirement, the effective date of paragraph (c)(5) will be September 7, 1976.

(j) *Whether instruction of employees in safe operation and servicing of equipment should be required, and if so, to what extent and what documentation, if any, should be required.* Overwhelming support was expressed for the proposed requirement (paragraph (a)(5) of the proposal, renumbered paragraph (a)(6) in the final) that employees be instructed in safe operating and servicing of equipment (e.g. Tr. I–34, 114, Tr. II–72–73, 157, Tr. IV–85–86, 108). It was pointed out (e.g. Exh. 62) that paragraph (a)(5)(iii) of the proposal, which required employers to instruct operators to wait for all machine movement to stop before servicing or adjusting the machine where a motion hazard was present, did not account for certain service operations, such as the sharpening of chopper blades in some types of forage harvesters, that must be performed with the equipment running. Accordingly, paragraph (a)(6)(iii) provides for appropriate instruction in these circumstances. In addition, the safe servicing and maintenance procedures for all covered equipment, which have been included in paragraph (a)(11) of the final standard, also allow this type of necessary operation where it can be safely performed. Specific training requirements have been included in paragraph (a)(6) as to other safety measures, such as the lockout of electrical equipment, which are required by the standard.

There was also considerable comment as to whether the proposed operating instructions required documentation of training on the part of employers. Although such documentation was not specifically required in the proposal and was not intended, commenters felt it was implicitly required, and expressed opposition to such documentation. They argued that additional paperwork would place an excessive burden on employers, many of whom do not ordinarily keep extensive records, without helping to insure adequate instruction of employees (e.g., Exhs. 15 and 17). Although this question was raised as an issue for the hearing, no one recommended that documentation be required, and we find it inappropriate to add such a requirement at this time. While documentation of the training is not required, the final standard includes the requirement that training be provided upon initial assignment and at least annually thereafter, as does the standard for roll-over protective structures for agricultural tractors (§ 1928.51(d)). For the training program to be effective, and to indicate to employers the extent of their obligation in this area, it was concluded that a specific requirement for training upon assignment and annually thereafter was necessary and appropriate.

(k) *Whether standard railings on cotton gins provide adequate safety where there is a possibility of large belts breaking.* Aside from the question of effective date, this was the only major issue presented on the proposed cotton gin guarding provisions (paragraph (d)). Testimony from the cotton ginning industry (e.g. Tr. IV–69–71, Exh. 126) indicated that large belts are generally being phased out of the system and that employee injuries have not been occurring as a result of breakage of these belts because they are continually inspected to detect any defects. Moreover, when inspection reveals a worn, or otherwise hazardous belt, it is replaced before breakage occurs. As long as belts are inspected on a daily basis and replaced as necessary, we believe employees can be adequately protected. Accordingly, the final rule permits the use of guard railings in paragraph (d), with the additional requirement that all belts be inspected at least daily and replaced if found defective, to assure protection against breakage. Because cotton ginning presents conditions which resemble those in general industry, and because no objection was raised to the proposal in this regard, the design requirements for guard rails are retained in paragraph (d)(1)(ii) of the final standard.

Several other important matters relating to the cotton gin portion of the standard should be mentioned. As noted above, the standard requires complete enclosure (i.e., full guarding) of drives, pulleys, chains and sprockets of cotton gins, as detailed in paragraphs (d)(1)(i), (d)(1)(iv), and (d)(1)(v), and not merely the nip-point guarding permitted for farm field and farmstead equipment. Full guarding was proposed for cotton gins based on the SACA recommendations, and was not alleged by industry to be infeasible.

The standard also requires that existing cotton gins be retrofitted with guards when the cotton gin provisions become effective in June 1977. Here too, no claim was made that employers could not comply with a retrofit requirement, which had been recommended by the SACA and included in the proposal.

An explicit training requirement for authorized employees has been included in paragraph (d)(1)(viii). This paragraph permits use of guard railings, in place of guards or guarding by location, in cotton gin power rooms where access is limited to authorized personnel. This relaxation of the usual requirement is based on the expectation that specially authorized personnel will, because of their training and experience, be adequately protected by guardrails. To assure that authorized personnel are trained in the safe operation and maintenance of power room equipment, and as a specific application of the general training requirement in paragraph (a)(6) of the standard, the explicit training requirement has been included here.

A minor change has been made in paragraph (d)(2)(ii) to make it clear that guards which allow for the use of sticks or other implements to free clogged material are permitted.

(l) *What would be a reasonable effective date for the standard?* The proposed effective dates of this standard, beginning January 1, 1975, have already passed. There was a great deal of comment and testimony on what the final effective dates should be. Such testimony was based to a great extent on the standard as proposed, which included such provisions as full guarding of power transmission components, not required in the final rule, and which would have caused manufacturers major delays, for design and material supply reasons, before they could supply farm equipment in compliance with the standard (Tr. I–115). In addition, the need to make changes in design and production was cited as a reason to require at least a one year lead time for manufacturers (e.g. Tr. IV–86), but since farm machinery is to a large degree presently manufactured in accordance with the final rule (e.g. Tr. I–126, II–80, IV–94) such a lengthy delay does not appear warranted. Finally, the effective dates recommended were based upon the extent of retrofit to be required, and since the final rule limits retrofit, manufacturers will not need a full year to manufacture the parts necessary for employers to meet the requirements of the final rule. Indeed, as to the guarding of PTO shafts, a substantial amount of existing machinery currently complies with the standard and therefore will not need to be retrofitted. And, as to the required warning signs and devices necessary to prevent the inadvertent application of electrical power, these items are commercially available from numerous sources other than agricultural equipment manufacturers.

Accordingly, with the exceptions noted below, the standard will be effective on June 7, 1976. This 90 day delay in the effective date is provided to permit the necessary modifications to be made and, pursuant to section 6(b)(4) of the Act, to insure that affected employers and employees will be informed of the existence of the standard and of its terms. In addition, as noted above, the requirements of paragraphs (b)(2), (b)(3) and (b)(4)(ii)(A), and (c)(2), (c)(3) and (c)(4)(ii)(A) do not apply to equipment manufactured before

Paragraph (c)(5), concerning electrical disconnect means, will be effective on September 7, 1976 it appearing that six months is necessary and appropriate for the installation of the required devices on both existing and newly manufactured equipment.

Paragraph (d), concerning cotton ginning equipment, will be effective on June 30, 1977. This recognizes the intent of the SACA and the Assistant Secretary, at the time of the proposed rule, to allow the cotton ginning industry approxi-

mately two off-seasons to make the changes necessary for compliance with the final rule. In view of the retrofit requirement for guarding of cotton gins, discussed above, this extended effective date is appropriate.

Under section 6(b)(8) of the Act (84 Stat. 1596, 29 U.S.C. 655), whenever a rule promulgated by the Secretary differs substantially from an existing national consensus standard, the Secretary must state the reasons why the rule adopted will better effectuate the purposes of the Act than the national consensus standard. The existing voluntary standards in this area for the most part are clearly not "national consensus standards" within the meaning of sections 3(9) (84 Stat. 1591, 29 U.S.C. 652) and 6(b)(8) of the Act. To the extent that some of these standards, such as ASAE S318.3 "Safety for Agricultural Equipment," have been adopted by the American National Standards Institute (ANSI) and therefore, despite the absence of employee representation on the ANSI committee, may be argued to be national consensus standards, this final standard does not substantially differ from the requirements of such standards. Where differences do appear, and where this final standard does not cover hazards or areas, such as fire protection, specific safety signs, or highway travel, dealt with by these consensus standards, the differences are based on the decision to limit the scope of this standard to hazards posed by moving machinery parts, and on a decision to focus this rulemaking proceeding on the major hazards which exist in the area.

Accordingly, upon consideration of the whole record of this proceeding, and pursuant to section 6(b) of the Act, Secretary of Labor's Order No. 12–71 and 29 CFR Part 1911, Part 1928 of Title 29, Code of Federal Regulations, is hereby amended by adding a new standard on guarding of farm field equipment, farmstead equipment, and cotton gins as subpart D consisting of § 1928.57, reading as follows:

Subpart D—Safety for Agricultural Equipment

§ 1928.57 Guarding of farm field equipment, farmstead equipment, and cotton gins.

(a) *General*—(1) *Purpose.* The purpose of this section is to provide for the protection of employees from the hazards associated with moving machinery parts of farm field equipment, farmstead equipment, and cotton gins used in any agricultural operation.

(2) *Scope.* Paragraph (a) of this section contains general requirements which apply to all covered equipment. In addition, paragraph (b) of this section applies to farm field equipment, paragraph (c) of this section applies to farmstead equipment, and paragraph (d) of this section applies to cotton gins.

(3) *Application.* This section applies to all farm field equipment, farmstead equipment, and cotton gins, except that paragraphs (b)(2), (b)(3), and (b)(4)(ii)(A), and (c)(2), (c)(3), and (c)(4)(ii)(A) do not apply to equipment manufactured before June 7, 1976.

(4) *Effective date.* This section takes effect on June 7, 1976 with the following exceptions:

(i) Paragraph (c)(5) of this section is effective on September 7, 1976.

(ii) Paragraph (d) of this section is effective on June 30, 1977.

(5) *Definitions—"Cotton gins"* are systems of machines which condition seed cotton, separate lint from seed, convey materials, and package lint cotton.

"Farm field equipment" means tractors or implements, including self-propelled implements, or any combination thereof used in agricultural operations.

"Farmstead equipment" means agricultural equipment normally used in a stationary manner. This includes, but is not limited to, materials handling equipment and accessories for such equipment whether or not the equipment is an integral part of a building.

"Ground driven components" are components which are powered by the turning motion of a wheel as the equipment travels over the ground.

A *"guard"* or *"shield"* is a barrier which insures that no part of an employee may come into contact with a hazard created by a moving machinery part.

"Power take-off shafts" are the shafts and knuckles between the tractor, or other power source, and the first gear set, pulley, sprocket, or other components on power take-off shaft driven equipment.

(6) *Operating instructions.* At the time of initial assignment and at least annually thereafter, the employer shall instruct every employee in the safe operation and servicing of all covered equipment with which he is or will be involved, including at least the following safe operating practices:

(i) Keep all guards in place when the machine is in operation;

(ii) Permit no riders on farm field equipment other than persons required for instruction or assistance in machine operation;

(iii) Stop engine, disconnect the power source, and wait for all machine movement to stop before servicing, adjusting, cleaning, or unclogging the equipment, except where the machine must be running to be properly serviced or maintained, in which case the employer shall instruct employees as to all steps and procedures which are necessary to safely service or maintain the equipment;

(iv) Make sure everyone is clear of machinery before starting the engine, engaging power, or operating the machine;

(v) Lock out electrical power before performing maintenance or service on farmstead equipment.

(7) *Methods of guarding.* Except as otherwise provided in this subpart, each employer shall protect employees from coming into contact with moving machinery parts as follows:

(i) Through the installation and use of a guard or shield or guarding by location;

(ii) Whenever a guard or shield or guarding by location is infeasible, by using a guardrail or fence.

(8) *Strength and design of guards.* (i) Where guards are used to provide the protection required by this section, they shall be designed and located to prevent inadvertent contact with the hazard being guarded.

(ii) Unless otherwise specified, each guard and its supports shall be capable of withstanding the force that a 250 pound individual, leaning on or falling against the guard, would exert upon that guard.

(iii) Guards shall be free from burrs, sharp edges, and sharp corners, and shall be securely fastened to the equipment or building.

(9) *Guarding by location.* A component is guarded by location during operation, maintenance, or servicing when, because of its location, no employee can inadvertently come in contact with the hazard during such operation, maintenance, or servicing.

(10) *Guarding by railings.* Guardrails or fences shall be capable of preventing employees from inadvertently entering the hazardous area.

(11) *Servicing and maintenance.* Whenever a moving machinery part presents a hazard during servicing or maintenance, the engine shall be stopped, the power source disconnected, and all machine movement stopped before servicing or maintenance is performed, except where the employer can establish that:

(i) the equipment must be running to be properly serviced or maintained;

(ii) the equipment cannot be serviced or maintained while a guard or guards are in place; and

(ii) the servicing or maintenance is safety performed.

(b) *Farm field equipment.*—(1) *Power take-off guarding.*

(i) All power take-off shafts, including rear, mid- or side-mounted shafts, shall be guarded either by a master shield, as provided in paragraph (b)(1)(ii) of this section, or by other protective guarding.

(ii) All tractors shall be equipped with an agricultural tractor master shield on the rear power take-off except where removal of the tractor master shield is permitted by paragraph (b)(1)(iii) of this section. The master shield shall have sufficient strength to prevent permanent deformation of the shield when a 250 pound operator mounts or dismounts the tractor using the shield as a step.

(iii) Power take-off driven equipment shall be guarded to prevent employee contact with positively driven rotating members of the power drive system. Where power take-off driven equipment is of a design requiring removal of the tractor master shield, the equipment shall also include protection from that portion of the tractor power take-off shaft which protrudes from the tractor.

(iv) Signs shall be placed at prominent locations on tractors and power take-off driven equipment specifying that power drive system safety shields must be kept in place.

(2) *Other power transmission components.* (i) The mesh or nip-points of all power driven gears, belts, chains, sheaves, pulleys, sprockets, and idlers shall be guarded.

(ii) All revolving shafts, including projections such as bolts, keys, or set screws, shall be guarded, except smooth shaft ends protruding less than one-half the outside diameter of the shaft and its locking means.

(iii) Ground driven components shall be guarded in accordance with paragraphs (b)(2)(i) and (b)(2)(ii) of this section if any employee may be exposed to them while the drives are in motion.

(3) *Functional components.* Functional components, such as snapping or husking rolls, straw spreaders and choppers, cutterbars, flail rotors, rotary beaters, mixing augers, feed rolls, conveying augers, rotary tillers, and similar units, which must be exposed for proper function, shall be guarded to the fullest extent which will not substantially interfere with normal functioning of the component.

(4) *Access to moving parts.* (i) Guards, shields, and access doors shall be in place when the equipment is in operation.

(ii) Where removal of a guard or access door will expose an employee to any component which continues to rotate after the power is disengaged, the employer shall provide, in the immediate area, the following:

(A) A readily visible or audible warning of rotation; and

(B) A safety sign warning the employee to:

(*1*) look and listen for evidence of rotation; and

(*2*) not remove the guard or access door until all components have stopped.

(c) *Farmstead equipment*—(1) *Power take-off guarding.* (i) All power take-off shafts, including rear, mid-, or side-mounted shafts, shall be guarded either by a master shield as provided in paragraph (b)(1)(ii) of this section or other protective guarding.

(ii) Power take-off driven equipment shall be guarded to prevent employee contact with positively driven rotating members of the power drive system. Where power take-off driven equipment is of a design requiring removal of the tractor master shield, the equipment shall also include protection from that portion of the tractor power take-off shaft which protrudes from the tractor.

(iii) Signs shall be placed at prominent locations on power take-off driven equipment specifying that power drive system safety shields must be kept in place.

(2) *Other power transmission components.* (i) The mesh or nip-points of all power driven gears, belts, chains, sheaves, pulleys, sprockets, and idlers shall be guarded.

(ii) All revolving shafts, including projections such as bolts, keys, or set screws, shall be guarded, with the exception of:

(A) smooth shafts and shaft ends (without any projecting bolts, keys, or set screws), revolving at less than 10 rpm, on feed handling equipment used on the top surface of materials in bulk storage facilities; and

(B) smooth shaft ends protruding less than one-half the outside diameter of the shaft and its locking means.

(3) *Functional components.* (i) Functional components, such as choppers, rotary beaters, mixing augers, feed rolls, conveying augers, grain spreaders, stirring augers, sweep augers, and feed augers, which must be exposed for proper function, shall be guarded to the fullest extent which will not substantially interfere with the normal functioning of the component.

(ii) Sweep arm material gathering mechanisms used on the top surface of materials within silo structures shall be guarded. The lower or leading edge of the guard shall be located no more than 12 inches above the material surface and no less than 6 inches in front of the leading edge of the rotating member of the gathering mechanism. The guard shall be parallel to, and extend the fullest practical length of, the material gathering mechanism.

(iii) Exposed auger flighting on portable grain augers shall be guarded with either grating type guards or solid baffle style covers as follows:

(A) The largest dimensions or openings in grating type guards through which materials are required to flow shall be 4¾ inches. The area of each opening shall be no larger than 10 square inches. The opening shall be located no closer to the rotating flighting than 2½ inches.

(B) Slotted openings in solid baffle style covers shall be no wider than 1½ inches, or closer than 3½ inches to the exposed flighting.

(4) *Access to moving parts.* (i) Guards, shields, and access doors shall be in place when the equipment is in operation.

(ii) Where removal of a guard or access door will expose an employee to any component which continues to rotate after the power is disengaged, the employer shall provide, in the immediate area, the following:

(A) A readily visible or audible warning of rotation; and

(B) A safety sign warning the employee to:

(*1*) look and listen for evidence of rotation; and

(*2*) not remove the guard or access door until all components have stopped.

(5) *Electrical disconnect means.* (i) Application of electrical power from a location not under the immediate and exclusive control of the employee or employees maintaining or servicing equipment shall be prevented by:

(A) providing an exclusive, positive locking means on the main switch which can be operated only by the employee or employees performing the maintenance or servicing; or

(B) in the case of material handling equipment located in a bulk storage structure, by physically locating on the equipment an electrical or mechanical means to disconnect the power.

(ii) All circuit protection devices, including those which are an integral part of a motor, shall be of the manual reset type, except where:

(A) the employer can establish that because of the nature of the operation, distances involved, and the amount of time normally spent by employees in the area of the affected equipment, use of the manual reset device would be infeasible;

(B) there is an electrical disconnect switch available to the employee within 15 feet of the equipment upon which maintenance or service is being performed; and

(C) a sign is prominently posted near each hazardous component which warns the employee that, unless the electrical disconnect switch is utilized, the motor could automatically reset while the employee is working on the hazardous component.

(d) *Cotton ginning equipment*—(1) *Power transmission components.* (i) The main drive and miscellaneous drives of gin stands shall be completely enclosed, guarded by location, or guarded by railings (consistent with the requirements of paragraph (a)(7) of this section). Drives between gin stands shall be guarded so as to prevent access to the area between machines.

(ii) When guarded by railings, any hazardous component within 15 horizontal inches of the rail shall be completely enclosed. Railing height shall be approximately 42 inches off the floor, platform, or other working surface, with a midrail between the toprail and the working surface. Panels made of materials conforming to the requirements in Table D–1, or equivalent, may be substituted for midrails. Guardrails shall be strong enough to withstand at least 200 pounds force on the toprail.

(iii) Belts guarded by railings shall be inspected for defects at least daily. The machinery shall not be operated until all defective belts are replaced.

TABLE D–1.—*Examples of minimum requirements for guard panel materials*

Material	Clearance from moving part at all points	Largest mesh or opening allowable	Minimum gage (U.S. standard)[1] or thickness
	Inches	*Inches*	
Woven wire	Under 2	½	16
	2 to 4	½	16
	4 to 15	2	12
Expanded metal	Under 4	½	18
	4 to 15	2	13
Perforated metal	Under 4	½	20
	4 to 15	2	14
Sheet metal	Under 4		22
	4 to 15		22
Plastic	Under 4		(1)
	4 to 15		(1)

[1] Tensile strength of 10,000 lb/in².

(iv) Pulleys of V-belt drives shall be completely enclosed or guarded by location whether or not railings are present. The open end of the pulley guard shall be not less than 4 inches from the periphery of the pulleys.

(v) Chains and sprockets shall be completely enclosed, except that they may be guarded by location if the bearings are packed or if accessible extension lubrication fittings are used.

(vi) Where complete enclosure of a component is likely to cause a fire hazard

due to excessive deposits of lint, only the face section of nip-point and pulley guards is required. The guard shall extend at least 6 inches beyond the rim of the pulley on the in-running and off-running sides of the belt, and at least 2 inches from the rim and face of the pulley in all other directions.

(vii) Projecting shaft ends not guarded by location shall present a smooth edge and end, shall be guarded by non-rotating caps or safety sleeves, and may not protrude more than one-half the outside diameter of the shaft.

(viii) In power plants and power development rooms where access is limited to authorized personnel, guard railings may be used in place of guards or guarding by location. Authorized employees having access to power plants and power development rooms shall be instructed in the safe operation and maintenance of the equipment in accordance with paragraph (a)(6) of this section.

(2) *Functional components.* (i) Gin stands shall be provided with permanently installed guard designed to preclude contact with the gin saws while in motion. The saw blades in the roll box shall be considered guarded by location if they do not extend through the ginning ribs into the roll box when the breast is in the out position.

(ii) Moving saws on lint cleaners which have doors giving access to the saws shall be guarded by fixed barrier guards or their equivalent which prevent direct finger or hand contact with the saws while the saws are in motion.

(iii) An interlock shall be installed on all balers so that the upper gates cannot be opened while the tramper is operating.

(iv) Top panels of burr extractors shall be hinged and equipped with a sturdy positive latch.

(v) All accessible screw conveyors shall be guarded by substantial covers or gratings, or with an inverted horizontally slotted guard of the trough type, which will prevent employees from coming into contact with the screw conveyor. Such guards may consist of horizontal bars spaced so as to allow material to be fed into the conveyor, and supported by arches which are not more than 8 feet apart. Screw conveyors under gin stands shall be considered guarded by location.

(3) *Warning device.* A warning device shall be installed in all gins to provide an audible signal which will indicate to employees that any or all of the machines comprising the gin are about to be started. The signal shall be of sufficient volume to be heard by employees, and shall be sounded each time before starting the gin.

(Sec. 6(b), Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655); Sec. of Lab. Ord. No. 12-71 (36 FR 8754), 29 CFR Part 1911).

Signed at Washington, D.C., this 3rd day of March, 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-6620 Filed 3-8-76;8:45 am]

federal register

TUESDAY, MARCH 9, 1976



PART V:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Education Office

■

MODERN FOREIGN LANGUAGE TRAINING AND AREA STUDIES

Higher Education Programs

Title 45—Public Welfare

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

PART 148—HIGHER EDUCATION PROGRAMS IN MODERN FOREIGN LANGUAGE TRAINING AND AREA STUDIES

Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on July 28, 1975 (40 FR 31617), setting forth proposed regulations and guidelines for higher education programs in modern foreign language training and area studies authorized in section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961, 22 U.S.C. 2452(b)(6). Pursuant to section 503 of the Education Amendments of 1972, a public hearing was held on September 3, 1975 in Washington, D.C., on the proposed regulations and guidelines. In addition, written comments were received and considered.

Pursuant to section 503(d) of the Education Amendments of 1972, the material set forth below indicates action taken with respect to the proposed regulations, taking into account comments received, which will govern awards from funds appropriated for the programs for fiscal year 1976 and succeeding fiscal years.

Program purpose. Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 provides for programs to promote modern foreign language training and area studies in educational institutions in the United States through visits and study of American scholars abroad and foreign scholars in the United States.

Following is a discussion of comments received, with each comment followed by the response of the Office of Education:

1. *Comment.* One commenter suggested that the provision in § 148.13(c) be revised to make it clear that a student under the Doctoral Dissertation Research Abroad program need only be admitted to candidacy for a doctoral degree by the time the followship period begins, rather than at the time of application.

Response. A clarifying change has been made.

This suggestion reflects current program policy and language clarifying the provision in § 148.13(c) is incorporated in that section.

2. *Comment.* It was suggested that individual applicants for the Doctoral Dissertation Research Abroad program and the Faculty Research Abroad program who plan to conduct research in certain Eastern European countries be advised to submit applications simultaneously to the International Research and Exchanges Board (IREX).

Response. This suggested procedure has been adopted as a requirement.

Recent program experience indicates that fellowship holders jointly sponsored by the Office of Education and IREX, under reciprocal agreements between IREX and the countries concerned, have benefitted significantly from this joint sponsorship. Consequently, §§ 148.13(f) and 148.23(f) are revised to require that individual applicants for the Doctoral Dissertation Research Aboard program and the Faculty Research Aboard program who propose to conduct research in Bulgaria, Czechoslovakia, German Democratic Republic, Hungary, Poland, Romania, or Yugoslavia simultaneously submit applications to IREX, as is required under the proposed regulations for persons proposing to conduct research in the U.S.S.R.

3. *Comment.* One commenter requested clarification on whether the languages of the Pacific Islands, such as those of the Trust Territory of the Pacific Islands, are excluded specifically from the languages which can be deemed "critical to the national interest" under § 148.14, which applies to the Doctoral Dissertation Research Abroad program.

Response. No change in the regulations is required.

Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act speaks only of foreign language training and area studies, thus excluding from coverage the language or study of an area encompassed by the definition of a "State" under § 148.2. Consequently, assistance for language and area studies projects focusing on the Trust Territory of the Pacific Islands is not available under the Doctoral Dissertation Research Abroad program. Assistance for modern foreign language and area studies projects focusing on those islands in the Pacific not considered to be a part of a "State" under § 148.2 would not be precluded.

4. *Comment.* It was suggested that the regulations requiring payments to begin for all benefits other than international travel and baggage allowances upon the fellow's arrival in the host country were not realistic in that by seeming to prohibit the release of payments prior to a fellow's departure from the United States the regulations did not take into account the specific logistics problems normally associated with overseas research.

Response. A clarifying change has been made.

The purpose of §§ 148.16(e) and 148.26(d) was not to prohibit the release of payments prior to a fellow's departure from the United States. The purpose was to indicate that the amount of the benefits other than those provided for international travel and baggage will be based on the time period a fellow spends in overseas research on his approved topic.

To indicate the relationship between the amount of benefits and the time spent in overseas research and to specifically authorize the release of payments to a fellow prior to departure, language clarifying the intent of §§ 148.16(e) and 148.26(d) is incorporated in the referenced sections.

5. *Comment.* One commenter criticized as overly stringent the 90 day and line item reporting requirements for financial reports under § 148.51(a).

Response. No change is deemed desirable.

Program experience indicates that the 90 day reporting requirement, which is in accordance with 45 CFR 100a.403(d), is not overly stringent but, in fact, assists the grantee and the Office of Education in the process of closing out grants. It is considered that the line item reporting requirement is necessary in order to ensure that grant funds are used properly.

6. *Comment.* An amendment to § 148.17(b) was suggested to provide that a Doctoral Dissertation Research Abroad fellow submit his program reports to the Commissioner through his institution and that his final report include, instead of the final title of the dissertation, an abstract of his research results.

Response. This suggestion has been adopted in part.

The justification provided for the suggestion of having the reports submitted to the Commissioner through the institution is sound and will facilitate the administration of the Doctoral Dissertation Research Abroad program by giving the grantee the opportunity to monitor the fellow's research progress, providing the grantee with an element of financial control in that regular payments to the fellow can be withheld until reports are received, and encouraging the grantee to develop host country files, the information in which would be made available to future fellows planning to conduct research in those countries. Consequently § 148.17(b) is revised to provide that a fellow submit his program reports to the Commissioner through his institution.

As far as the content of the final program report is concerned, § 148.17(b) is revised to require a fellow to include in his final report the tentative rather than the final title of his dissertation. However it would seem redundant to add language requiring an abstract of research results since the fellow is already required to update his interim report in the final report, and the interim report is to contain information on such matters as project accomplishments and research conditions.

Several changes are being made in the regulations on the basis of further review within the Department:

(a) § 148.4 is amended, with the concurrence of the Board of Foreign Scholarships, to eliminate consideration of employment or other records for individual applicants which are readily available from other governmental agencies, including law enforcement agencies.

(b) §§ 148.16(f) and 148.26(e), which deal with situations where an award has a shorter duration than anticipated, are amended to require the prorating of all award benefits, to cover situations involving revocation of a fellowship, and to provide that benefits will be prorated according to the policy of the Office of Education instead of according to the policy of the grantee.

(c) § 148.26(c) is amended to delete the language that benefits will be based in part upon the Standard Government Travel Regulations.

(d) § 148.3 is amended to provide clarification in that, under Subpart E, assistance is available for area studies projects focusing on Western Europe.

(e) § 148.12(a) is amended to require that an individual applicant under the Doctoral Dissertation Research Abroad program have submitted on his behalf a language Reference Form.

(f) § 148.46(a)(4) is amended to increase the Federal portion of the maintenance allowance under the Foreign Curriculum Consultants program to $910 per month.

(g) § 148.46(b)(1) is amended to decrease the grantee institution's portion of the maintenance allowance under the Foreign Curriculum Consultants program to $390 per month.

Adoption of regulations and guidelines. In light of the foregoing, Part 148 of Title 45 of the Code of Federal Regulations, with accompanying guidelines, is adopted as set forth below.

Effective date. Pursuant to section 431 (d) of the General Education Provisions Act (20 U.S.C. 1232(d)), these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

Dated: February 5, 1976.

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

Approved: March 1, 1976.

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

(Catalog of Federal Domestic Assistance Programs: 13.438 Fulbright-Hays Training Grants—Faculty Research Abroad; 13.439 Fulbright-Hays Training Grants—Foreign Curriculum Consultants; 13.440 Fulbright-Hays Training Grants—Group Projects Abroad; 13.441 Fulbright-Hays Training Grants—Doctoral Dissertation Research Abroad.)

Part 148 is added to read as set forth below:

PART 148—HIGHER EDUCATION PROGRAMS IN MODERN FOREIGN LANGUAGE TRAINING AND AREA STUDIES

Subpart A—General Provisions

Sec.
148.1 Scope.
148.2 Definitions.
148.3 Projects focusing on certain countries.
148.4 Selection factors considered by Board of Foreign Scholarships.

Subpart B—Doctoral Dissertation Research Abroad

Sec.
148.11 Scope.
148.12 Applications.
148.13 Eligible students.
148.14 Evaluation criteria.
148.15 Selection procedures.
148.16 Award provisions.
148.17 Student responsibilities.

Subpart C—Faculty Research Abroad

148.21 Scope.
148.22 Applications.
148.23 Eligible faculty members.
148.24 Evaluation criteria.
148.25 Selection procedures.
148.26 Award provisions.
148.27 Responsibilities of the fellow.

Subpart D—Group Projects Abroad

148.31 Scope.
148.32 Applications.
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148.34 Evaluation criteria.
148.35 Selection procedures.
148.36 Award provisions.
148.37 Grantee responsibilities.

Subpart E—Foreign Curriculum Consultants

148.41 Scope.
148.42 Applications.
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148.44 Selection of consultants.
148.45 Foreign Curriculum Consultant qualifications.
148.46 Award provisions.

Subpart F—Special Provisions

148.51 Financial reports and refunds.
148.52 Cost limitations.
148.53 Equipment.
148.54 Conduct abroad of individual participants.
148.55 International travel.
148.56 Payment procedures for grants payable in foreign currencies.
APPENDIX: Guidelines.

AUTHORITY: Sec. 102(b)(6) of P.L. 87-256, as amended, 75 Stat. 527 (22 U.S.C. 2452(b)(6)), and Executive Order No. 11034, unless otherwise noted.

Subpart A—General Provisions

§ 148.1 Scope.

(a) The regulations in this part govern the provision of Federal financial assistance by the United States Commissioner of Education, under Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961, to promote modern foreign language training and area studies in United States schools, colleges, and universities by supporting programs of research, study, and training in foreign countries by teachers and prospective teachers in such schools, colleges, and universities for the purpose of improving their skills in languages and their knowledge of the culture of the people of those countries, and by financing visits by educational specialists from those countries to the United States for the purpose of participating in foreign language training and area studies in United States schools, colleges, and universities. Responsibility for the administration of this program has been delegated to the Department of Health, Education, and Welfare by Executive Order No. 11034.

(b) Assistance under this part is subject to applicable provisions contained in subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters).

(c) In the selection of American citizens for participation in programs under this part, preference shall be given to those who have served in the Armed Forces of the United States, and due consideration shall be given to applicants from all geographical areas of the United States.

(22 U.S.C. 2452(b)(6), 2456(a)(2), Executive Order No. 11034, 20 U.S.C. 1232c)

§ 148.2 Definitions.

As used in this part—

"Academic year" means a period of time, usually eight or nine months, consisting of two semesters, two trimesters, three quarters, or the equivalent.

"Binational commission" means an educational and cultural foundation established through an agreement between the United States and either a foreign government or an international organization to carry out functions in connection with programs covered by this part.

"Board of Foreign Scholarships" means the Presidentially appointed board of 12 members which is responsible for supervision of the programs covered by this part.

"Dependent" means any of the following individuals who accompany the program participant to his research or training site:

(a) spouse of the program participant;

(b) children unmarried and under 21 years of age; and

(c) mother or father of either the program participant or his or her spouse if incapable of self-support.

"Foreign currencies" means currencies of foreign countries, which currencies are owned by the United States in amounts in excess of probable requirements of the United States as determined annually by the Department of the Treasury and are appropriated by the Congress for use in connection with programs covered by this part.

"Institution of higher education" means an educational institution in any State which (1) 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, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, and (4) is a public or other nonprofit institution.

"Local school system" means a local board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district or other political subdivision of a State, or any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"State" means the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

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

(22 U.S.C. 2452(b)(6), 2456)

§ 148.3 Projects focusing on certain countries.

Assistance under this part is not available for projects focusing primarily on Western Europe (except as provided in § 148.41(b)) or for research in countries where the United States has no diplomatic representation.

(22 U.S.C. 2452(b)(6))

§ 148.4 Selection factors considered by Board of Foreign Scholarships.

With respect to the Doctoral Dissertation Research Abroad and Faculty Research Abroad programs, the Board of Foreign Scholarships will consider, in its selection procedures, the individual applicant's professional and personal references and employment experience.

(22 U.S.C. 2452(b)(6), 2456)

Subpart B—Doctoral Dissertation Research Abroad

§ 148.11 Scope.

Graduate students at eligible institutions may receive fellowships for periods of 6 to 12 months for doctoral dissertation research abroad in the fields of modern foreign languages and area studies.

(22 U.S.C. 2452(b)(6))

§ 148.12 Applications.

(a) Each fiscal year eligible institutions may forward applications to the Commissioner for recommended graduate students for fellowship assistance under this subpart. Each application shall include information as to the students' personal and academic backgrounds and proposed research projects. Students must also arrange with appropriate persons to have three reference forms (Form OE 7628–3) and one language reference form (Form OE 7628–1) submitted through their eligible institution to the Commissioner on their behalf. The deadline date for receipt of proposals by the Commissioner shall be announced annually in the FEDERAL REGISTER.

(b) Eligible institutions are responsible for accepting, screening, and forwarding to the Commissioner those applications which meet the institution's technical and academic criteria.

(c) An "eligible institution," for the purpose of this subpart, means an institution of higher education in any State which is accredited by a nationally recognized accrediting agency or association and which offers a doctoral program in the fields of foreign languages and area studies.

(d) Requests for information shall be sent to the Division of International Education, Office of Education, Washington, D.C. 20202.

(22 U.S.C. 2452(b)(6))

§ 148.13 Eligible students.

To be eligible to receive a fellowship under this subpart, a student must:

(a) Be a citizen or national of the United States or be an alien in the United States having immigration status and personal plans indicating that he is in the United States for other than a temporary purpose;

(b) plan a teaching career at the college level in the United States;

(c) be enrolled at an eligible institution and, by the time the fellowship period begins, have been admitted to candidacy for a doctoral degree in modern foreign languages or area studies;

(d) provide evidence of adequate language skills for effectively carrying out the proposed research;

(e) present a project for which research can reasonably be expected to be completed within the time limits of the award and which is otherwise feasible;

(f) submit his application to his eligible institution and, if he is proposing to condust research in the U.S.S.R., Bulgaria, Czechoslovakia, German Democratic Republic, Hungary, Poland, Romania, or Yugoslavia, simultaneously submit an application to the International Research and Exchanges Board (IREX); (only citizens of the United States are eligible to conduct research in these countries under this program).

(g) have no more than a total of 48 months' fellowship support (including the time period of the grant applied for under this subpart) under Title VI of the National Defense Education Act and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act.

(22 U.S.C. 2452(b)(6))

§ 148.14 Evaluation criteria.

Doctoral dissertation research proposals will be evaluated by the Commissioner in accordance with the criteria contained in 45 CFR 100a.26(b) and 148.1(c) as well as program priorities as annually determined and announced by the Commissioner. Preference will be given to modern foreign languages and areas that are critical to the national interest, for which adequate instruction has not been widely available in the United States, and for which there exists a shortage of trained personnel.

(22 U.S.C. 2452(b)(6), 2456(a)(2))

§148.15 Selection procedures.

The Commissioner will make the preliminary selection of doctoral fellows with the advice of (a) a panel of U.S. academic specialists in foreign languages and area studies and (b) binational commissions and U.S. diplomatic missions in the proposed countries of research. All selections by the Commissioner are subject to review and final approval by the Board of Foreign Scholarships in accordance with "The Policy Statements of the Board of Foreign Scholarships," December, 1972.

(22 U.S.C. 2452(b)(6), 2456)

§ 148.16 Award provisions.

(a) Grants under this subpart will be made to an eligible institution which will be responsible for administering the grant, except insofar as the grant is made in foreign currencies, according to its own fiscal procedures and the terms specified in the official grant agreement.

(b) The grantee is responsible for disbursing the funds for allowances authorized by the grant with the exception of those allocated to insurance and those paid in foreign currencies.

(c) The grantee will receive an administrative allowance of $100 for each fellowship listed in the grant agreement.

(d) Each fellowship will provide the following benefits:

(1) A partial maintenance stipend based on the Standard Government Travel Regulations. Amounts equal to living allowances received by the fellow from other than personal sources which duplicate benefits under this award will be deducted from the total stipend, with the exception of veterans' benefits received under Title 38, United States Code;

(2) an allowance for accompanying dependents based on the cost of living in the approved country of research;

(3) round-trip travel, for the fellow only, from the airport closest to his current or permanent address to his overseas destination and return to the point of origin;

(4) an excess baggage allowance, for the fellow only, not to exceed 50 pounds each way;

(5) tuition at a foreign institution, when necessary to facilitate the satisfactory completion of the project;

(6) a project allowance of up to $500 for the purchase of expendable materials and supplies during the award period;

(7) a local travel allowance for necessary project-related transportation within the approved country(ies) of research, exclusive of the purchase of transportation equipment, and

(8) health and accident insurance, for the fellow only, under the terms of a U.S. Government-contracted group insurance policy.

(e) The amount of benefits other than those provided for international travel and baggage will be based on the period beginning with the date on which the fellow initiates his approved research in the host country and terminating with the date on which the fellow completes his approved project. At the discretion of the grantee and upon receipt by the grantee of final travel approval from the Office of Education, funds may be released to a fellow prior to his departure from the United States.

(f) In the event of early departure from the host country, premature termination of the grant, revocation of the award, or early completion of the approved project, benefits will be prorated according to the policy of the Office of Education.

(22 U.S.C. 2452(b)(6), 2454(e)(1))

§ 148.17 Student responsibilities.

(a) To avoid forfeiting his award, a fellow must leave the United States for his approved destination on or after the date of the grant to his institution but no later than December 31 of the fiscal year after that in which the grant is made, unless an extension of this deadline is obtained from the Commissioner.

(b) A fellow must submit to the Commissioner, through his institution, two program reports:

(1) An interim report at the half-way point of his research containing information on such matters as project accomplishments to that date, research conditions, living conditions, assistance received from U.S. officials and binational commissions, visa requirements for research, general recommendations for improving program arrangements, and any additional information which might benefit future fellows;

(2) a final report on completion of the research updating the interim report described above and containing such additional information as the estimated total cost of the project, sources of funding, present occupation and long-range career plans, tentative title of dissertation, effectiveness of the fellowship in increasing the fellow's store of knowledge and improving his skills, present utilization of information or skills acquired, and the impact of the fellowship on the body of knowledge available in the fellow's particular field of study.

(22 U.S.C. 2452(b)(6))

Subpart C—Faculty Research Abroad

§ 148.21 Scope.

(a) Faculty members at eligible institutions may receive fellowships for periods of 3 to 12 months for research abroad in modern foreign languages and area studies.

(b) Awards will be granted only for research that could not be conducted in the United States or for which a foreign country or region provides significantly superior research facilities and materials.

(c) Awards under this subpart will not support dissertation research for the doctoral degree.

(22 U.S.C. 2452 (b)(6))

§ 148.22 Applications.

(a) Each fiscal year eligible institutions may forward applications to the Commissioner for recommended faculty members for assistance under this subpart. Each application shall include information as to the faculty member's personal and academic background and proposed research project. The deadline date for receipt of proposals shall be announced annually by the Commissioner in the FEDERAL REGISTER.

(b) Eligible institutions are responsible for accepting, screening, and forwarding to the Commissioner those applications which meet the institution's technical and academic criteria.

(c) An "eligible institution" for the purpose of this subpart means an institution of higher education in any State which is accredited by a nationally recognized accrediting agency or association.

(d) Requests for information shall be sent to the Division of International Education, Office of Education, Washington, D.C. 20202.

(22 U.S.C. 2452(b)(6))

§ 148.23 Eligible faculty members.

To be eligible to receive a fellowship under this subpart, a faculty member must:

(a) Be a citizen or national of the United States with whom an eligible institution has or anticipates having a continuing long-term employment relationship (Faculty members in visiting status are not eligible.);

(b) be an educator experienced in modern foreign languages or area studies (A faculty member must have been engaged in at least half-time teaching or research relevant to his foreign language or area specialization during the two years preceding the date of the award);

(c) possess adequate skills in the language of the country or in a language germane to the region where the project would be undertaken;

(d) present a project for which research can reasonably be expected to be completed within the time limits of the award and which is otherwise feasible;

(e) present a statement from his employing institution describing how the project will contribute to the institution's plans for developing its programs in modern foreign languages or area studies;

(f) submit his application to his eligible institution and, if he is proposing to conduct research in the U.S.S.R., Bulgaria, Czechoslovakia, German Democratic Republic, Hungary, Poland, Romania, or Yugoslavia, simultaneously submit an application to the International Research and Exchanges Board (IREX).

(22 U.S.C. 2452(b)(6))

§ 148.24 Evaluation criteria.

Faculty research proposals will be evaluated by the Commissioner in accordance with the following criteria:

(a) Relevance of the project to the institution's educational goals and to its plans for developing programs in modern foreign languages and area studies;

(b) the project's potential impact on modern foreign languages and area studies in American education;

(c) relevance of the project to contemporary issues and problems significantly related to the national interest;

(d) scholarly qualifications of the candidate and his previous opportunities for research abroad;

(e) the extent to which direct experience abroad is necessary to conduct the project and the effectiveness with which host country resources would be utilized; and

(f) the criteria contained in 45 CFR 100a.26(b) and 148.1(c).

(22 U.S.C. 2452(b)(6), 2456(a)(2))

§ 148.25 Selection procedures.

The Commissioner will make the preliminary selection of faculty research fellows with the advice of (a) a panel of U.S. academic specialists in modern foreign languages and area studies and (b) binational commissions and U.S. diplomatic missions in the proposed countries of research. All selections by the Commissioner are subject to review and final approval by the Board of Foreign Scholarships in accordance with "The Policy Statements of the Board of Foreign Scholarships," December, 1972.

(22 U.S.C. 2452(b)(6), 2456)

§ 148.26 Award provisions.

(a) A grant under this subpart will be made to an eligible institution which will be responsible for administering the grant, except insofar as the grant is made in foreign currencies, according to its own fiscal procedures to the extent consistent with the terms specified in the official grant agreement.

(b) The grantee is responsible for disbursing the funds for allowances authorized by the grant with the exception of those paid in foreign currencies. All grant payments by a grantee must be made on or after the effective date of the grant.

(c) Benefits available for faculty research awards will be determined and announced annually by the Commissioner.

(d) The amount of benefits other than those provided for international travel and baggage will be based on the period beginning with the date on which the fellow initiates his approved research in the host country and terminating with the date on which the fellow completes his approved project. At the discretion of the grantee and upon receipt by the grantee of final travel approval from the Office of Education, funds may be released to a fellow prior to his departure from the United States.

(e) In the event of early departure from the country of research, premature termination of the grant, revocation of the award, or early completion of the approved project, award benefits will be prorated according to the policy of the Office of Education.

(22 U.S.C. 2452(b)(6), 2454(e)(1))

§ 148.27 Responsibilities of the fellow.

(a) To avoid forfeiting his award, a fellow must leave the United States for his approved destination on or after the date of the grant to his institution but no later than December 31 of the fiscal year after that in which the grant is made, unless an extension of this deadline is obtained from the Commissioner.

(b) A fellow must submit to the Commissioner a final report upon completion of the research containing information on such matters as project accomplishments, research conditions, living condi-

tions, assistance received from U.S. officials and binational commissions, present occupation, impact of the fellowship on the body of knowledge available in the fellow's field of specialization, titles of any publications resulting from the fellowship, and other matters as to which additional information might be of benefit to future fellows.

(22 U.S.C. 2452(b)(6))

Subpart D—Group Projects Abroad

§ 148.31 Scope.

(a) An eligible institution may receive a grant to help improve its programs in modern foreign languages and area studies through overseas projects in research, training, or curriculum development.

(b) Projects involving construction of facilities or purchase of real property are not eligible for support.

(22 U.S.C. 2452(b)(6))

§ 148.32 Applications.

(a) Each fiscal year eligible institutions may forward proposals to the Commissioner for assistance under this subpart. The deadline date for receipt of applications shall be announced annually by the Commissioner in the FEDERAL REGISTER.

(b) An "eligible institution" for the purpose of this subpart means:

(1) An institution of higher education which is accredited by a nationally recognized accrediting agency or association;

(2) a State department of education;

(3) a private non-profit educational organization; or

(4) a consortium of institutions described in paragraphs (b)(1), (2), or (3) of this section.

(c) Requests for information shall be sent to the Division of International Education, Office of Education, Washington, D.C. 20202.

(d) Before an application under this subpart is approved, the Commissioner may require the submission of biographical data concerning the proposed project director.

(22 U.S.C. 2452(b)(6))

§ 148.33 Eligible participants.

To be eligible to participate in a Group Project Abroad, a person must:

(a) be a citizen or national of the United States; and

(b) be (1) a faculty member in modern foreign languages or areas studies; (2) an experienced educator responsible for planning, conducting, or supervising programs in modern foreign languages or area studies at the elementary, secondary, or community college level; or (3) a graduate student or a junior or senior at the undergraduate level who plans a teaching career in modern foreign languages or area studies.

(22 U.S.C. 2452(b)(6))

§ 148.34 Evaluation criteria.

Group Projects Abroad proposals will be evaluated by the Commissioner in accordance with the criteria contained in 45 CFR 100a.26(b) and 148.1(c) as well as the following criteria:

(a) the potential impact of the project on the development of modern foreign languages and area studies programs in American education;

(b) the project's relevance to the applicant institution's educational goals and its relationship to the institution's program development in modern foreign languages and area studies;

(c) the extent to which direct experience abroad is necessary to achieve the project's objectives and the effectiveness with which relevant host country resources would be utilized; and

(d) program priorities as annually determined and announced by the Commissioner.

(22 U.S.C. 2452(b)(6), 2456(a)(2))

§ 148.35 Selection procedures.

The Commissioner will make the preliminary selection of Group Projects with the advice of (a) a panel of U.S. academic specialists in modern foreign languages and area studies and (b) binational commissions and U.S. diplomatic missions in the proposed countries of study. All selections by the Commissioner are subject to review and final approval by the Board of Foreign Scholarships in accordance with "The Policy Statements of the Board of Foreign Scholarships," December, 1972.

(22 U.S.C. 2452(b)(6), 2456)

§ 148.36 Award provisions.

(a) Group Projects Abroad is a cost-sharing program. The grantee institution, individual project participants, or other sources must bear expenses not covered by the grant and all project-related expenses within the United States.

(b) Grant funds under this subpart may be used only on or after the effective date of the grant and only for the following as budgeted, subject to transfer as authorized in 45 CFR § 100a.29(b):

(1) A partial maintenance stipend based on the Standard Government Travel Regulations;

(2) round-trip international travel;

(3) a local travel allowance for necessary project-related transportation within the country of study, exclusive of the purchase of transportation equipment;

(4) purchase of project-related artifacts, books, and other teaching materials in the country of study;

(5) rent for instructional facilities in the country of study;

(6) clerical and professional services performed by resident instructional personnel in the country of study; and

(7) other expenses in the country of study, if necessary for the project's success and approved in advance by the Commissioner.

(22 U.S.C. 2452(b)(6), 2454(e)(1))

§ 148.37 Grantee responsibilities.

Upon completion of a project, the grantee must submit the following reports to the Commissioner:

(1) A report listing the project participants, including name, title, home institution, and address; and

(2) a report analyzing the educational significance of the project and assessing the degree to which the objectives stated in the project have been achieved.

(22 U.S.C. 2452(b)(6))

Subpart E—Foreign Curriculum Consultants

§ 148.41 Scope.

(a) Eligible institutions may receive grants to bring consultants from other countries to the United States for an academic year to assist in planning and developing curriculums in modern foreign languages and area studies.

(b) Consultants from Western European countries may be approved only if they are to develop curriculums in area studies with an emphasis on modern political, economic, or social developments. Grants will not be made to institutions seeking consultants from these countries primarily to develop language programs.

(22 U.S.C. 2452(b)(6))

§ 148.42 Applications.

(a) Each fiscal year eligible institutions may forward proposals to the Commissioner for asistance under this subpart.

(b) An "eligible institution" for the purpose of this subpart means:

(1) An institution of higher education which is accredited by a nationally recognized accrediting agency or association;

(2) a State department of education;

(3) a local public school system;

(4) a private non-profit educational organization; or

(5) a consortium of institutions described in (1), (2), (3), or (4) above.

(c) Requests for information shall be sent to the Division of International Education, Office of Education, Washington, D.C. 20202.

(d) The deadline date for receipt of applications shall be announced annually by the Commissioner in the FEDERAL REGISTER.

(22 U.S.C. 2452(b)(6))

§ 148.43 Evaluation criteria.

Proposals for Foreign Curriculum Consultants will be evaluated by the Commissioner in accordance with the criteria contained in 45 CFR § 100a.26 (b) as well as the following criteria:

(a) potential impact on the applicant institution's plans for developing its modern foreign language and area studies programs;

(b) potential effective use of the results of the consultant's work following the completion of the project;

(c) appropriateness of the consultant's duties and the allocation of time among the duties;

(d) number of faculty, students, and members of the relevant community who are expected to be affected by the consultant's activities;

(e) likelihood that educational institutions other than the grantee will share the consultant's services and the extent to which such institutions have participated in helping define the nature of these services;

(f) adequacy of the arrangements made for coordinating the consultant's work under the supervision of a project director; and

(g) if the proposal is for curriculum development in area studies, focus on area studies in which the applicant institution lacks adequate instructional materials and trained personnel.

(22 U.S.C. 2452(b)(6))

§ 148.44 Selection of consultants.

(a) The Commissioner will make the preliminary selection from among the Foreign Curriculum Consultant proposals with the advice of a panel of academic specialists. All selections by the Commissioner are subject to review and final approval by the Board of Foreign Scholarships in accordance with "The Policy Statements of the Board of Foreign Scholarships," December, 1972.

(b) The Commissioner will forward the approved proposals through the Department of State to the appropriate binational commission or U.S. diplomatic mission abroad for recruitment of consultant candidates who meet the qualifications set forth in § 148.45 of this part.

(c) The Commissioner will forward the names of approved consultant candidates to the applicant institution for its selection of a preferred individual.

(22 U.S.C. 2452(b)(6), 2456)

§ 148.45 Foreign Curriculum Consultant qualifications.

A foreign curriculum consultant must:

(a) Have at least five years of experience as an educator in modern foreign languages or area studies and appropriate related experience in curriculum planning and development, preparation of teaching materials, and training of teachers;

(b) speak English fluently;

(c) be willing to apply for and receive an exchange visitor visa; and

(d) possess any special qualifications set forth in the applicant institution's proposal.

(22 U.S.C. 2452(b)(6))

§ 148.46 Award provisions.

(a) Grant funds under this part will be used only on or after the effective date of the grant and only for the following:

(1) round-trip international travel by economy air, for the consultant only, from the consultant's home country to the location of his assignment via Washington, D.C., to be arranged by the grantee institution;

(2) unaccompanied baggage allowance for a total of 300 pounds per round-trip from the consultant's home country to the location of his assignment;

(3) health and accident insurance, for the consultant only, under a U.S. Government contracted group insurance policy, to be arranged by the grantee institution;

(4) a $910 per month maintenance allowance; and

(5) an allowance for accompanying dependents provided at the rate of $150 per month for the first accompanying dependent and $50 per month for each additional accompanying dependent.

(b) The Foreign Curriculum Consultant Program is a cost-sharing program. The grantee institution will be responsible for providing for the consultant from other than grant funds:

(1) a $390 per month maintenance allowance;

(2) travel costs within the United States incurred by the consultant in connection with his assignment; and

(3) any other financial or other assistance which the consultant may need, due to unusual circumstances, in order to maintain a reasonable standard of living during his assignment.

(22 U.S.C. 2452(b)(6), 2454(e)(1))

Subpart F—Special Provisions

§ 148.51 Financial reports and refunds.

(a) Within 90 days after the expiration of a grant under this part, a grantee must submit a final financial report to the Commissioner reflecting the budget, budget adjustments, expenditures, and unexpended balance of funds with respect to each item of expenditure as listed in the grant agreement.

(b) United States dollar grant funds which are not expended as of the date of the final financial report must be returned by a check made payable to the United States Office of Education and shall be forwarded with a copy of the final financial report.

(c) Foreign currency grant funds which are not expended as of the date of the final financial report shall be returned either in cash or by check to the appropriate United States embassy or consulate abroad. Evidence of refunds made to embassies or consulates must be included with the final financial report submitted to the Commissioner.

(20 U.S.C. 1232c)

§ 148.52 Cost limitations.

(a) Maintenance allowances may not be provided in excess of the amount shown in the grant agreement budget or the maximum maintenance rates and allowances as determined by the Commissioner, whichever is lower.

(b) Foreign currency funds budgeted for international travel and baggage may not be transferred to any other use.

(20 U.S.C. 1232c)

§ 148.53 Equipment.

Equipment may not be purchased with funds granted under this part unless authorized by the grant agreement or approved or directed by the Commissioner in writing through an amendment to the grant agreement.

(20 U.S.C. 1232c, 22 U.S.C. 2452(b)(6))

§ 148.54 Conduct abroad of individual participants.

(a) All U.S. participants going abroad under a grant authorized under this part will be furnished a statement prepared by the Board of Foreign Scholarships which sets forth the rights and obligations of American grantees and participants. Such participants shall be expected to adhere to the standards set forth therein and to comply with the legal and moral standards of the host country. Failure to do so may result in the revocation or termination of benefits under the grant.

(b) Revocation or termination of a grant may be made for misconduct including, but not limited to, the following:

(1) Violation of the laws of the United States or the host country;

(2) acts which give offense to the host country; or

(3) work producing income unauthorized by the host country.

(c) Revocation or termination of grant benefits shall be accomplished through action of the Commissioner with the concurrence of the Board of Foreign Scholarships.

(20 U.S.C. 1232c, 22 U.S.C. 2456)

§ 148.55 International travel.

(a) All international travel under programs covered by this subpart must be specifically approved by the Commissioner. At least six weeks in advance of a departure for a foreign country, a grantee must furnish the Commissioner with the name of the traveler, his itinerary, and the name of the air carrier to be used.

(b) A traveler shall not depart for a foreign country without the appropriate visas for carrying out his proposed project.

(c) After travel has been approved by the Commissioner, a grantee or its authorized representative will make all arrangements for travel including obtaining airline tickets.

(d) International travel costs may not exceed jet economy airfare via the most direct route for the approved itinerary. All travelers must use United States flag airlines if available.

(20 U.S.C. 1232c, 22 U.S.C. 2452(b)(6))

§ 148.56 Payment procedures for grants payable in foreign currencies.

For grants payable in foreign currencies, a grantee's designated representative will be authorized to receive funds from the United States embassy or consulate in the host country and will have the responsibility for accounting for and reporting the use of all funds to the embassy or consulate and the grantee. A designated representative shall receive foreign currency funds at the prevailing rate of exchange available to the embassy or consulate on the date of payment in the equivalent of the U.S. dollar amount specified in the grant agreement.

(20 U.S.C. 1232c)

APPENDIX

GUIDELINES

Mutual Educational and Cultural Exchange Act of 1961, Section 102(b)(6)

Higher Education Programs in Modern Foreign Language Training and Area Studies

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Chapter I—Introduction

Part 1—Scope of 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 assistance under the Mutual Educational and Cultural Exchange Act of 1961, section 102(b)(6). The legal requirements include the Act itself (22 U.S.C. 2451–58) and the regulations (45 CFR 148). The guidelines are not to be construed as requirements. However, where the guidelines set forth permissible means of meeting a legal requirement, the guidelines may be relied upon. (22 U.S.C. 2451; 113 Cong. Rec. 5936, 5939 (daily ed. May 23, 1967); *United States* v. *Jefferson County Board of Education*, 372 F. 2d 836, 857 (5th Cir., 1966))

(b) Where a guideline is issued in connection with or affecting a provision of the regulations, the pertinent regulation will be cited after the citation of the legal authority for the guideline in the parentheses following the guideline. For example, if the legal authority for the guideline is section 102(b)(6) of the Act (22 U.S.C. 2452(b)(6)), and the guideline affects § 148.33 of the regulations (45 CFR 148.33), the following citation will be placed on the line immediately following the guideline: (22 U.S.C. 2452(b)(6); 45 CFR 148.33). 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))

Chapter II—Doctoral Dissertation Research Abroad and Faculty Research Abroad

Part 2—Institutional Program Administration

§ 2.1 *Designation of institution representative.*

(a) The initial step for an eligible institution which intends to apply for Doctoral Dissertation Research Abroad or Faculty Research Abroad fellowships should be the designation by the institution of an official to serve as institution representative.

(b) The representative should be the dean of the graduate school or a faculty member who possesses a broad knowledge of the fields of modern foreign languages or area studies. (22 U.S.C. 2452(b)(6); 45 CFR 148.12, 148.16, 148.22, 148.26)

§ 2.2 *Responsibilities of the institution representative.*

The institution representative should assume responsibility for:

(1) requesting individual application packets from the Division of International Education, Office of Education, Washington, D.C. 20202.

(2) informing potentially eligible students and faculty members about the programs;

(3) distributing application packets to potentially eligible students and faculty members;

(4) setting a campus deadline for receipt of individual applications;

(5) screening the applications in accordance with program eligibility requirements as well as technical and academic standards set by the institution;

(6) signing all recommended applications on behalf of the institution;

(7) submitting recommended applications to the Office of Education;

(8) administering the grant after the award is made.

(22 U.S.C. 2452(b)(6); 45 CFR 148.12, 148.16, 148.22, 148.26)

Part 3—Applications

§ 3.1 *Application procedures.*

(a) Individual applications should be prepared according to materials available from the Division of International Education. No overall institutional proposal is required.

(b) If an institution forwards applications for more than one candidate, any preference as to priority should be indicated. Any ranking procedure should be summarized in a memorandum of transmittal accompanying the submission of the recommended applications.

(c) To facilitate negotiations between the institution and the Commissioner, each individual application should contain the (22 U.S.C. 2452(b)(6); 45 CFR 148.12, 148.22) name, address, and telephone number of the institution representative and of the contracting official of the institution.

(22 U.S.C. 2452(b)(6); 45 CFR 148.12, 148.22)

Part 4—Project Review

§ 4.1 *Sensitive topics.*

Awards are not made for research topics which are determined to be politically sensitive in the host country. If an individual candidate anticipates any problem with the political acceptability of the proposed project or of the techniques required to carry it out, at least one alternative project outline should be submitted with the original application. If a candidate presents only one topic which is subsequently determined to be politically sensitive, time may not permit the development of an acceptable substitute. (22 U.S.C. 2452(b)(6); 45 CFR 148.14, 148.15, 148.24, 148.25)

Part 5—Personal References

§ 5.1 *Faculty Research Abroad applicants.*

Each individual faculty applicant should obtain from his dean or other qualified university official a personal reference and project endorsement to provide judgments on the following:

(a) applicant's professional competence;

(b) applicant's emotional stability, personality, and maturity;

(c) relevance of the applicant's project to the institution's plans for developing its modern foreign language and area studies program;

(d) method by which the institution will utilize applicant's experience after his return, and;

(e) feasibility of applicant's project based on his capabilities and availability for an award.

(22 U.S.C. 2452(b)(6); 45 CFR 148.24)

Part 6—Insurance

§ 6.1 *Faculty Research Abroad fellows.*

Each institution should ensure that its Faculty Research Abroad fellows will be covered by health and accident insurance while taking part in their projects. They may enroll under the U.S. Government-contracted group insurance policy.

(22 U.S.C. 2452(b)(6); 45 CFR 148.26)

Chapter III—Group Projects Abroad

Part 7—Types of Eligible Projects

§ 7.1 *Summer seminars.*

(a) Summer seminars for faculty and/or students may be designed to help integrate international studies into an institution's general curriculum. Seminars may focus on a comprehensive study of a culture or particular aspects of the culture.

(b) Seminar plans may include travel within a country of study where needed to supplement formal instruction at the principal project site in such country.

(c) A U.S. institution may enter into arrangments with foreign institutions for the use of such institutions' instructional facilities and for other forms of assistance.

(d) Seminars of less than 6 weeks' duration will seldom be approved.

(22 U.S.C. 2452(b)(6); 45 CFR 148.31, 148.34)

§ 7.2 *Curriculum development teams.*

Teams composed of several faculty members (who may be accompanied by selected graduate students) may spend a period of time, normally 2 to 12 months, in a foreign country or region to acquire resource materials for curriculum development in the foreign language and area studies programs of their U.S. institution. Such materials may include artifacts, books, documents, educational films, museum reproductions, recordings, and other instructional materials. Proposals should indicate plans for the systematic utilization and dissemination of the materials in the United States.

(22 U.S.C. 2452(b)(6); 45 CFR 148.31, 148.34)

§ 7.3 *Group research or study.*

(a) Group research or study may be undertaken in a foreign country or region for a period, normally 2 to 12 months, by scholars and advanced graduate students selected by a U.S. institution. The U.S. institution should make arrangements for guidance, training,

and maintenance abroad as well as for any clearances or affiliations necessary for conducting such research or study in the host country.

(b) Proposals to carry out research should provide evidence that participants possess the requisite language proficiency to conduct the research and that the disciplinary competence of the participants is correlated with their research topics.

(c) Participants in projects of a semester or more should have completed a minimum of one full semester of intensive language training and at least one course in area studies relevant to the project.

(22 U.S.C. 2452(b)(6); 45 CFR 148.31, 148.33, 148.36)

§ 7.4 *Summer intensive language programs.*

(a) Summer programs in non-Western languages may normally be assisted for a period of 8 to 12 weeks.

(b) Languages taught in such programs must be indigenous to the host country. While cultural orientation programs may be utilized as part of the language training, such activities should be clearly subordinated to intensive instruction in the language.

(c) Programs administered by university consortiums which serve students recruited on a nation-wide basis will receive preference.

(d) Students participating in such programs should be prepared to enter language courses at the advanced level.

(e) Maximum use should be made of the host country's instructional personnel. Participation of U.S. academic personnel should be limited essentially to administrative and professional planning functions such as those inherent in the role of a program director.

(22 U.S.C. 2452(b)(6); 45 CFR 148.31, 148.34)

§ 7.5 *Academic year intensive language programs.*

(a) Academic year intensive language programs may be assisted, normally for 9 to 12 months, in such critical non-Western languages as Chinese and Japanese.

(b) Programs administered by university consortiums which serve students recruited nation-wide will receive preference.

(c) At least 90 percent of the instructional time in such a program should be spent in language training.

(d) Program participants should have a minimum language proficiency equivalent to that normally achieved after 2 years' language study at the college level.

(22 U.S.C. 2452(b)(6); 45 CFR 148.31, 148.33, 148.34)

§ 7.6 *Summer seminars related to domestic ethnic heritage programs.*

(a) Summer seminars and workshops abroad related to domestic ethnic heritage programs which focus on the overseas origins of ethnic groups in the United States may be assisted, normally for periods of 8 to 12 weeks.

(b) Participants should be primarily elementary and secondary school teachers and curriculum supervisors engaged in conducting or planning ethnic studies programs.

(c) Participants from school systems containing a large concentration of students from the ethnic groups whose geographical origins are to be studied are encouraged to apply.

(d) Projects submitted by school systems should be planned cooperatively with U.S. colleges or universities having programs of established excellence in international and/or intercultural studies.

(22 U.S.C. 2452(b)(6); 45 CFR 148.31, 148.33, 148.34)

Part 8—Applications

§ 8.1 *Application procedures.*

Project proposals should be prepared according to materials available from the Division of International Education, Office of Education, Washington, D.C. 20202.

(22 U.S.C. 2452(b)(6); 45 CFR 148.32)

Part 9—Insurance

§ 9.1 *Health and accident insurance.*

Each institution should ensure that its Group Projects Abroad participants will be covered by health and accident insurance while they are taking part in their project. They may enroll under a U.S. Government-contracted group insurance policy.

(22 U.S.C. 2452(b)(6); 45 CFR 148.36)

Chapter IV—Foreign Curriculum Consultants

Part 10—Types of Activities

§ 10.1 *Duties of a consultant.*

(a) A Foreign Curriculum Consultant may provide an institution with a wide variety of services. These may include:

(1) review of textbooks and other educational materials;

(2) evaluation of library holdings and recommendations for new acquisitions;

(3) preparation of new instructional materials for use in the classroom;

(4) development of new units of study;

(5) conduct of demonstration classes and workshops for teachers;

(6) speaking at community functions; and

(7) teaching (normally not to exceed one regular classroom course per semester).

(b) The particular needs of each applicant determine the types of activities to be performed by the consultant. These needs should be stated explicitly and fully in the application.

(22 U.S.C. 2452(b)(6); 45 CFR 148.41, 148.42)

Part 11—Applications

§ 11.1 *Application procedures.*

Formal proposals should be prepared in accordance with materials available from the Division of International Education, Office of Education, Washington, D.C. 20202.

(22 U.S.C. 2452(b)(6); 45 CFR 148.42)

Part 12—Reports

§ 12.1 *Institutional report.*

Each grantee should submit a final program report which specifically describes the consultant's contribution to the improvement of modern foreign language and area studies at the institution. Matters such as the following should be discussed or included in the report:

(1) the degree to which the objectives stated in the project proposal have been achieved;

(2) the formal program or workload of the consultant;

(3) specific objectives set for the consultant to strengthen the sector of the educational program with which the consultant was primarily concerned;

(4) concrete evidence of the value of the consultant's contribution;

(5) description of a typical day or week of the consultant's activity;

(6) evidence of any stimulus to learning among students to whom the consultant was exposed;

(7) acknowledgement of the worth of the consultant's endeavors from teachers, supervisors, community leaders, etc.;

(8) examples of correction of misconceptions among students with regard to the consultant's own country or region;

(9) evidence of strengthened language capability or classroom instruction;

(10) examples of new teaching materials that the consultant produced or helped to produce;

(11) significant quotes by the consultant or Americans concerning the consultant's activities; and

(12) photographs of the consultant at work or engaged in community affairs.

(22 U.S.C. 2452(b)(6); 45 CFR 148.41)

§ 12.2 *Consultant reports.*

Consultants are normally asked to make two progress reports on their activities. The reports should be submitted in December and March of the academic year. The types of materials that might be included in these reports are those listed in items (2) through (10) of § 12.1 above.

(22 U.S.C. 2452(b)(6); 45 CFR 148.41)

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CODE OF FEDERAL REGULATIONS

(Revised as of January 1, 1976)

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