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MONDAY, AUGUST 16, 1976

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This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

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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 program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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rules and regulations

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

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

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—GENERAL REGULATIONS

[FmHA Instruction 426.1]

PART 1806—INSURANCE

Subpart A—Real Property Insurance

On pages 23410–23417 of the FEDERAL REGISTER dated June 10, 1976, there was published a notice of proposed rulemaking to revise Subpart A of Part 1806, Title 7, Code of Federal Regulations (35 FR 17238, and amended at 37 FR 17051, 37 FR 2879, 37 FR 25499, as redesignated at 39 FR 17093, and amended at 40 FR 2420, 40 FR 10953). This revision included the provision that relieved the County Supervisor of the responsibility to check and monitor Farmer Programs and Section 502 Rural Housing borrower insurance accounts for adequate coverage after the loan has been outstanding 1 year Also included were editorial changes for clarity but specifically this revision will:

1. Relieve the County Supervisor of the responsibility for checking or monitoring to see that Farmer Programs (FP) or section 502 RH borrowers maintain adequate insurance coverage on their property after the loan has been outstanding for 1 year.

2. Authorize the County Supervisor to return the insurance policy or declaration page to Farmer Program and section 502 Rural Housing borrowers after the first year of the loan.

3. Limit authorization to pay insurance premiums by SF 1034, "Public Voucher for Purchases and Services Other Than Personal," for insurance on property securing a Farmer Program or section 502 RH loan to instances where unusual and severe hazards exist and insurance is necessary to protect the interests of the Government.

4. State the borrower's and County Supervisor's responsibilities in cases of partial or total losses and damage to security property with or without adequate insurance coverage.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed revision. All comments with respect to the proposed revisions were given due consideration, and as a result, the following changes in the revised rules are made:

1. In § 1806.2(d)(1), the revision was made to require that any insurance on essential buildings with restrictions which limit the amount of collectable insurance must meet FmHA requirements or have such restrictions eliminated or modified to afford required protection; otherwise, the policy will not be accepted.

2. In § 1806.5(c)(iii) the revision was made to set forth the requirement that proceeds for loss or damage to a nonessential building the borrower voluntarily insured be: (1) Applied on prior liens, delinquencies to FmHA, or as an extra payment on the borrower's loan accounts secured by real estate; or (2) disposed of as authorized by the State Director.

Effective date: August 16, 1976.

Dated: August 6, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

The amendments are adopted with changes as set forth below:

Subpart A—Real Property Insurance

Sec.

1806.1 General.
1806.2 Companies and policies.
1806.3 Coverage requirements.
1806.4 Examining and general servicing of insurance.
1806.5 Losses.
1806.6 Failure of borrower to provide insurance.
Exhibit B—Escrow agreement real property insurance.
Exhibit B—Notice of expiration of insurance (for FP and section 502 RH borrowers).

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C 301; delegation of authority by the Sec. of Agri., 7 CFR § 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR § 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.

Subpart A—Real Property Insurance

§ 1806.1 General.

(a) *Authority.* This Instruction prescribes the authorizations, methods, and procedures to be followed in obtaining and servicing property insurance on buildings and on owned or leased land securing the interest of the Farmers Home Administration (FmHA) in connection with Farmer Program (FP), Rural Housing (RH), Labor Housing (LH), Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), Recreation Loans (RL), Other Real Estate (ORE), Soil and Water (SW), Timber Development (TD), and Land Conservation and Development (LCD) loans. For the purpose of this instruction, FP means direct and insured individual farm real estate, operating and emergency loans secured by real estate.

(b) *Borrower to furnish insurance.* The real estate mortgage executed by the borrower provides that he will furnish and continually maintain and pay for insurance on buildings situated or constructed on the property with companies, in amounts, and on terms and conditions satisfactory to the FmHA until the loan is repaid.

(c) *Borrower's selection of company.* The borrower may select the insurance company provided that the company and insurance policy comply with all the requirements set forth in this Instruction.

(d) *Responsibility.* The County Supervisor is responsible for taking all actions in connection with insurance as may be necessary to protect the security interest of the FmHA. Any unusual situation that may arise with respect to obtaining or servicing insurance should be referred to the State Director. The State Director will refer any questions of a legal nature to the Office of the General Counsel (OGC).

(e) *Use of Form FmHA 426–1, "Valuations of Buildings."* The minimum insurance required will be indicated in the appraisal report by the employee who makes the appraisal of property that includes insurable buildings. In the case where no real estate appraisal is required or the appraisal report does not indicate the minimum insurance coverage, Form FmHA 426–1 will be prepared by the County Supervisor. Reevaluation of the buildings will not be done on appraisal reports; however, when new buildings are constructed or values increase or decrease materially and reevaluation is necessary to properly reflect the buildings' security interest of the FmHA, the County Supervisor will prepare or revise Form FmHA 426–1 as appropriate. Changes made on an existing Form FmHA 426–1 will be dated and initialed. The reason for any deletion will be noted on the Form.

§ 1806.2 Companies and policies.

Property insurance policies or other evidence of insurance will be accepted from borrowers when the requirements outlined herein are complied with fully.

(a) *Companies.* It is desirable that companies be licensed to do business in the particular State or other jurisdiction where the property is located, or that they be otherwise authorized by law to transact business within such State or other jurisdiction (hereinafter called "State"). If the required insurance is not available locally at comparable rates from an insurance company licensed or otherwise authorized to do business in the State, insurance may be accepted from another company if (1) the OGC advises that policies issued by such company will not be rendered unenforceable by virtue of the company's

failure to be licensed or otherwise authorized to transact business in the State and that the company is a legal entity which may be sued in the State where the insured property is located, and (2) the State Director determines that the company is reputable and financially sound. In making the above determinations, the State Director will consider all relevant available information such as that which may be obtained from financial statements, Best's Insurance Reports, State insurance authorities, and other lending institutions.

(b) *Insurance policies*—(1) *Standard policies.* If a standard fire insurance policy has been adopted for the State, it should be used unless State statutes exempt the company from the regulations requiring its use. The standard policy is one containing substantially the same standard provisions adopted or recommended by legislative action or by order of the supervisory insurance authorities of the State in which the security is located.

(2) *Other policies.* To be acceptable, any other insurance policies must conform to the requirements of this Instruction.

(i) "Homeowner's" policies, "All Physical Loss" policies, "Broad Form" policies, and other such all-inclusive policies are acceptable if they otherwise meet the requirements of this Instruction.

(ii) A builder's risk policy naming the borrower as the insured or a builder's risk endorsement for a policy issued to the borrower may be accepted during the period a building is under construction if the policy otherwise meets the requirements of this Instruction. If such a policy or endorsement does not automatically convert to full coverage when the building is completed, acceptable insurance must be obtained simultaneously with the expiration of the builder's risk provisions of the policy.

(iii) A builder's risk insurance policy issued to a contractor only may not be substituted for the property insurance, the borrower is required to provide.

(iv) Borrowers eligible for insurance under the National Flood Insurance Act of 1968, as amended by the Flood Disaster Act of 1973, will be serviced in accordance with Subpart B of this Part.

(3) *State instructions.* If the State Director and the OGC consider it advisable, a State Instruction may be issued to help County Supervisors identify standard insurance policies adopted for the State. The Instruction should also furnish a guide to assist in identifying other acceptable insurance policy forms that are commonly used by insurance companies in the State, recognizing that such information is not all inclusive.

(4) *Binders.* Whenever there is a justifiable reason for not issuing a policy or endorsement, as required, a written binder will be acceptable for a period not to exceed 60 days from the effective date of the insurance. Form FmHA 426–7, "Insurance Binder," may be used in lieu of a standard binder form provided by the insurance company or agent. The written binder must have attached thereto the approved form of mortgage clause. Such a binder will be submitted to the County Supervisor in lieu of an insurance policy or endorsement and the insurance policy or endorsement will be submitted on or before the expiration date of the binder. The State Director, with the advice of the OGC and subject to prior approval of the National Office, may issue a State Instruction authorizing such binders to be accepted for periods longer than 60 days.

(5) *Submission of policies.* The original policy or declaration page must be delivered to the County Supervisor by the borrower, except that a certificate of insurance, a copy of the policy, or other evidence of insurance is acceptable for loans which are secured by other than first liens if the mortgage clauses include the names of prior mortgagees. For FP and section 502 RH loans, the County Supervisor will not retain the insurance policy or declaration page after the loan has been outstanding for 1 year. The County Supervisor will return the insurance policy of FP and Section 502 RH borrowers and notify each borrower by a letter similar to Exhibit B of this Instruction of his continued responsibility to provide and maintain proper insurance. The County Supervisor will not, however, be responsible for further checking or monitoring to see that a FP or section 502 RH borrower insures security property and will process a SF 1034, "Public Voucher for Purchases and Services other than Personal," to pay for insurance only in strict compliance with provisions of § 1806.6.

(6) *Master sets.* If the master sets meet all of the requirements of this Instruction they may be accepted in lieu of an original policy for each FmHA borrower.

(i) One complete master set of the different insurance forms for policies issued by the insurance company must be on file in each County Office where the company insures property of FmHA borrowers.

(ii) The "Declaration Page" furnished by the insurance company for each borrower insured, in lieu of a complete policy, will be filed in the borrower's case folder. When a "Declaration Page" in the form of a computer printout is used by an insurance company an endorsement on every policy issued by that company or a letter from that company will be obtained and attached to the printout. However, a letter signed by an authorized official of the company and addressed to the State Director may cover all policies issued by that company in the State. Any such endorsements or letters should clearly state that the company considers the printout to be an original "Declaration Page". Such endorsements or letters are not necessary if the printout itself clearly states that it is an original "Declaration Page."

(7) *Name and location.* The name or names of the assured in the policy must be readily identifiable as the owners of the property being insured. If title is vested in the husband and wife, the policy should contain the names of both; however, if the policy, when issued, shows the name of only the husband, it will not be necessary to return it for correction. The location of the property should be described sufficiently to identify it. The complete legal description by metes and bounds of the property is not required.

(8) *Loss or damage covered.* Buildings must be insured against loss or damage by fire, lightning, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, and smoke.

(9) *Effective date of insurance.* If there are insurable buildings located on the property, the borrower will arrange with his agent or company to have adequate insurance in force at the time the loan, assumption, or credit sale is closed so that the policy will properly insure the borrower and the mortgagees. When new buildings are erected or major improvements are made to existing buildings, such insurance will be made effective as of the date materials are delivered to the property. The County Supervisor will make no payments from loan funds for labor or materials until the borrower has furnished adequate insurance to protect the interest of the FmHA in the buildings being erected or improved.

(10) *Term.* The borrower will be required to furnish insurance for a term of at least one year with evidence that a full year's premium is paid. The term "premium" as used herein includes any assessments which may be charged to the borrower. If the assessments are of the type imposed only after a loss occurs involving property insured by the insurance company, then the borrower must present evidence (such as a letter from the company) that he currently does not owe any such assessments. The borrower may receive a discount for insuring for a longer period such as three years or five years and with an annual premium. If the insurance contains an automatic renewal clause, its provision should be substantially the following to be acceptable to FmHA:

> This policy will be automatically extended for successive terms at expiration of the original term and of each extension thereof, upon payment of renewal premiums.' It is a condition of this policy that if the policy expires or is canceled for nonpayment of premium, or for any other reason, the mortgagee will be given 10 days notice.

(11) *Mortgage clause.* The standard mortgage clause adopted by the State must be attached to or printed in the policy, or Form FmHA 426–2, "Property Insurance Mortgage Clause (Without Contribution)," must be attached to or the provisions thereof printed in the policy. A letter signed by an authorized official of an insurance company to the State Director, stating that all insurance policies the company issues in the State and in which the FmHA has a mortgage interest incorporates all of the provisions of Form FmHA 426–2 may be accepted in lieu of attaching Form FmHA 426–2 to each policy. If such a blanket letter is used, the FmHA will be named in the loss payable clause and a State Instruction will be issued, after prior approval is

obtained from the National Office, authorizing the use of such method.

(i) If the use of a mortgage clause, other than the standard mortgage clause (without contribution), has been made mandatory by State laws or insurance regulations, a State Instruction will be issued, after prior approval is obtained from the National Office, authorizing the use of such a form.

(ii) When an approved mortgage clause is printed in the policy a "Loss Payable Clause" is acceptable provided the FmHA, as mortgagee, would receive payment in case of loss even though the company would not be liable to the borrower. A "Loss Payable Clause" which contains the statement that the mortgagee is "subject to all terms and conditions of the policy" is not acceptable.

(iii) Whenever a new mortgage clause including the interest of the FmHA is issued after the policy has been in force, the new mortgage clause must be signed by an authorized agent or officer of the company that issued the policy. Form FmHA 426–6, "Transmittal of Property Insurance Mortgage Clause," may be used to transmit the mortgage clause to the insurance official.

(iv) The FmHA and all other mortgagees whose interests are insured by the policy will be shown either in the mortgage clause or in the "Declaration Page" in the order of priority of their mortgages.

(A) "United States of America (Farmers Home Administration)" will be named in the mortgage clause for direct and insured loan mortgages naming FmHA as mortgagee, whether in its own right or as trustee under a 2(f) or other agreement with a State Rural Rehabilitation Corporation.

(B) "United States of America (Farmers Home Administration), as first mortgagee or as statutory agent and insurer of such mortgagee," will be named in the mortgage clause for insured FO mortgages naming the lender as mortgagee, whether the mortgage is held by the original or a subsequent lender or by the insurance fund or by FmHA under a trust agreement or declaration of trust.

(C) If the designation is not identical to that set forth in paragraphs (b)(11)(iv)(A) or (B) of this section, whichever is applicable, it will be sufficient if the mortgagee is readily identifiable as the Farmers Home Administration.

(c) *Evidence of premium payment.* (1) When Form FmHA 426–2 is attached to or the provisions thereof are printed in the policy, or a blanket letter from an insurance company incorporating the provisions of Form FmHA 426–2 in all policies in which the FmHA has a mortgagee interest is in effect in accordance with paragraph (b)(11) of this section, no evidence of premium or assessment payment is required except for the first year.

(2) When a mortgage clause requires the mortgagee to pay the premium if the insured does not, the borrower will be required to furnish, with the policy, proper evidence that the premium has been paid for the full term of the policy, unless a State Instruction has been issued in accordance with paragraph (c)(3) of this section or an exception is otherwise authorized by the National Office. The evidence of a premium payment may be (i) a receipt, (ii) the policy or bill for the premium stamped "Premium Paid," (iii) the endorsement renewing or continuing the policy stamped "Premium Paid," or (iv) a letter or statement signed by the agent or company stating that the premium has been paid. In case the policy is written by an assessment mutual insurance company on an annual assessment basis, proper evidence will accompany the policy to show that the most recent annual assessment has been paid.

(3) In those States in which laws or regulations do not permit the use of Form FmHA 426–2, the State Director may issue a State Instruction which sets forth the manner in which premium payment will be handled.

(d) *Policy restrictions.* (1) Any insurance on essential buildings as defined in § 1806.3 having restrictions which limit the amount of collectable insurance must meet the FmHA requirements set forth below (except for the clause described in subpargaraph (iv) below which is never acceptable); otherwise, such restrictions must be eliminated or modified to afford the required protection.

(i) *Coinsurance Clause.* This clause generally provides that in consideration of a reduced rate, the borrower agrees to maintain insurance on his buildings up to a specified percentage (usually 80 percent) of their value and that the company will not be liable for a greater proportion of any partial loss than the amount of insurance bears to the specified percentage of either the undepreciated replacement value or the depreciated replacement value or the depreciated replacement value (actual cash value) of the buildings at the time of the loss. When the buildings are insured for the specified percentage of their value, the company, in the event of a partial loss, will be liable for the full amount of the loss not to exceed the amount of insurance. A coinsurance clause can be accepted only where the amount of insurance is at least equal to the specified percentage of either the undepreciated replacement value or the depreciated replacement value (actual cash value). For example, an 80 percent coinsurance clause can be accepted only where the amount of insurance on each insured building is at least equal to 80 percent of the appropriate replacement value of the insured building.

(ii) *Three-Fourths' Value Clause.* This clause provides that the liability of the company shall be limited to three-fourths of the depreciated replacement value of the buildings covered at the time of the loss, not to exceed the amount of insurance. This clause may be accepted if the unpaid balance of the loan is not greater than three-fourths of the depreciated replacement value of the building and the amount of insurance is at least equal to the unpaid balance of the loan and any prior liens and no building is insured for more than three-fourths of its depreciated replacement value.

(iii) *Loss Deductible Clause.* This clause generally provides that loss to each building to the extent of the limitation is not recoverable. The company is liable only for loss to each building in excess of such limitation stated in the clause. This clause may be accepted where the limitation does not exceed $150, or one percent of the insurance coverage, whichever is greater. In no case, however, may the limitation on any one building exceed $300.00.

(iv) *Three-Fourths' Loss Clause.* This clause provides that the company will not pay more than three-fourths of any loss, nor more than three-fourths of the amount of insurance in force. This clause is never acceptable and must be eliminated.

(v) *Deferred Loss Payable Clause.* This clause provides that, if the amount payable under the policy for any loss to any building insured shall be in excess of a specified portion, (usually 60 percent) of the amount of insurance on such building, the company will withhold from its initial loss payment any sum in excess of the specified portion of the amount of insurance on such building. If the building sustaining such loss is repaired or replaced within six months from the date of the fire and at or within 300 feet of the original location, as described in the policy, the company upon receipt of evidence to that effect from the insured will pay the full balance withheld from the initial payment, provided the amount expended in repairing or replacing the building damaged or destroyed will equal or exceed the amount of loss as determined under the terms of the policy. Failure to repair or replace any insured building within the time and manner provided will constitute acceptance of the initial payment as full and final settlement under the policy with respect to the loss. This clause may be accepted if the amount of insurance is for the full depreciated replacement value (actual cash value) of the building and the unpaid balance of the loan and any prior lien(s) is not greater than the initial loss payment made by the company.

(vi) *Construction Specifications and Use Conditions.* If the insurance policy contains clauses which specify certain standards of construction or prescribes certain uses of the property for the insurance to be valid, the policy is acceptable only if the property meets such specifications or conditions at the time of acceptance. For example, if the policy provides that the chimney be constructed of a certain type of material, the County Supervisor should be assured that the required material has been used, or if the policy provides that farming operations are not carried out on the premises he should be assured that this condition is met.

(2) Policies generally will not be accepted if, under the terms of the policies or local laws, contributions or assessments may be made against the FmHA. However, policies which impose assessments on the borrower may be accepted only if the FmHA mortgage will be recorded prior to any failure of the borrower to pay any such assessments. Policies also will not be accepted if, by their terms or other conditions, loss payments are contingent upon collective action by the Board of Directors, or the stockholders, or the members.

(e) *Buildings on leaseholds.* The policy will indicate that the insured is the lessee or tenant and not the owner of the buildings securing the FmHA loan; or, if he is the owner of the building on the leased land, the policy will indicate that the insured is the owner of the building, but not of the land. State Directors, with the advice of the OGC will issue State Instructions to meet any other special requirements needed to conform with the insurance requirements of the State to enable leaseholders to obtain property insurance for buildings which are security for FmHA loans.

§ 1806.3 Coverage requirements.

The County Supervisor should encourage the borrower for his own protection to insure for their depreciated replacement value (actual cash value) all essential buildings. Essential buildings include the dwelling and any other buildings that are necessary for the operation of the property or that provide income to assure orderly repayment of the loan. If insurance is for less than the depreciated replacement value of all essential buildings, the County Supervisor will see that the coverage is obtained on one or more of the most essential buildings. The minimum amount of coverage will be furnished as prescribed below:

(a) *Loans secured by a first lien.* (1) When the unpaid balance of the FmHA loan secured by a first lien is equal to or greater than the depreciated replacement value of the essential buildings, or the cost of adequate essential buildings which can be constructed for amounts less than the depreciated replacement value of the existing buildings, the essential buildings will be insured, to the nearest multiple of insurance that is available, for the lesser of (i) their depreciated replacement value, or (ii) the cost of constructing adequate essential buildings. For example, if insurance is available in only multiples of $1,000, the minimum insurance required on an essential building valued at $6,600 would be $7,000, and that required on an essential building valued at $6,400 would be $6,000.

(2) When the unpaid balance of the loan is less than the sum of the depreciated replacement value of the essential buildings to be insured, the total amount of insurance must be at least equal to the lesser of (i) the unpaid balance of the loan, or (ii) the cost of adequate essential buildings which can be constructed for amounts less than the depreciated replacement value of the existing buildings to be insured.

(3) When, by the use of loan funds or otherwise, buildings are erected or substantial improvements are made to essential buildings, the amount of insurance will be adjusted in accordance with paragraphs (a) (1) or (2) of this section, whichever is applicable.

(b) *Loans secured by other than first liens.* The amount of insurance on buildings in the case of FmHA loans secured by other than a first lien will be the same as required in paragraph (a) of this section, with the understanding that the unpaid balance of the loan will be deemed for this purpose to be the amount of the total real estate mortgage indebtedness owed all prior mortgagees named in the mortgage clause, plus the debt to the FmHA which is secured by real estate mortgage.

(c) *Exception of buildings from insurance.* (1) Insurance will not be required on a building:

(i) That is not essential.

(ii) In such a state of disrepair that the cost of insurance would be prohibitive.

(iii) Which has a depreciated replacement value of $2,500 or less.

(iv) Which is being or has been repaired with a section 504 loan. Families receiving section 504 loans should be encouraged but not required to carry insurance on their home.

(v) On LH security property which was not built or repaired with FmHA loan funds provided that the State Director determines that the land and other structures adequately secure the FmHA loan and any prior liens.

(vi) On which the hazards are so slight because of the character and construction of the building, or the cost of the insurance is so high in comparison with the value of the building that, according to common standards of judgment, it should not be insured, including but not limited to windmills, silos, and fire-cured tobacco barns.

(vii) In cases where the unpaid balance of the FmHA loans and any prior liens have been reduced to $2,500 or less, property insurance need not be required if the borrower wants to discontinue it, provided the County Supervisor determines that the value of the land security itself is sufficient to protect the FmHA in its collection of the amount of the outstanding indebtedness.

(viii) If insurance for windstorm and hail to meet all FmHA requirements is not available in a hurricane area, the County Supervisor may accept from the borrower or applicant the windstorm and hail insurance policy that most nearly conforms to FmHA requirements. If such an exception is made, the situation should be fully documented in the borrower's case file. However, if the best insurance policy a borrower or applicant can obtain at the time he receives a loan contains a loss deductible clause for windstorm and hail damage exceeding $250 or 10 percent of the actual cash value of the buildings, whichever amount is greater, the insurance policy, with an explanation of the reasons why more adequate insurance is not available will be submitted to the State Office for prior approval.

§ 1806.4 Examining and general servicing of insurance.

(a) *Examination by county office of policies, endorsements, binders, and other evidence of insurance.* Upon receipt in the County Office of a policy, endorsement, binder, or other evidence of insurance, submitted by a borrower, it will be examined promptly for compliance with the requirements of this Instruction. If the evidence of insurance is found to be acceptable, it will be placed in the borrower's case folder.

(1) *Unacceptable policies.* (i) When the borrower furnishes any policy or other evidence of insurance which does not meet the requirements of this Instruction such policy or other evidence of insurance will be returned to the borrower with the reasons why it is not acceptable.

(ii) If the borrower does not furnish acceptable insurance by the date the previous policy expired or was canceled, the County Supervisor will proceed as provided in § 1806.6.

(2) *Expiration records and notices.* After the insurance has been accepted, the expiration date will be inserted on Form FmHA 405–1, "Management System Card—Individual," or Form FmHA 405–5, "Management System Card—Individual (Rural Housing Only)," or Form FmHA 405–10, "Management System Card—Association or Organization," or Form FmHA 405–12, "Monthly Insurance Expirations," as provided in FmHA Instruction 405.1 for servicing the renewal of the insurance.

(i) In cases other than those involving FP or section 502 RH borrowers, the County Supervisor will notify the borrower of the expiration of his insurance at least 30 days in advance of such expiration unless he has received written evidence that the insurance has been renewed. Form FmHA 426–3, "Notice of Expiration of Insurance," may be used for this purpose.

(ii) FP and section 502 RH borrowers will be given notice in writing similar to Exhibit B, at least 30 days prior to expiration of the first premium installment regardless of whether the County Supervisor has received written evidence that the insurance has been renewed. Thereafter County Supervisor will not be required to further determine whether the borrower has adequately maintained insurance after the premium expiration period. If, however, further notice of expiration of insurance is received in the county office, the County Supervisor will forward another notice to the borrower similar to Exhibit B.

(3) *Release of mortgage interest.* When the borrower's loan has been paid in full and the satisfaction or release of the mortgage has been executed, the County Supervisor or his delegate will execute

the following Release of Mortgage Interest on the mortgage clause attached to the policy or other evidence of insurance and transmit it with the policy or other evidence of insurance, the paid-in-full note, and the satisfaction to the borrower:

It is understood and agreed that the interest of the United States of America in the property insured hereunder ceased as of (Date of Final Payment), and that the Government shall have no interest in any loss or damage to such property occurring thereafter.

(4) *Lost or misplaced policies.* When an unexpired insurance policy or other evidence of insurance is lost or misplaced, it will be necessary to obtain a replacement policy or other evidence of insurance. The County Supervisor is authorized to sign a Lost Policy Receipt on behalf of the FmHA. For FP and section 502 RH loans, this paragraph applies only during the period the policy is retained in the County Office.

(5) *Disposition of expired and canceled policies.* An expired or canceled policy or other evidence of insurance will be returned to the borrower, unless there is a loss settlement pending.

(b) *Special servicing of insurance.* (1) *Vacancy or unoccupancy—tenant occupancy—increased hazard.* If the County Supervisor has knowledge that insured property is vacant or unoccupied or that the ownership or occupancy has changed from owner to tenant, or that the hazards otherwise are increased, he will examine the policy to determine whether the policy permits such conditions. Unless the insurance permits such conditions, the County Supervisor will immediately notify the company or agent in writing. In any case where there is an additional premium due because of vacancy, unoccupancy, tenant occupancy, or other increased hazard, and upon demand to FmHA from the company or agent because the borrower cannot, or will not, pay the additional premium, it may be paid by Standard Form 1034, "Public Voucher for Purchases and Services Other than Personal," to the company or agent. For FP and Section 502 RH borrowers, Std. Form 1034, "Public Voucher," will not be used except in cases where an unusual and severe hazard exists and insurance is necessary to protect the interests of the Government.

(2) *Transfer of property.* (i) When a borrower or transferee requests the consent of FmHA to a transfer of the security property which already has been made, or when the County Supervisor learns that any such transfer has been made, he will immediately inform the transferee that the mortgage requires the owner to provide and maintain adequate insurance acceptable to, and with loss payable to, FmHA as mortgagee. The transferee may obtain a new insurance policy or the transferor may have the insurance company or agent issue an endorsement to the current insurance policy changing the name of the assured to that of the transferee. If a new insurance policy is obtained, the old policy or other evidence of insurance will be returned to the transferor unless there is an unsettled loss. If there there is an unsettled loss, the policy or other evidence of insurance will not be returned until the claim has been settled. The County Supervisor, with the concurrence of the State Director and the OGC, will notify the borrower and transferee that acceptance of the new policy or endorsement will not constitute consent by the Government to the transfer even though the Government is protected by a loss payable clause in such an insurance policy.

(ii) In case of a transfer for which prior consent is requested insurance will be obtained as required in Subpart A of Part 1872 of this Chapter for a transfer case.

(3) *Voluntary conveyance of property to the government and foreclosure.* Insurance will not be carried on buildings which the Government has acquired. After a foreclosure sale has been held, or after a deed of conveyance to the Government in lieu of foreclosure has been filed for record, insurance will not be maintained by the Government (whether or not subject to redemption).

§ 1806.5 Losses.

(a) *Protecting property.* It is the responsibility of the borrower to immediately notify the County Supervisor and insurance company or agent of any loss or damage to insured property and collect the amount of the loss. When the County Supervisor learns of a loss to property which secures an FmHA loan, he will:

(1) Check the borrower's casefile for an insurance policy or other evidence of insurance. When a policy or other evidence of insurance has not been retained by the FmHA, such as for FP and section 502 RH borrowers, the County Supervisor will determine whether the property was insured and whether FmHA was named as mortgagee in the insurance policy.

(2) Determine that the borrower has taken such steps as are necessary to protect the interest of the FmHA in the security property against further damage. When serious problems arise with respect to protecting the property from further damage, the borrower cannot or will not arrange adequate protection for the property, or when legal action appears to be necessary, the County Supervisor will arrange for emergency protection and immediately refer the case with complete information to the State Director.

(b) *Loss covered by insurance.* (1) If the FmHA is listed as mortgagee in the insurance policy, the County Supervisor will collect the amount of the loss and may consent to the borrower using funds to repair or replace damaged or destroyed property or to apply loss proceeds to his loan account or to any prior liens that might exist in the order of their priority.

(2) If the FmHA is not listed as mortgagee in the insurance policy, the County Supervisor will contact the borrower to determine whether he has received the loss proceeds. If the borrower has received the loss proceeds but not yet paid for improvements to repair or replace the property, or has not received the loss proceeds the County Supervisor will:

(i) Notify the insurance company in writing of the FmHA's interest in the security property and request that the loss proceeds be made payable jointly to the FmHA and the borrower.

(ii) Inform the borrower of his responsibility for repairing or replacing the damaged or destroyed property or for authorized disposition of the loss proceeds as outlined in paragraph (b) (1) of this section.

(c) *Loss drafts—when loan is secured by a first mortgage.* (1) A loss draft which in the opinion of the County Supervisor represents a satisfactory adjustment of the loss will be endorsed immediately without recourse and deposited in a supervised bank account to be used in repairing or replacing the damaged building, except:

(i) Where the amount of the loss is $1,000 or less and the borrower will use the funds for repairing or replacing an essential building, the loss draft may be endorsed without recourse and given to the borrower upon satisfactory proof that the repairs or replacements have been made, or upon satisfactory assurance that the work will be performed.

(ii) When (A) the essential buildings are not to be repaired or replaced and other suitable buildings are not to be erected, or (B) a balance remains after all repairs, replacements, and other authorized disbursements have been made, such insurance funds will be applied on prior liens or as an extra payment to the borrower's loan accounts secured by the real estate or disposed of in accordance with the general principles applicable to the use of proceeds from the sale of a part of the security under Subpart A of Part 1872 of this Chapter.

(iii) An insurance payment for loss or damage to a nonessential building the borrower voluntarily insured will be (A) applied on prior liens, or to current delinquencies to FmHA, or as an extra payment on the borrower's loan accounts secured by real estate, (B) disposed of as authorized by the State Director in accordance with the general principles applicable to the use of proceeds from the sale of a part of the security under Subpart A of Part 1872 of this Chapter or (C) used for other purposes as authorized by the State Director if the loan is adequately secured and the loan payments are current.

(iv) When the indebtedness secured by the insured property has been paid in full or the draft is in payment for loss of property on which the FmHA has no claim, a loss draft which includes the FmHA as a joint payee may be endorsed without recourse and delivered to the borrower.

(d) *Loss drafts—When loan is secured by other than first mortgage.* (1) When the loss draft does not include the interest of a prior mortgagee, it will be proc-

essed as provided in paragraph (c) of this section.

(2) When the loss draft incudes the interest of a prior mortgagee, the County Supervisor is authorized to endorse and process the draft as follows:

(i) When the prior mortgagee will permit the use of such loss funds to repair or replace the damaged building, the draft may be endorsed without recourse upon satisfactory proof that the repairs or replacements have been made or upon satisfactory assurance that the work will be performed.

(ii) When the amount of the draft does not exceed the amount of the indebtedness then secured by the prior mortgage as stated in writing by the holder of the prior mortgage, and the holder of the prior mortgage has agreed in a written statement to the County Supervisor that he will apply such funds as a payment on the borrower's prior mortgage indebtedness, the draft may be endorsed without recourse.

(iii) When the amount of the draft exceeds the amount of the indebtedness then secured by the prior mortgage, as stated in writing by the holder, and he has agreed in writing to pay such indebtedness from the loss funds, the draft will be endorsed without recourse only after all parties named as payees in the draft have signed an agreement to deliver the draft "in escrow" to a bank acceptable to the named parties. The agreement will specify the manner in which the funds will be disbursed by the bank, as escrow agent, to the several mortgagees named in the draft. After the loss funds have been collected by the bank, it will issue cashier's checks in the manner prescribed in the escrow agreement (see Exhibit A for suggested form). If this procedure is found to be impractical in an individual instance, the State Director may authorize an alternative method for disbursing the loss funds to protect the Government's financial interest.

(iv) Drafts which have been endorsed by all other payees will be endorsed immediately without recourse. Such drafts or other loss funds will be processed in accordance with the methods described in paragraph (c) of this section.

(e) *Servicing insurance losses under special circumstances*—(1) *Foreclosures and voluntary conveyances.* Losses on properties in process of foreclosure or voluntary conveyance will be handled with the advice of the OGC. If the necessary cooperation of the borrower cannot be obtained, the State Director, with the advice of the OGC, will determine the proper action to be taken. To the extent feasible from a legal and practical standpoint, all loss payments should be received for a damaged or destroyed building and applied on the borrower's real estate indebtedness before title to the property is taken by the Government through foreclosure sale, voluntary conveyance, or otherwise, unless absolute assignment has been made by the borrower to the Government of all loss funds due from the insurance company.

(2) *Subrogation agreements.* When a company claims nonliability to the borrower and subrogation to the rights of the FmHA, the County Supervisor will forward a full report of the facts in the case to the State Director. The State Director will upon advice from OGC, instruct the County Supervisor regarding further action to be taken.

(f) *Repairs and replacements.* When any loss payments have been deposited in a supervised bank account, all repairs and replacements done by or under the direction of the borrower, or by contract, will be planned, performed, inspected, and paid for in the same manner as improvements financed with loan funds.

(g) *Completing adjustment.* The borrower must complete the adjustment of the loss with the company or its authorized representatives. The County Supervisor, upon request of the borrower may consult with the borrower regarding the loss adjustment, but will not enter into negotiations with insurance adjusters or company representatives relative to the adjustment or settlement of losses on borrower property, or make any commitments, or sign any forms in connection with the adjustment of the loss. The FmHA will not waive any rights which it may have against the company except when the borrower's account or the FmHA claim has been paid-in-full.

(1) The County Supervisor will maintain a proper followup on all loses until satisfactory settlement has been made by the company.

(2) Where the County Supervisor has evidence that the adjustment agreed to by the borrower is significantly less than the amount of damage to which the borrower is entitled under the terms of the policy, the loss draft accompanied by a report will be sent to the State Director so that he may reopen the adjustment, if he considers it is in the interest of the FmHA to do so.

(3) When it appears evident that the amount of the loss is $1,000 or less, the County Supervisor may rely on estimates of contractors, building supply firms, reliable carpenters, or other evidence rather than personal inspection in determining whether the adjustment is equitable and the Government's interest is protected.

(h) *Reinstatement after loss.* In cases where insurance in the amount of the loss is not reinstated automatically by the provisions of the policy, it will be the responsibility of the County Supervisor to have the borrower reinstate as much of the insurance as may be necessary to fulfill the requirements of the FmHA.

(i) *Losses not covered by insurance.* When a loss occurs and insurance is not in force, the County Supervisor will:

(1) Inform the borrower that he has violated the security instrument by not providing insurance coverage and that it is his responsibility to make the needed replacements or repairs.

(2) If the borrower is unable or unwilling to make needed repairs or replacements from his own resources, the County Supervisor will submit complete information to the FmHA official authorized to determine whether FmHA will or will not continue with the loan. The County Supervisor's report will include recommendations on the following items:

(i) The advisability and possibility of making a subsequent loan to pay for needed repairs.

(ii) Subordination of the FmHA real estate lien to permit the borrower to obtain funds for needed repairs from another source.

(iii) The possibility of the borrower obtaining funds secured by a junior lien from another source.

(iv) Whether an advance is needed to protect the Government's interest in the property.

(3) If the loan will not be continued with the borrower, it must be serviced in accordance with the applicable Instructions.

(4) If the borrower has improperly disposed of loss proceeds, the County Supervisor will refer the case with complete information and recommendations to the State Director. The State Director will consult the Regional Attorney when necessary and advise the County Supervisor as to appropriate servicing actions.

§ 1806.6 Failure of borrower to provide insurance.

When a borrower fails to provide and maintain acceptable property insurance, the County Supervisor will immediately make every effort to have the borrower provide with his own funds a policy acceptable to the FmHA. The County Supervisor will emphasize the borrower's responsibility to continue to provide and maintain proper insurance and that failure to do so is grounds for foreclosure. If a FP or section 502 RH borrower still fails to provide acceptable insurance, the County Supervisor will process a SF 1034 to pay for insurance in accordance with provisions of this paragraph, only in cases where unusual and severe hazard exists such as recurring forest fires or unstable ground conditions. Failure to provide insurance is a nonmonetary default and will be a consideration in determining if the loan is to be continued with the borrower. The advice of the State Director will be obtained before foreclosure action is started. If a borrower indebted for any other type loan fails to provide acceptable insurance, the County Supervisor will take the following action:

(a) *Expired Policies.* (1) The County Supervisor will request the insurance agency or broker who issued the expired policy to issue a new policy which is acceptable to the FmHA.

(i) The new policy will be effective as of the date of the County Supervisor's contact with the insurance agency or broker or as soon thereafter as possible, and will be for a term of one year. If State insurance regulations require a longer term, the State Director will issue a State Instruction authorizing County Supervisors to obtain policies for the minimum period permitted by State insurance regulations.

(ii) The FmHA will be shown in the loss payable clause and in the mortgage clause in the proper order of priority.

(iii) Insurance coverage on each building usually will be the same as shown on

the expired policy if it meets or exceeds FmHA requirements. If the coverage shown on the expired policy does not meet FmHA requirements, proper coverage will be obtained.

(iv) The County Supervisor will, if possible, have an automatic renewal provision included in the policy.

(v) If the borrower refuses to pay the insurance premium with his own funds or arrange with the agent for subsequent payment by premium note or otherwise, the County Supervisor will prepare and process Standard form 1034 in accordance with FmHA Instruction 322.1 (which is available at any FmHA office), to cover the amount of the insurance premium. The amount of the premium payment will be charged to the borrower's FmHA account with the highest lien priority as a recoverable cost item.

(vi) If the insurance agency or broker who issued the expired policy refuses to issue a new policy, the County Supervisor will have the borrower designate in writing another insurance agency or broker from whom the insurance can be obtained.

(vii) After the County Supervisor and the borrower exhaust all efforts to obtain acceptable insurance, the County Supervisor will request advice from the State Office as to companies issuing acceptable policies in the State and from which the borrower might be able to obtain an acceptable policy. If the borrower still cannot obtain an acceptable policy from any such company, and continuance of the account with the borrower is appropriate under § 1872.1(b) of Subpart A of Part 1872 of this Chapter, the County Supervisor will temporarily accept from the borrower the available insurance policy the County Supervisor determines most nearly conforms to the requirements of § 1806.2

(A) In making this determination, the following deficiencies become more objectionable in the order from (*1*) to (*5*) below:

(*1*) A policy written for an initial term of less than on year.

(*2*) A policy which will insure the most essential buildings but will not cover all essential buildings.

(*3*) A policy which covers major risks such as fire and lightning, but does not include one or more of the other risks specified in § 1806.2(8).

(*4*) A policy for a lesser amount of insurance than is required by § 1806.3.

(*5*) A policy that is issued by a company which is not licensed to do business in the State or otherwise does not meet the requirements of § 1806.3.

(B) Whenever adequate insurance becomes available, the County Supervisor will require the borrower to deliver to the County Office an acceptable insurance policy. The temporary policy will be returned to the borrower for cancellation after all losses claimed under the policy have been settled.

(C) If the borrower is unable to furnish a property insurance policy of any kind, he is still responsible for the debt in the event of loss.

(D) If the County Supervisor accepts an inadequate insurance policy under these conditions or the borrower fails to furnish any insurance policy, the County Supervisor will include in his report to the State Director an explanation of the efforts he and the borrower made to obtain acceptable insurance and his justification for accepting an inadequate policy, or for not obtaining an insurance policy of any kind.

(b) *Insurance canceled for reasons other than nonpayment of insurance premium.* (1) The County Supervisor, immediately upon receipt of a 10-day notice of cancellation for a policy, will urge the borrower to provide acceptable insurance.

(2) If the borrower fails to provide acceptable insurance before the cancellation is effective, the County Supervisor will contact the insurance agency or broker who issued the insurance policy to determine the reasons for cancellation and, if possible, have the policy reinstated.

(3) If the insurance company will not reinstate the policy, the County Supervisor will attempt to obtain an acceptable insurance policy from another agency or broker in accordance with the provisions of paragraph (a) of this section.

(c) *Insurance canceled for nonpayment of premium.* (1) The County Supervisor, immediately upon receiving a 10-day cancellation notice for a policy, will, if possible, contact the borrower in an effort to have him pay the insurance premium from his own funds or arrange with the agent for subsequent payment by premium note, or otherwise.

(2) If the borrower does not pay or arrange to pay the premium before the policy cancellation is effective, the County Supervisor will, before the cancellation becomes effective, notify the insurance company or broker by certified mail (return receipt requested), that the FmHA as mortgagee (or trustee) will pay the premium for one year to continue the policy in effect for that period. The County Supervisor will then prepare and process Standard Form 1034 to cover the amount of the premium for a period of one year. The amount of the premium will be charged to the borrower's loan account as a recoverable cost item.

(3) If a property insurance mortgage clause other than Form FmHA 426–2 is used in connection with the policy and the insurance company or broker refuses to accept payment from the FmHA in this manner to reinstate or continue the policy, the County Supervisor will attempt to obtain an acceptable insurance policy from another insurance company or broker in accordance with the provisions of paragraph (a) of this section.

EXHIBIT A—ESCROW AGREEMENT REAL PROPERTY INSURANCE

Date _____

_____
(name of bank)

_____
(city or town)

_____
(State)

Gentlemen: Attached is Draft No. _____, for $_____, issued by the _____ Insurance Company in payment of _____ loss which damaged the buildings on the farm of _____, of _____ County, State of _____.

This draft has been endorsed by the undersigned payees who request that you collect these funds and issue cashier's checks to the following payees for the following amounts:

_____, First Mortgage $_____
_____, Second Mortgage $_____
_____, Third Mortgage $_____

The balance only, if any, will be paid to _____, the owner of the property.

_____
First Mortgagee

_____
Second Mortgagee

_____
Third Mortgagee

_____
Owner

EXHIBIT B—NOTICE OF EXPIRATION OF INSURANCE (FOR FP AND SECTION 502 RH BORROWERS)

DATE_____

_____
(name)

_____
(address)

Dear _____: This will advise that the property insurance on your dwelling and other essential buildings will expire on (date). Although the FmHA will no longer require that your original policy or other evidence of insurance be retained in your County Office file, this does not in any way lessen your responsibility to the Government.

The real estate mortgage which you signed at the time the loan was made requires that you continually maintain property insurance in amounts and on terms and conditions satisfactory to the FmHA until the loan is repaid. Failure to provide such insurance and list FmHA on the policy as mortgagee violates the conditions listed in the security instrument you signed when you received your loan and may result in the FmHA taking action to protect its interest in your property.

Sincerely,
County Supervisor.

[FR Doc.76-23822 Filed 8-13-76;8:45 am]

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.1]

PART 1822—RURAL HOUSING LOANS AND GRANTS

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

MAXIMUM ADJUSTED INCOME FOR LOW-INCOME FAMILIES

Exhibit C of Subpart A of Part 1822 of Title 7, Code of Federal Regulations (39 FR 44993; 40 FR 51621) is revised to increase the adjusted income limits for low-income families to $10,000 in all States except Hawaii, Guam, and Alaska, whose new adjusted income limits are $12,200, $12,200, and $15,000, respectively.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is being published without notice of proposed rulemaking because such notice would delay the provision of

needed housing to low-income rural families and would be contrary to the public interest.

Interested persons are invited to submit written comments, suggestions, or objections regarding Exhibit C on or before September 15, 1976, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. Material thus submitted will be evaluated and acted upon in the same manner as if this document was a proposal. However, this revised part shall remain effective until it is amended. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch, Farmers Home Administration, during regular business hours (8:15 a.m.–4:45 p.m.).

As revised, Exhibit C of Subpart A of this Part reads as follows:

EXHIBIT C—MAXIMUM ADJUSTED INCOME FOR LOW-INCOME FAMILIES

State:	*Maximum adjusted income*
Alabama	$10,000
Arizona	10,000
Arkansas	10,000
California	10,000
Colorado	10,000
Connecticut	10,000
Delaware	10,000
Florida	10,000
Georgia	10,000
Idaho	10,000
Illinois	10,000
Indiana	10,000
Iowa	10,000
Kansas	10,000
Kentucky	10,000
Louisiana	10,000
Maine	10,000
Maryland	10,000
Massachusetts	10,000
Michigan	10,000
Minnesota	10,000
Mississippi	10,000
Missouri	10,000
Montana	10,000
Nebraska	10,000
Hawaii	12,200
Guam	12,200
Trust Territory of the Pacific Islands	10,000
American Samoa	10,000
Nevada	10,000
New Hampshire	10,000
New Jersey	10,000
New Mexico	10,000
New York	10,000
North Carolina	10,000
North Dakota	10,000
Ohio	10,000
Oklahoma	10,000
Oregon	10,000
Pennsylvania	10,000
Puerto Rico	10,000
Rhode Island	10,000
South Carolina	10,000
South Dakota	10,000
Tennessee	10,000
Texas	10,000
Utah	10,000
Vermont	10,000
Virginia	10,000
Virgin Islands	10,000
Washington	10,000
West Virginia	10,000
Wisconsin	10,000
Wyoming	10,000
Alaska	15,000

(42 U.S.C. 1480, delegation of authority by the Sec. of Agri., 7 CFR 2.23, delegation of authority by the Sec. of Agri., 7 CFR 2.23, delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Effective date: This revision shall become effective on August 16, 1976.

Date August 11, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-23891 Filed 8-13-76;8:45 am]

[FmHA Instruction 444.5]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart D—Rural Rental Housing Loan Policies, Procedures and Authorizations

MISCELLANEOUS AMENDMENTS AND ADDITIONS

The following are miscellaneous amendments and additions to Subpart D of Part 1822, Title 7, Code of Federal Regulations (CFR) (40 FR 4278; 40 FR 54421), for the purpose of implementing a simplified system of the processing of section 515 rural rental housing applications involving the Housing and Urban Development Section 8 Housing Assistance Payments Program, in compliance with the signed Memorandum of Understanding between the Department of Agriculture and the Department of Housing and Urban Development. Exhibits 0-3 through 0-11 mentioned in this Subpart and not published in the CFR are available in any FmHA Office. Exhibits K, L, M and N are reserved.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemtpion in 5 U.S.C. 553 with respect to such rules. These amendments and additions, however, are being published without notice of proposed rulemaking because such notice would delay the providing of immediately needed rental housing low- and moderate-income families, and would be thus contrary to the public interest.

In accordance with the spirit of the policy, to publish for comment, interested parties may submit written comments, suggestions, data, or arguments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, DC 20250, on or before September 15, 1976. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. However, these amendments and additions will remain effective until further amended.

1. In § 1822.84, paragraphs (a)(8) (i) and (ii) are deleted and paragraph (a)(8) is revised to read as follows:

§ 1822.84 Eligibility requirements.

(a) *Eligibility of applicant.* * * *

(8) Necessary management will be provided to assure the successful operation of the project. Management services may be provided by the applicant, a management firm, or an agent. If the borrower or a member of the borrower organization does not live in the community where the housing is located, or close enough to the project to provide the general supervision, he must retain a management firm or an individual located in close proximity who is experienced and has full authority to act on behalf of the owner.

(i) [Deleted]

(ii) [Deleted]

* * * * *

2. In § 1822.88, paragraphs (l) and (n) are revised; paragraphs (q), (r), (s) and (t) are added and read as follows:

§ 1822.88 Special conditions.

* * * * *

(l) *RRH loans made in connection with the HUD section 8 housing assistance payment program (section 8/515).* RRH loans involving the HUD section 8 housing assistance payment program will be handled in accordance with Exhibit O of this Subpart.

* * * * *

(n) *Guidelines for preparing environmental assessment and environmental impact statements.* All projects shall be processed in accordance with Subpart G of Part 1901 of this chapter. Projects involving section 8/515 loans shall also comply with Exhibit O of this Subpart.

* * * * *

(q) *Location of housing.* Be located in residential areas as a part of an established community where essential facilities and services such as schools, shopping, medical services and generally central sewer and water systems are readily available. In addition, to the extent possible, the location of an RRH project should:

(1) Provide housing opportunities for minority families outside areas of minority concentration and areas which are already substantially racially mixed; and

(2) Promote an equal opportunity for inclusion of all groups regardless of race, color, creed, sex, national origin or marital status, thereby, opening up nonsegregated housing opportunities for minorities and helping to overcome the effects of any past discrimination. If the proposed location is in an area of minority concentration, it will not be accepted unless:

(i) Comparable housing opportunities exist outside the minority area for minority families in the income range to be served by the project; or

(ii) The applicant provides written documentation which adequately demonstrates that there are no other acceptable sites available outside the area of minority concentration and housing on the proposed site is necessary to meet an overriding housing need in the market area.

(r) *Clean Air Act and Water Pollution Control Act requirements.* (1) As a condition for FmHA's making a loan in excess of $100,000 and unless otherwise

exempted, an applicant for a loan will:

(i) Comply with all the requirements of section 114 of the Clean Air Act (42 U.S.C., 1857 C–9) and section 308 of the Federal Water Pollution Control Act (33 U.S.C., 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder after the award of the contract. (Such regulations and guidelines can be found at 40 CFR 15.4 and 40 FR 17126, April 26, 1975.)

(ii) As a condition for the award of contract, notify the FmHA of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities. (Prompt notification is required prior to contract award.)

(iii) Certify that any facility to be utilized in the performance of any nonexempt contractor or subcontractor is not listed on the EPA List of Violating Facilities, pursuant to 40 CFR 15.20 as of the date of contract award; and

(iv) Include or cause to be included the above criteria and requirements in every nonexempt subcontract, and will take such action as the Government may direct as a means of enforcing such provisions.

(2) As a further condition for FmHA's making a loan in excess of $100,000 but not otherwise exempted, the applicant for the loan will secure the services of a contractor who agrees to comply with the provisions in paragraph (r)(1) of this section.

(3) The term "facility" as used in this section only means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are colocated in one geographical area.

(s) *Approval of construction contracts.* Construction contracts between the borrower and contractor for development of an RRH project will be in compliance with § 1804.5(m)(2)(iii) of this chapter, which provides that the contract is not in full force and effect until it has been approved by the State Director in writing. This approval relates to form, content and proper execution of the document and statement that FmHA is not to be considered a party to the contract or incur any liability thereunder. Therefore, prior to loan closing or prior to the start of construction, whichever occurs first, the State Director will approve the contract, form, content and execution by including the following paragraph at the end of the contract.

The Farmers Home Administration, as potential lenders or insurer of funds to defray the costs of this contract, and without liability for any payments thereunder, hereby approves the form, content and execution of this contract.

_____
FmHA Approval Official

Title _____

Date _____

(t) *Historic preservation requirements.* The State Director should take the necessary action to assure that the applicant will comply with the provisions of the "National Historic Preservation Act of 1966" (Public Law 89–665), the "Preservation of Historical and Archeological Data Act of 1974" (Public Law 93–291), and Executive Order 11593 dated 5/13/76.

3. In § 1822.93, new paragraphs (b)(1)(ii) and (b)(1)(iii) are added, and paragraphs (b)(1)(ii) through (b)(1)(vi) are renumbered (b)(1)(iv) through (b)(1)(viii) without change. Section 1822.93 (b)(1)(ii) and (b)(1)(iii) now read as follows:

§ 1822.93 Loan approval.

* * * * *

(b) *Loan approval action.*—(1) Responsibilities of loan approval official.

* * * * *

(ii) The location of the housing meets the requirements as outlined in § 1822.88 (q).

(iii) The State Director will take necessary action to comply with § 1901.406 of this chapter, real estate settlement procedures (RESPA), on projects of four or less units.

* * * * *

4. In Exhibit J, paragraphs IV B (2) (e) and (f), paragraph V B, and paragraphs VI D and E are revised to read as follows:

IV. *Options of borrowers:* * * *

* * * * *

B. *Plan II.*

* * * * *

2. A borrower under Plan II, generally must:

* * * * *

e. Determine the required monthly payments on the loan at 1 percent interest and overage each month for the total units developed with any one RRH loan. The amount of payment will be computed separately for each loan. (See Exhibit J–2.)

f. Execute Form FmHA 444–9, "Certification and Payment Transmittal," each month for each loan.

* * * * *

V. *Determining the amount of interest credit.*

* * * * *

B. *Plan II.* The amount of interest credit to be granted will be calculated using the general format as shown in the examples included in Exhibits J–1 and J–2. A State form should be developed similar to Exhibit J–2. The National Finance Office will compute the actual amount of interest to be paid as payments are received.

VI. *Special conditions:*

* * * * *

D. *Interest credit for projects under the Department of Housing and Urban Development (HUD) housing assistance payments program.* When rental units in an RRH project are leased under the section 8 program, interest credit will be provided in accordance with Exhibit O of this Subpart.

E. *Special Cases.* Cases and situations not covered by this Exhibit or Exhibit O of this Subpart will be handled on an individual case basis with instruction from the National Office.

5. Exhibits J–1 and J–2 are revised to read as follows:

EXHIBIT J–1—EXAMPLE OF INTEREST CREDIT DETERMINATION FOR RRH OR RCH PROJECTS (PLAN II)[1]

$100,000 RRH LOAN—APPROVED DURING 1976 FISCAL YEAR PROJECT CONTAINS FOUR 1-BEDROOM UNITS AND FOUR 2-BEDROOM UNITS

Budget for market rent		Budget for basic rent	
Operating, maintenance, vacancy and contingency allowance, reserve and return to investor, if applicable.[2]	$5,277	Operating, maintenance, vacancy and contingency allowance, reserve and return to investor, if applicable.[2]	$5,277
Loan repayment at 9 pct interest $100/mo ×$91.23.[3]	9,123	Loan repayment at 1 pct interest $100/mo ×$25.52.[3]	2,552
Total annual cost	14,400	Total annual cost	7,829
$14,000÷12=$1,200 cost per month. Market rent for 2-bedroom units=$160. Market rent for 1-bedroom units=$140. ($160×4)+($140×4)=$1,200 monthly income.		$7,829÷12=$652[4] cost per month. Basic rent for 2-bedroom units=$91. Basic rent for 1-bedroom units=$72. ($91×4)+($72×4)=$652 minthly income.	

[1] 2 complete and accurate budgets must be prepared, 1 for the Market Rent and 1 for the Basic Rent. (The expense items in the budgets shown in this illustration are only for illustration purposes and are not itemized).

[2] The borrower has the option of paying all utility cost for units except for the telephone. When the borrower pays all utilities, the tenant's rental rate will be calculated on the basis of 25 percent of their monthly adjusted family income. When the tenant pays utilities, the rental rate will be calculated on the basis of 20 percent of their monthly adjusted income.

[3] Factor for 50 years. If the regular installment on the note was amortized using a factor for less than 50 years, substitute the appropriate factor for a corresponding number of years.

[4] Rounded to nearest dollar.

EXHIBIT J–2—REPORT ON RRH OR RCH PROJECTS (PLAN II) [1]

I. Summary: Name of borrower _____, for month of _____, 19____

[1] This example of a Summary Report is for the same project shown in Exhibit J–1.

Apartment No.	Type	Occupant	Basic monthly rental	Market monthly rental	25 pct of adjusted monthly family income [1]	Tenant's monthly rental payment [1]	Overage
1	1 bedroom	Jones	$72	$140	$71	$72	0
2	do	Smith	72	140	79	79	$7
3	do	Brown	72	140	94	94	22
4	do	Wilson	72	140	60	72	0
5	2 bedrooms	Bryant	91	160	90	91	0
6	do	Font	91	160	101	101	10
7	do	Doe	91	160	170	160	69
8	do	Vacant	91	160			0
	Total overage						108

[1] This information is taken from executed copies of form FmHA 444-8, "Tenant Certification." This column should reflect the borrower's option of using 25 pct of the tenant's monthly adjusted family income where utilities are included or 20 pct of the tenant's monthly adjusted family income where utilities are not included.

PAYMENT CALCULATION

(See Forms Manual Insert for Form FmHA 444-9)

A. For note with annual amortized payment:

1. Monthly payment on note as though the note had been written with a 1% interest rate [2] ($2,552 ÷ 12)	$212.67
2. Overage for month	108.00
3. Amount of payment	320.67

B. For note with monthly amortized payment:

1. Monthly payment on note as though the note had been written with a 1% interest rate	$212.00
2. Overage for month	108.00
3. Amount of payment	320.00

[2] Use annual factor applicable for date of note to determine the 1 percent payment.

6. Exhibits O, O–1, and O–2 are added as follows:

EXHIBIT O—RRH LOANS AND THE HUD SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM (NEW CONSTRUCTION)

I. *General.* The attached Exhibit O–1 is the Memorandum of Understanding between the Department of Housing and Urban Development and the Department of Agriculture, Farmers Home Administration concerning the application processing and operation of rural rental projects involving HUD Section 8 housing assistance payments. This Exhibit contains the policies and procedures that will be followed by the Farmers Home Administration in implementing and carrying out the provisions of the Agreement. Exhibit O–2 provides the basic information about the section 8 program. Exhibits O–3 through O–11 are guide letters and certifications required for proper processing and meeting the requirements outlined in the Memorandum of Understanding.

II. *Establishment of interest rate for section 8 units.* The payment of interest on the RRH loan will be based on a 1 percent interest reduction below the established interest rate for RRH loans for the units of a project under HUD's Housing Assistance Payments Contract. (Referred to in subsequent paragraphs as "contract.") The interest rate shown on the note, however, will be in accordance with § 1810.11 of this Chapter. This reduction in interest or interest credit will be accomplished in the manner indicated for Plan I and Plan II in Exhibit J of this Subpart and in accordance with paragraph IV of this Exhibit.

III. *HUD reasonable rents.* The HUD reasonable rent rates will be determined by FmHA. HUD reasonable rents are also referred to as contract rent rates. HUD reasonable rents are determined as outlined in paragraph IV of this Exhibit. The HUD reasonable rents determined by FmHA cannot exceed the effective Fair Market Rents for newly constructed units as published in the FEDERAL REGISTER unless an exception is authorized in writing by HUD. The State Director should contact the HUD field office to obtain the Fair Market Rents in effect for the proposed project's location at the time the certification is made.

IV. *Budgets and interest credit agreements.* Budgets and interest credit agreements must be prepared in accordance with the following:

A. *Total project under section 8.* If a project is developed with all units of the project covered by HUD's contract, one budget will be prepared. The budget will be based on an interest rate which is 1 percent less than the established rate for RRH loans without section 8 assistance. The rental rates will be referred to as "HUD Reasonable Rent." An interest credit agreement will be entered into with the borrower to show the interest reduction of 1 percent. Check Plan I of the agreement and show the amount of interest credit as the difference between the amortized payment at the note rate of interest and the amortized payment calculated at 1 percent less than the note rate of interest. In addition to checking Plan I on the Form FmHA 444–7, "Interest Credit Agreement," type the following notation as an added paragraph until this change is incorporated into the form by revision:

"10. This interest credit agreement is submitted for a section 8/515 project. The interest credit to be applied is based on information contained in Exhibit O, paragraph IV A, of this Subpart. The effective interest rate is 1 percent below the note rate of interest."

B. *Mixed project for profit.* If a mixed project is developed (a project with only a part of the units of the project covered by HUD's contract) and the borrower is operating on straight profit basis, two separate budgets must be prepared; one for HUD reasonable rent and for market rent. An interest credit agreement will be entered into with the borrower to allow interest credit on those units covered by the HUD contract. Check Plan I of the agreement and show the amount of interest credit as the difference between amortized payment at the note rate of interest and the amortized payment calculated at the proportionate part of 1 percent less than the note rate of interest. The proportionate amount of 1 percent will be in direct ratio as the number of units under section 8 are to the total units in the project. (Example: 12 units under section 8 with 16 units in the project equals 12/16 or ¾ of 1 percent. Thus the interest on this project would be reduced ¾ of 1 percent.) In every case, the amount must be rounded to the nearest ⅛ percent. In addition to checking Plan I on the Form FmHA 444–7, "Interest Credit Agreement," type the following notation as an added paragraph and insert the proper percentage in the blank provided until the form is revised to cover this change:

"10. This interest credit agreement is submitted for a section 8/515 project. The interest credit to be applied is based on information contained in Exhibit O, paragraph IV B, of this Subpart. The effective interest rate is ____ percent below the note rate of interest."

C. *Mixed project for nonprofit and limited profit.* When a mixed project is developed (a project with only a part of the units of the project covered by HUD's contract and a part of the units to utilize interest credit Plan II in accordance with paragraph IV B of Exhibit J to this Subpart), three budgets must be prepared. The budgets must be for basic rent, HUD reasonable rent, and market rent. An interest credit agreement will be entered into with the borrower to allow interest credit on all units. Check Plan II of the agreement. The loan payments will be based on the amortized payment at 1 percent interest plus all overages. The amount of overage for those units under HUD contract will be the difference between the basic rent and the HUD reasonable rent. The amount of overage for those units not under HUD contract will be in accordance with Exhibit I of this Subpart.

V. *Compliance and certifications required.* To comply with the provisions of the Memorandum of Understanding with HUD, certain requirements must be met and certifications made. These requirements and certifications are listed below:

A. *Minimum Property Standards.* 1. Since the FmHA has adapted HUD's Minimum Property Standards (MPS) 4910.1, no additional requirement other than compliance with Subpart A of Part 1804 of this Chapter shall be necessary to assure that the housing is planned in accordance with the MPS. However, appropriate State and local laws, codes, ordinances and regulations must also be met.

2. The borrower's architect will provide a certification that the final drawings and specifications meet all MPS, State and local laws, codes, ordinances and regulations.

B. *Rent certification.* The State Director will certify for each project that the rental rates to be used in the contract for the units of the project are reasonable based on quality, location, amenities and comparable rental rates and unless HUD has authorized higher rates, do not exceed the applicable Fair Market Rents for newly contructed section 8 units as published in the FEDERAL REGISTER and in effect at the time the certification is made. Guide letter, Exhibit O–3 may be used for this purpose.

C. *Site and neighborhood standards.* The State director will certify that the location of each project is in compliance with § 1822.–88(q). Exhibit O–4, Checklist for Site and Neighborhood Standards, will be used to assist in determining compliance with § 1822.–88(q). Exhibit O–5 may be used in preparation for the certification to HUD.

D. *Equal opportunity.* 1. FmHA must comply with the requirements of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and Executive Order 11246 in accordance with Defense Emergency Loan regulations and Subpart E of Part 1901 of this Chapter. Obtaining properly executed Form FmHA 400–1, "Equal Opportunity Agreement," Form FmHA 400–4, "Nondiscrimination Agreement," and Form FmHA 400–6, "Compliance Statement," and completion and transmittal of Form FmHA 400–3, "Notice to Contractors and Applicants," will meet these requirements.

2. To comply with Executive Order 11063, the applicant must complete HUD Form 935.2, "Affirmative Fair Housing Marketing Plan." (The State Office will obtain the form and instructions for filing from the HUD area office for distribution to applicants.) The completed form will be reviewed for adequacy by the loan approval official. Marketing of the units must begin no later than 90 days before project completion. To further comply with Executive Order 11063, the mortgage must contain the covenants as required in § 1822.95(b).

3. The applicant must agree to and sign a certification that there will be compliance with the provisions of section 3 of the Housing and Urban Development Act of 1968, as it pertains to training and employment of lower income residents in the area of location of the housing. Exhibit O–6 may be used for this purpose.

4. The State Director will prepare a certificate for each project that all of the above equal opportunity requirements will be met. Exhibit O–7 may be used in preparation of the certification to HUD.

E. *Environmental standards.* 1. Subpart G of Part 1901 of this Chapter outlines the program actions requiring environmental assessment and, if found necessary an environmental statement. Subpart G of Part 1901 sets the threshold for multiple housing projects at 50. The references to 50 will be disregarded in the case of section 8/515 loans and a threshold of 5 will apply to conform with the Memorandum of Understanding with HUD. All other requirements of Subpart G of Part 1901 of this Chapter will be followed.

2. In compliance with paragraph VI C of the Memorandum of Understanding, the State Director will prepare a certification for each project that it complies with the National Environmental Policy Act, and all rules, regulations, and requirements issued by FmHA pursuant thereto; and that an environmental assessment on projects consisting of a total 5 units or more has been made. Exhibit O–8 may be used for this purpose.

F. *Relocation.* Compliance with the Uniform Relocation Assistance Real Property Acquisition Policies Act of 1970 applies to Public Housing Agency applicants only. It will be the responsibility of the applicant to provide any assistance required for relocation of occupants of the site on which the section 8/515 rural rental project will be located. FmHA loan funds will not be used for this purpose. Generally, sites will not be selected which are occupied and relocation necessary.

G. *Davis-Bacon wage rates.* 1. The provisions of the Davis-Bacon Act apply to all section 8/515 projects with 9 or more section 8 assisted units. Subpart D of Part 1901 of this Chapter outlines the procedures to follow to comply with this Act.

2. In compliance with paragraph VII B of the Memorandum of Understanding, the State Director will prepare a certification for each project that there will be compliance with the Davis-Bacon Act. Exhibit O–9 may be used for this purpose.

H. *Other Federal requirements.* 1. Section 1822.88(r) outlines the requirements of the Clean Air Act and Federal Water Pollution Control Act.

2. Part 1890r of this Chapter and § 1822.88(t) states that the applicant must comply with the requirements of the National Historic Preservation Act, the Archeological and Historic Preservation Act of 1974, and Executive Order 11593.

I. *Previous participation.* It will be the responsibility of all applicants and applicant principals holding an interest in the entity to complete HUD Form 2530, "Previous Participation Certificate." (The State Office will obtain the form and instructions for filing from HUD for distribution to applicants.) The completed forms will be transmitted to HUD at the same time as transmitting the Form AD–621, "Preapplication for Federal Assistance," for their review, clearance and comment.

J. *Project completion.* 1. The borrower's inspecting architect will provide a certification as outlined in Exhibit O–10. This certification and other data required is a part of the backup material necessary for the State Director to provide HUD with the certification required to comply with paragraph XII B of the Memorandum of Understanding.

2. The State Director, after receipt of the borrower's inspecting architect's certification and compliance with other requirements, will prepare a certification for transmittal to HUD that:

a. The project was completed in accordance with the requirements in the Agreement to Enter into a Housing Assistance Payment Contract.

b. The project is in good and tenantable condition.

c. The project has been constructed in substantial compliance with drawings and specifications except for ordinary punchlist items or incomplete work awaiting seasonal opportunity.

d. There has been no change in management capability. Exhibit O–11 may be used for this purpose.

VI. *Processing application.* A. Applicants desiring to develop projects utilizing the section 8/515 loan program should contact the County Supervisor prior to completion of the requirements of the Form AD–621. If the applicant desires to submit an application, after counseling with FmHA personnel, the County Supervisor will accept and process Form AD–621 in accordance with existing regulations and this Exhibit.

B. The State Director, upon receipt of the AD–621 and required attachments will review the preapplication for completion and accuracy. A letter of transmittal will be prepared for submission to HUD listing the data submitted for their review. In addition to items required in Exhibit F–6 of this Subpart, the following items should be included:

1. Exhibit O–3.
2. Exhibit O–5.
3. Exhibit O–7.
4. Exhibit O–8.
5. Exhibit O–9.
6. Required copies of HUD Form 2530, "Previous Participation Certification."

If all of the above items are not completed or available, they may be transmitted to HUD as soon thereafter as possible.

C. Upon receipt of comments from HUD, Form AD–622, "Notice of Preapplication Review Action," will be completed and transmitted to the applicant outlining any further data required or conditions which must be met prior to or in completion of Form AD–625, "Application for Federal Assistance (Short Form)."

D. Construction of the project will not be permitted until an Agreement to Enter Into Housing Assistance Payments Contract has been executed; the loan funds obligated; interim financing arranged, or in case of multiple advances, the loan closed.

E. When the project is completed, the State Director will prepare the Certification of Project Completion, (Exhibit O–11), and submit to HUD. HUD will prepare the Housing Assistance Payments Contract for execution. Upon execution, the project will be considered to be in operation.

F. All borrowers will provide reports to FmHA in accordance with Subpart G of Part 1803 of this Chapter, this Subpart, and applicable loan agreements. Borrowers will also be required to comply with HUD's reporting requirement for Housing Assistance Payments Contract. FmHA will inform HUD of any irregularities found upon review of the borrower's report submitted to FmHA.

EXHIBIT O–1—MEMORANDUM OF UNDERSTANDING ON USE OF SECTION 8 OF THE UNITED STATES HOUSING ACT OF 1937 AND SECTION 515 OF THE HOUSING ACT OF 1949

I. INTRODUCTION

For the purpose of encouraging and facilitating the use of assistance under Section 8 of the United States Housing Act of 1937 and Section 515 of the Housing Act of 1949, as amended, to provide newly constructed housing for lower-income families in rural areas, the Department of Agriculture [hereinafter referred to as the Farmers Home Administration (FmHA)] and the Department of Housing and Urban Development (HUD) hereby agree to the policies, procedures and joint working arrangements set forth in this Memorandum. The Secretary of each Department will expedite all necessary actions to implement this Memorandum.

II. PROPERTY STANDARDS

FmHA agrees that any Section 515 Rural Rental Housing Project to be assisted by the Section 8 Housing Assistance Payments Program pursuant to this Memorandum will be in accord with HUD Minimum Property Standards, (7 CFR 1804.3) and appropriate State and local laws, codes, ordinances and regulations.

III. CONTRACT AND FAIR MARKET RENT

A. FmHA agrees to provide interest credit on any newly constructed Section 515 project to be assisted by Section 8 housing assistance payments to reduce the effective interest rate applicable to the Section 8 units by one percentage point below the FmHA interest rate in effect for Section 515 loans at the time of loan closing.

B. HUD agrees to accept FmHA certifications on a project-by-project basis that Contract Rents are reasonable based on the quality, location, amenities and management and maintenance services to be provided and do not exceed the applicable Fair Market Rents for newly constructed Section 8 units. HUD will provide the FmHA State Directors on request with the current applicable Fair Market Rents for newly constructed Section 8 units as published in the FEDERAL REGISTER and in effect at the time the certification is made.

C. HUD agrees to provide the FmHA State Directors on request with the current income limits for determining eligibility for the Section 8 program.

IV. SITE AND NEIGHBORHOOD STANDARDS

The site (location) and neighborhood standards to be set forth in the revised FmHA regulations which have been agreed to by HUD and FmHA shall be applicable to all newly constructed Section 515 projects to be assisted by Section 8 housing assistance payments. HUD agrees to accept FmHA's certification as to compliance with such standards on a project-by-project basis.

V. EQUAL OPPORTUNITY REQUIREMENTS

A. FmHA agrees to assure compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Orders 11063 and 11246, and Section 3 of the Housing and Urban Development Act of 1968 and will issue regulations pursuant thereto.

B. HUD agrees to accept certifications from FmHA that projects approved by FmHA will be developed and operated in accordance with the provisions of pargraph V(A) above.

VI. ENVIRONMENTAL STANDARDS

A. HUD and FmHA have issued regulations to implement the National Environmental Policy Act (NEPA) in accordance with guidelines issued by the Council on Environmental Quality (CEQ). HUD and FmHA agree to discuss their environmental regulations, procedures and forms to achieve uniform threshold and forms.

B. FmHA shall comply with NEPA and all rules, regulations and requirements issued by FmHA pursuant thereto including:

1. Environmental assessments will be made for such projects with five or more units;

2. The suitability and effect of the existing environment will be considered for each project for which an assessment is required, as well as the impacts that would result from a project approval.

3. Proposals shall be rejected if, after appropriate modifications to a proposal, there would remain environmental impacts which are unacceptable under NEPA and FmHA policies.

C. HUD agrees to accept the certification that sites approved by FmHA in accordance with the provisions of paragraph VI(B) above.

VII. RELOCATION

In the case of a Public Housing Agency (PHA)-Owner project which is to be constructed on a site which has occupants, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 will be met.

VIII. DAVIS-BACON WAGE RATES

A. FmHA agrees to assure that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (49 Stat. 1011), shall be paid to all laborers and mechanics employed in the development of any new construction projects with nine or more assisted units.

B. HUD agrees to accept a certification on a project-by-project basis from FmHA that there will be compliance with the provisions of paragraph VIII(A) above.

IX. OTHER FEDERAL REQUIREMENTS

FmHA agrees to comply with the following requirements:

1. Clean Air and Federal Water Pollution Control Act and all rules and regulations and requirements issued by FmHA pursuant thereto.

2. The National Historic Preservation Act (Public Law 89-665), the Archeological and Historic Preservation Act of 1974 (Public Law 93-291) and Executive Order 11593 on Protection and Enhancement of the Cultural Environment.

X. DISTRIBUTION OF HOUSING ASSISTANCE FUNDS

A. Housing assistance funds shall be allocated by HUD in accordance with the requirements of Section 213(d)(1) of the Housing and Community Development (HCD) Act of 1974 and HUD regulations pursuant thereto.

B. The HUD field office director, in planning the utilization of housing assistance funds in accordance with the Section 213(d)(1) factors, shall consult with the appropriate FmHA State Director(s) in order that the use of the housing assistance funds be coordinated as nearly as possible with FmHA Section 515 activities.

C. HUD agrees to make a set-aside during Fiscal Year 1976, including the transition quarter, sufficient Section 8 contract authority to assist not less than 4,000 newly constructed dwelling units to be financed by the FmHA under the Section 515 rural rental housing program. Subject to congressional authorizations of contract authority, HUD agrees to make a set-aside of such assistance for not less than 10,000 units in subsequent fiscal years.

D. To the extent any Section 8 housing assistance funds set-aside for use with Section 515 projects are not committed to such projects 45 days prior to the end of any fiscal year, HUD may withdraw and redistribute such funds except that HUD will not withdraw any Section 8 funds which FmHA advises HUD will be committed before the end of the fiscal year. Funds shall be deemed to be committed for such projects after receipt and review by HUD of the Form AD-621 (Preapplication for Federal Assistance) and the verification by HUD's Regional Accounting Division of the availability of funds.

XI. BASIC PROCESSING

A. When FmHA has a completed Form AD-621 (Preapplication for Federal Assistance) for a Section 515 project for which a commitment for Section 8 assistance is desired, it shall transmit a copy of the completed form and all completed attachments with a covering letter stating that Section 8 is desired. Upon receipt thereof, the HUD field office director shall initiate reviews under Section 213 of the HCD Act, all reviews to establish acceptability under HUD's previous participation requirements, and any reviews necessary to establish consistency with the Section 8 requirements. HUD shall indicate to FmHA any negative information on the proposed project as submitted, the availability of funds and that funding is contingent upon compliance with section 213 requirements and clearance under the previous participation requirements.

B. Such reports as may be deemed necessary by HUD and FmHA concerning Section 8/Section 515 projects will be provided to HUD.

XII. EXECUTION OF AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT AND HOUSING ASSISTANCE PAYMENTS CONTRACT

A. HUD will prepare an Agreement to Enter Into a Housing Assistance Payments Contract for execution by the owner only after the receipt of certifications on a project-by-project basis by FmHA. The certifications to be submitted at this time or as specified in paragraphs III(B), IV, V(B), VI(C) and VIII(B).

B. HUD will prepare a Housing Assistance Payments Contract for execution by HUD and the owner after the project is completed and FmHA submits on a project-by-project basis, certification that:

1. The project was completed in accordance with the requirements of the Agreement to Enter Into Housing Assistance Payments Contract.

2. The project is in good and tenantable condition.

3. The project has been constructed in substantial compliance with drawings and specifications except for ordinary punchlist items or incomplete work awaiting seasonal opportunity.

4. There has been no change in management capability.

C. If HUD has any information or other substantial reason to question the correctness of any FmHA certification, HUD shall promptly bring the matter to the attention of FmHA and FmHA shall advise HUD of its final determination in the matter.

XIII. HUD REVIEW RESPONSIBILITIES

A. FmHA assumes no responsibility for assuring compliance by the owner with the terms of the Housing Assistance Payments (HAP) Contract. FmHA and HUD agree to attempt to work out procedures for FmHA to assume responsibility for Housing Assistance Payments Contract compliance for Private-Owner and Public Housing Agency-Owner projects.

B. It is understood that to carry out its responsibilities for the administration of the Section 8 program, HUD may audit and review FmHA Section 8 related activities for compliance with outstanding HUD requirements covered by the provisions of this Memorandum of Understanding.

XIV. INTERDEPARTMENTAL TASK FORCE

FmHA and HUD agree to the establishment of an interdepartmental task force, consisting of Headquarters and field office personnel, which will periodically, and as needed, convene for the purpose of reviewing program issues and recommending solutions thereto to assure the effective coordination of the Section 8 and Section 515 in areas served by the FmHA.

XV. TRAINING

FmHA and HUD agree to make available appropriate personnel to carry out any interdepartmental training that may be necessary to implement an effective combination of the Section 8 and Section 515 programs.

Dated: June 23, 1976.

EARL L. BUTZ,
Secretary of Agriculture.

Dated: June 23, 1976.

CARLA A. HILL,
Secretary of Housing and Urban Development.

EXHIBIT O—2—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM: INFORMATION AID FOR NEW CONSTRUCTION

The Section 8 Housing Assistance Payments Program was authorized by the United States Housing Act of 1937, as amended by Section 201 of the Housing and Community Development Act of 1974.

Basic concept. HUD will provide housing assistance payments on behalf of eligible low-income families (i.e., families whose income does not exceed 80 percent of the median income for the locality) occupying newly constructed housing. This payment will make up the difference between the approved rent for the unit and the amount the family is required to pay which is not less than 15 percent nor more than 25 percent of the family's adjusted income.

NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION

Who may participate. Housing projects may be owned by private owners, both profit-motivated and nonprofit, and by public housing agencies.

How do they participate. Applicants will submit required data to FmHA County Office. If both, the preliminary and final data submitted is acceptable to FmHA and HUD, HUD will enter into an agreement that upon completion of the project, it will enter into a Housing Assistance Payments Contract with the owner for a specified term. Under this Contract, HUD will make housing assistance payments with respect to units occupied by eligible families.

Initial maximum rents to owners. The rents approved under the Contract (Contract Rents) may not exceed the HUD established Fair Market Rents for new construction for the housing market area in which the project will be located, and must be reasonable in relation to the quality, location, amenities, and the management and maintenance services provided by the owner.

Rent adjustments. Contract Rents to the owner will be adjusted annually by the HUD established Automatic Annual Adjustment Factor. Special additional adjustments may be approved to reflect actual and necessary expenses of owning and maintaining the project which have resulted from substantial general increases in real property taxes, utility rates or similar costs (i.e., assessments and utilities not covered by regulated rates), but only to the extent that such general increases are not compensated for by the Automatic Annual Adjustments.

Term of housing assistance payments contract. The maximum term for the Contract is 20 years, or 40 years in the case of a project owned by a State or local agency. The criteria for determining the actual terms are stated in the respective HUD regulations.

Responsibilities of the owner. The owner will be responsible for performance of all maintenance and management functions (including taking of applications, selection of families, collection of rents, termination of tenancies, reexamination of family income and compliance with equal opportunity requirements). In connection with selection of families the owner is responsible for leasing at least 30 percent of the units to very low-income families (i.e., families whose income does not exceed 50 percent of the median income for the locality). The owner may contract with another entity to perform such services provided the management contract will not shift any of the owner's responsibilities or obligations. However, no entity which is responsible for administration of the Contract (i.e., a PHA in the case of Private-Owner/PHA project) may contract to perform such services.

Effective date. These revisions and additions shall become effective August 16, 1976.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: August 10, 1976.

JOSEPH R. HANSON,
Acting Administrator,
Farmers Home Administration.

[FR Doc.76-23823 Filed 8-13-76;8:45 am]

SUBCHAPTER H—GENERAL

[FmHA Instruction 1901-D]

PART 1901—PROGRAM-RELATED INSTRUCTIONS

Subpart D—Davis-Bacon Act *C*

REVISION

Section 1901.152 of Subpart D of Part 1901, Title 7, Code of Federal Regulations (41 FR 19967) is revised. The purpose of this revision is to add paragraph (a)(6) to include among those loans to which the Davis-Bacon Act applies certain rural rental housing loans for the construction of new projects. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This addition, however, is being published without notice of proposed rulemaking because such notice would delay the providing of immediately needed rental housing to low- and moderate-income families and would be thus contrary to the public interest.

In accordance with the spirit of the policy, to publish for comment, interested parties may submit written comments, suggestions, data, or arguments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, DC 20250, on or before September 15, 1976. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Section 1901.152(a)(6) of Subpart D of Part 1901 as revised, however, will remain effective until it is further revised. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch, during regular business hours (8:15 a.m.–4:45 p.m.) As revised, § 1901.152(a)(6) reads as follows:

§ 1901.152 Policy and scope.

(a) * * *

(6) Rural rental housing loans for new construction of projects with nine or more units assisted by the Department of Housing and Urban Development section 8 housing assistance payments program.

* * * * *

(7 U.S.C. 1989 (Con. Act); 42 U.S.C. 1480 (Housing); 5 U.S.C. 301 (General); delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Effective date: This addition shall become effective August 16, 1976.

Dated: August 10, 1976.

JOSEPH R. HANSON,
Acting Administrator,
Farmers Home Administration.

[FR Doc.76-23824 Filed 8-13-76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-CE-20-AD; Amdt. 39-2690]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 65, 70, 80, 88 and 90 Series Airplanes

Fatigue cracks have been found in P/N 50-440028-7, -8, -9 and -10 stiffeners located on the fuselage station 380.00 bulkhead where the rear spar of the horizontal stabilizer is attached on Beech Models B90 and E90 airplanes. This condition could result in an adverse effect on aircraft structural integrity if allowed to propogate to complete failure. Since this condition is likely to exist or develop in other airplanes of the same type design, and Airworthiness Directive (AD) is being issued requiring inspection of the P/N 50-440028 fuselage station 380.00 bulkhead and P/N 50-440028-7, -8 or -69, -70 as applicable, and -9, -10, -29 and -30 stiffeners and P/N 50-440028-5 doublers for cracks and the replacement and/or repair of defective parts as appropriate on Beech Models 65, A65, A65-8200, 70, 65-80, 65-A80, 65-A80-8800, 65-B80, 65-88, 65-90, 65-A90, B90, C90 and E90 airplanes.

Since a situation exists that requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to Beech Models 65, A65 and A65-8200 (Serial Numbers L-1, L-2, L-6, LF-7, LF-8 and LC-1 thru LC-335), 70 (Serial Numbers LB-1 thru LB-35), 65-80, 65-A80, 65-A80-8800 and 65-B80 (Serial Numbers LD-1 and after), 65-88 (Serial Numbers LP-1 thru LP-26, LP-28 and LP-30 thru LP-47), 65-90, 65-A90, B90 and C90 (Serial Numbers LJ-1 and after), and E90 (Serial Numbers LW-1 and after) airplanes certificated in all categories.

Compliance: Required as indicated, unless already accomplished.

To assure continued structural integrity of the fuselage to the horizontal tail rear spar attachment within 50 hours' time in service after the effective date of this AD for aircraft with 600 hours' or more time in service, or upon the accumulation of 650 hours' time in service for aircraft with less than 600 hours' time in service on the effective date of this AD, and at 600 hour intervals thereafter, accomplish the following:

(A) Visually inspect the forward side of the P/N 50-440028 fuselage station 380.00 bulkhead, attached P/N 50-440028-7, -8, or -69, -70 as applicable and -9, -10, -29 and -30 stiffeners and P/N 50-440028-5 doubler for fatigue cracks as follows:

1. Remove the tail cone from the airplane.

2. Using a light and mirror, inspect the forward side of the P/N 50-440028 (F.S. 380.00) bulkhead and all of the above noted bulkhead stiffeners, doublers and other components that attach to the forward side of the bulkhead for cracks. Pay particular attention to the edges of these parts and the areas around their attaching rivets and bolts.

3. Remove spar attach bolts one at a time and inspect the contact areas under the bolt heads and nuts for cracks.

4. If no cracks are detected no further action is required by this AD.

5. If cracks are found, proceed with Paragraph B below.

(B) If cracks are found as a result of any inspection required by this AD, prior to further flight, contact Beech Aircraft Corporation, Commercial Services Operations, Wichita, Kansas 67201, for appropriate instructions and either repair (using acceptable methods, techniques and practices per Advisory Circular 43.13-1A) or replace any cracked P/N 50-440028 fuselage station 380.00 bulkhead and replace any cracked attached P/N 50-440028-7, -8 or -69, -70 as applicable, and -9, -10, -29, and -30 stiffeners and P/N 50-440028-5 doublers.

(C) Aircraft found to have the bulkhead or stiffeners cracked may be flown in accordance with FAR 21.197 to a base where the required repair or replacement can be accomplished.

(D) The time interval between the repetitive bulkhead and stiffener inspections required by this AD, after initial inspection of the bulkhead and stiffeners in accordance with this AD, can be adjusted up to 50 hours'

time in service to a maximum interval of 650 hours to allow coordination of these inspections with regular scheduled maintenance or inspections.

(E) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective August 19, 1976.

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

Issued in Kansas City, Missouri, on August 4, 1976.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.76-23606 Filed 8-13-76;8:45 am]

[Airworthiness Docket No. 76-WE-4-AD; Amdt. 39-2694]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna 401 and 402 Airplanes and Model 414 Airplanes; Modified In Accordance With STC SA2424WE and STC SA117NW

Amendment 39-2597 (41 FR 18647), AD 76-09-08, requires repetitive 10 hour inspections of the forward and aft tangs of all three engine attachment points on the engine support truss for cracks. After issuing Amendment 39-2597, American Jet Industries conducted static tests to identify the possible failure mode of the engine mount tangs and has recommended that modifications be incorporated into the engine truss design to minimize the possibility of a catastrophic failure of the tangs. The agency has determined that engine mounts modified as recommended by AJI need not be subjected to the requirement of repetitive 10 hour inspections specified in Amendment 39-2597. Therefore, the AD is being superseded by a new AD that establishes new inspection intervals for the engine mount tangs, until modified in accordance with the manufacturer's Service Bulletin.

Since this amendment provides an alternative means of compliance, and imposes no additional burden on any persons, notice and public procedure hereon are unecessary and the amendment may be made effective in less than 30 days.

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

CESSNA AVIATION. Applies to Cessna models 401 and 402 series airplanes and model 410 airplanes certificated in all categories, which have been modified in accordance with either Supplemental Type Certificate SA2424WE or SA117NW, incorporating Allison turboprop engines.

Compliance required as indicated.

To prevent and detect possible failures of the engine attachment tangs, of engine mount PN5002, accomplish the following:

(a) Within 10 hours' time in service after the effective date of this AD, unless already accomplished, loosen the engine attach bolts and compress the rubber mounts. Use steel shims to reduce the gap between the forward tang and AN970 washer (with the bushing and washers compressed against the aft tang) to no greater than 0.005 inch and retorque the bolts to 160-190 inch pounds.

(b) Within 10 hours' time in service after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed the time limits indicated below, visually inspect, with a glass of at least 8-power, the forward and aft tangs of all three engine attachment points on the engine support truss for cracks:

Time in service on engine mount:	*Time in service before next inspection (hours)*
0 to 1,000 hr	500
1,000 to 2,000 hr	200
2,000 and above	10

Example: Engine mount with 100 hours time in service on effective date of this AD. Inspections required at or before 110, 610, 1110, 1310, 1510, 1710, 1910, 2110, 2120, 2130, etc., hours.

(c) If any crack is detected as a result of any of the inspections conducted in accordance with paragraph (b), before further flight the engine mount, P/N 5002, must be replaced with an uncracked engine mount of the same part number or an engine mount approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) The modification and repetitive inspections required by paragraphs (a) and (b) may be discontinued on engine mounts modified in accordance with American Jet Industries Service Bulletin 400-1 dated June 7, 1976, or later FAA-approved revision.

(e) Equivalent inspections or modifications may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(f) Special flight permits may be issued per FAR 21.197 and FAR 21.199 to authorize flight to perform the modification required by paragraph (a), the initial inspection required by paragraph (b), and the modification specified in paragraph (d).

This supersedes amendment 39-2597 (41 FR 18647), AD 76-09-08.

This amendment becomes effective August 20, 1976.

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

Issued in Los Angeles, California, on August 5, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76-23608 Filed 8-13-76;8:45 am]

[Docket No. 76-GL-10; Amdt. 39-2696]

PART 39—AIRWORTHINESS DIRECTIVES

General Electric CF6-50 Engines

A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring installation of improved material in the fan booster shrouds of General Electric CF6-50 series engines was published in the FEDERAL REGISTER dated May 24, 1976 (41 FR 21202).

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697 and 14 CFR 11.89) § 39.13 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

GENERAL ELECTRIC: Applies to Models CF6-50A, CF6-50C, CF6-50D, CF6-50E, CF6-50E1, and CF6-50H Turbofan Engines.

Compliance required by June 1, 1977, unless previously accomplished.

To prevent excessive overpressure in the high pressure compressor, accomplish the following in accordance with General Electric Service Bulletin (CF6-50) 72-412, Revision 1, or subsequent FAA Approved Revision thereto:

(a) Remove the fan stator stages 1, 2 and 3 inner shrouds, stage 2 outer shroud and stages 2 and 3 cases with abradable epoxy resin.

(b) Replace with new or reworked parts incorporating aluminum honeycomb material.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to General Electric Company, Cincinnati, Ohio 45215. These documents may also be examined at the FAA Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018 and at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Great Lakes Region.

This amendment becomes effective August 20, 1976.

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

Issued in Des Plaines, Illinois on August 6, 1976.

The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc.76-23607 Filed 8-13-76;8:45 am]

[Airworthiness Docket No. 76-WE-13-AD; Amdt. 39-2693]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed-California Company Model L-1011-385 Series Airplanes

Pursuant to the authority delegated to me by the Administrator (31 FR 13697), an airworthiness directive was adopted on July 23, 1976, and made effective as to all known United States operators of Lockheed-California Company Model L-1011-385 Series airplanes certificated in all categories. This AD is required because of a possibility that the Visco Industries

Jet Restrictors, (P/N 19XVC112DN1 or P/N VXCA2501112D) in the A and B hydraulic rudder control systems may be missing which could result in serious degradation of airplane performance. The agency has determined that training flights and dispatch per the minimum equipment list (MEL) with the C system main pump or C system air turbine motor pump inoperative must be discontinued, as provided in the AD, until the inspection to verify the installation of the restrictors is accomplished.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of airplanes by individual telegrams dated July 23, 1976. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

LOCKHEED-CALIFORNIA. Applies to Lockheed L-1011-385 Series airplanes certificated in all categories.

Compliance required as indicated.

To prevent serious degradation of airplane flight performance due to possibility of missing Visco Jet Restrictors, P/N 19XVC112DN1 or P/N VXCA2501112D, in the A and B rudder control system, accomplish the following:

(a) Within the next 10 additional hours time in service or 24 hours after receipt of this telegraphic AD, whichever occurs earlier, discontinue training flights, and do not dispatch any airplane with the C system main pump or C system air turbine motor pump inoperative, until (b) is accomplished.

(b) Within the next 50 additional hours time in service after receipt of this telegraphic AD, perform the following inspection:

(1) Turn on aircraft electric power, no hydraulic power.

(2) Turn on B system AC motor driven hydraulic pump.

(3) Note and record hydraulic system B pressure indicated on flight engineering panel.

(4) Engage 8 degree mechanical rudder limiter stops with switches on overhead instrument panel.

(5) Slowly push rudder pedals to move rudder against travel limiter, then continue to push pedal until stop is felt.

(6) Note and record system B hydraulic pressure. If pressure is at least 200 psi lower than recorded in step 3, Visco Jet Restrictor is missing.

(7) Release pedal.

(8) Turn on hydraulic system power transfer unit B to A.

(9) Open circuit breaker K-12 on CB-2 panel 'Rudder Servo A.'

(10) Switch off rudder Servo with guarded switch on overhead instrument panel.

(11) Note and record system A hydraulic pressure on flight engineers panel. (If pressure fluctuates widely turn on/off servos as required to minimize fluctuations.)

(12) Repeat item 5.

(13) Note and record system A hydraulic pressure. If pressure is at least 200 psi lower than recorded in step 11, Visco Jet Restrictor is missing.

(14) Release pedal.

(15) Turn off hydraulic and electric power. If the Visco Jet Restrictor(s) is not installed, install prior to further flight. Record compliance and method of compliance with this AD per FAR 91.173.

(c) Equivalent inspections and installation may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) Special flight permits may be issued per FAR 21.197 and 21.199 to operate the airplane to a base to perform the inspection or repair required by (b), provided that the C System main pump and C System air turbine motor pump are operative."

This amendment is effective August 19, 1976 for all persons except those to whom it was made effective by telegram dated July 23, 1976, which contained this amendment.

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

Issued in Los Angeles, California, on August 4, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76-23605 Filed 8-13-76;8:45 am]

[Docket No. 76-SO-75; Amdt. No. 39-2692]

PART 39—AIRWORTHINESS DIRECTIVES

Pitts Aviation Enterprises, Inc., Models S-1S and S-2A

There has been a failure of a Nicopress fitting on the rudder control cable on a Pitts Model S-1S airplane which resulted in partial loss of rudder control. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection of the Nicopress sleeves on the rudder control cables for proper swaging and repair if necessary, on Pitts Models S-1S and S-2A airplanes.

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

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

PITTS AVIATION ENTERPRISES, INC.: Applies to Model S-1S, Serial Numbers 1-0001 through 1-0043, and Model S-2A, Serial Numbers 2001 through 2122, airplanes certificated in all categories.

Compliance required as indicated, unless already accomplished:

To prevent partial loss of rudder control due to control cable slippage resulting from improper swaging of the Nicopress sleeves, accomplish the following:

A. Within 10 hours' time in service after the effective date of this airworthiness directive or by September 13, 1976, whichever occurs first, inspect the 3 swaged grooves of the Nicopress part number 18-3-M sleeves in the rudder control system to assure that the major axis diameter is between .348 and .353 inches. The Nicopress "go" gage for this sleeve is part number 64-CGMP and has an opening of .353 inches. The correct opening for checking these sleeves is marked "M." The Model S-2A airplane has a total of 8 sleeves to be checked and the Model S-1S has 4. If improperly swaged sleeves are found, before further flight, reswage to the proper limits or replace as required.

B. Until compliance with paragraph A is accomplished, acrobatic flight (including but not limited to, maneuvers delineated in the respective FAA Approved Airplane Flight Manuals) is prohibited and prior to further flight a placard must be installed on the instrument panel in full view of the pilot which reads:

ACROBATIC FLIGHT PROHIBITED

C. Upon compliance with paragraph A, the placard required by paragraph B may be removed.

This amendment becomes effective August 20, 1976.

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

Issued in East Point, Georgia, on August 4, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-23777 Filed 8-13-76;8:45 am]

[Docket No. 76-SO-58; Amdt. 39-2691]

PART 39—AIRWORTHINESS DIRECTIVES

Teledyne Continental Motors, Model TSIO-520-L Engines

Amendment 39-2655, 41 FR 27716, AD 76-13-09 requires inspection and eventual replacement of certain exhaust system components of the Teledyne Continental Motors TSIO-520-L engine. After issuing Amendment 39-2655 an engine serial number cut-off was established since all necessary inspections and modifications are being accomplished at the engine manufacturer's facility on new production. Therefore, the AD is being amended to provide appropriate engine serial numbers to which the AD applies.

Since this amendment is relieving and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations Amendment 39-2655, 41 FR 27716, AD 76-13-09 is amended by revising the first sentence to read as follows:

Applies to Teledyne Continental Motors Model TSIO-520-L, serial numbers 508000 through 508164, and serial numbers 508166 through 508261.

This amendment becomes effective August 26, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Depart-

ment of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Georgia, on August 5, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-23778 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-SO-53]

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

Alteration of Control Zone

On June 21, 1976, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (41 FR 24902), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Raleigh, North Carolina, control zone.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, November 4, 1976, as hereinafter set forth.

71.181 [Amended]

In § 71.181 (41 FR 440), the Raleigh, North Carolina, control zone is amended as follows:

"* * * 034° and 231° radials * * *" is deleted and "* * * 033°, 127° and 230° radials * * *" is substituted therefor, and "* * * northeast and southwest * * *" is deleted and "* * * northeast, southeast and southwest * * *" is substituted therefor.

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

Issued in East Point, Ga., on August 3, 1976.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.76-23601 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-EA-27]

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

Alteration of Federal Airway

On May 6, 1976, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (41 FR 18684) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would realign V-260 from Hopewell, Va., to Cofield, N.C.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. We received one response to the NPRM in which the commentator posed no objection to the proposal.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, November 4, 1976, as hereinafter set forth.

§ 71.123 [Amended]

§ 71.123 (41 FR 307, 17878, 20650) is amended as follows:

In V-260 "Hopewell, Va.," is deleted and "Hopewell, Va.; Franklin, Va.; to Cofield, N.C." is substituted therefor.

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

Issued in Washington, D.C., on August 6, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-23597 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-WA-4]

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

Alteration of Terminal Control Area; Denver, Colorado: Correction

In FR Doc. 76-19601 on page 27957 in the FEDERAL REGISTER of July 8, 1976, Area C is corrected to read as follows:

All after "Stapleton International Airport DME antenna," is deleted and "excluding Areas, A, B, and G." is substituted therefor.

Issued in Washington, D.C., on Aug. 6, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-23599 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-CE-3]

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

Alteration of Transition Area

On Page 15868 of the FEDERAL REGISTER dated April 15, 1976, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Topeka, Kansas.

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

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

This amendment shall be effective 0901 GMT, November 4, 1976.

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

Issued in Kansas City, Missouri, on August 2, 1976.

C. R. MELUGIN, Jr.,
Director, Central Region.

In § 71.181 (41 FR 440), the following transition area is amended to read:

TOPEKA, KANSAS

That airspace extending upward from 700 feet above the surface within a 7 mile radius of Philip Billard Airport, Topeka, Kansas (latitude 39°04'09" N., longitude 95°37'18" W.) within 2 miles each side of the Topeka VORTAC 039° radial extending from the 7 mile radius area to 8 miles NE. of the VORTAC, within 5 miles SW. and 8 miles NE. of the Philip Billard Airport ILS Localizer NW. course, extending from 3 miles SE. to 12 miles NW. of the OM, within an 8.5 mile radius of Forbes Field, Topeka, Kansas (latitude 38°57'10" N., longitude 95°39'50" W.), within 2 miles each side of the Forbes Field TACAN 321° radial extending from the 8.5 mile radius area to 9 miles NW. of the TACAN, and within 3.5 miles each side of the Forbes Field ILS localizer SE. course extending from the 8.5 mile radius area to 8 miles SE. of the Richland LOM.

[FR Doc.76-23604 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-CE-2]

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

Alteration of Transition Area

On Pages 15867 and 15868 of the FEDERAL REGISTER dated April 15, 1976, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Leavenworth, Kansas.

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

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

This amendment shall be effective 0901 GMT, November 4, 1976.

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

Issued in Kansas City, Missouri, on August 2, 1976.

C. R. MELUGIN, Jr.,
Director, Central Region.

In § 71.181 (41 FR 440), the following transition area is amended to read:

LEAVENWORTH, KANSAS

That airspace extending upward from 700 feet above the surface within a 10 mile radius of the Kansas City Municipal Airport (latitude 39°07'20" N., longitude 94°35'30" W.), and within a 9.5 mile radius of Sherman AAF (latitude 39°22'05" N., longitude 94°54'45"

W.); and that airspace extending from 700 feet above the surface within an 8.5 mile radius of the Kansas City International Airport (latitude 39°18'05" N., longitude 94°-43'47" W.) and within 5 miles either side of the Rwy 19 ILS localizer north course extending from the 8.5 mile radius zone to 25 miles N of the Wyandotte OM; and within 5 miles either side of the 088° radial of the Kansas City VORTAC; extending from the 8.5 mile radius zone to 11.5 miles E of the VORTAC; and within 5 miles either side of the Rwy 1 ILS localizer south course extending from the 8.5 mile radius zone to 11 miles S of the Wyandotte OM.

[FR Doc.76-23603 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-WE-16]

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

Alteration of Transition Area

On July 1, 1976 a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (41 FR 27085) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Montague, California Transition Area.

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

Effective date. This amendment shall be effective 0901 GMT, September 9, 1976.

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

Issued in Los Angeles, California on August 4, 1976.

LYNN L. HINK,
Acting Director, Western Region.

In consideration of the foregoing, the FAA amends § 71.181 as follows:

§ 71.181 [Amended]

In § 71.181 (41 FR 440) the description of the Montague, California Transition Area is amended by substituting 29 miles in lieu of 26 miles in the last sentence of the description.

[FR Doc.76-23600 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-SO-30]

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

Designation of Transition Area

On April 5, 1976, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (41 FR 14394) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Whiteville, N.C., transition area.

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

Subsequent to publication of the notice, the proposed instrument approach procedure predicated on a nonfederal nondirectional radio beacon was changed from Runway 23 to Runway 5. It is necessary to alter the description to reflect this change. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, November 4, 1976, as hereinafter set forth.

§ 71.181 [Amended]

In § 71.181 (41 FR 440), the following transition area is added:

WHITEVILLE, N.C.

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of Columbus County Municipal Airport (lat. 34°16'23" N., long. 78°42'52" W.); within 3 miles each side of the 231° bearing from the Camp RBN (lat. 34°16'19" N., long. 78°42'55" W.), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

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

Issued in East Point, Ga., on August 3, 1976.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.76-23602 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-NW-7]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area; Correction

In FR Doc. 76-20355 appearing on page 29095 in the FEDERAL REGISTER of July 15, 1976, "longitude 119°58'30" W." contained in the description of R-6714A Yakima, Wash., and listed on the fourth line of that description should be corrected to read "longitude 119°58'15" W."

Issued in Washington, D.C., on August 6, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-23598 Filed 8-13-76;8:45 am]

[Airspace Docket No. 76-WA-15]

PART 73—SPECIAL USE AIRSPACE

Revocation of Restricted Areas

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to revoke Restricted Areas R-3201 Arco, Idaho; R-6004 Savannah River Plant, S.C.; and R-6715 Richland, Wash.

These restricted areas were designated a number of years ago for use of the Atomic Energy Commission (replaced by the Energy Research and Development Administration (ERDA)). Air safety considerations initially required that airspace over those locations be restricted because of possible exposure of overflying aircraft to nuclear radiation. The Energy Research and Development Administration is in agreement that these restricted areas can no longer be justified on the basis of hazards to overflying aircraft. Accordingly, the Federal Aviation Administration has determined there is no longer any aviation safety requirement to restrict use of the airspace over those ERDA facilities.

This amendment relieves a restriction on the public and it is a minor amendment upon which the public should have no particular reason to comment. Therefore, notice and public procedure thereon are deemed unnecessary. As this action relieves a burden on the public, it may become effective on August 16, 1976, without regard to the statutory period of 30 days preceding effectiveness.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective August 16, 1976, as hereinafter set forth.

§§ 73.32, 73.60, 73.67 [Revoked]

1. In § 73.32 (41 FR 673) R-3201 Arco, Idaho, is revoked.
2. In § 73.60 (41 FR 693) R-6004 Savannah River Plant, S.C., is revoked.
3. In § 73.67 (41 FR 698) R-6715 Richland, Wash., is revoked.

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

Issued in Washington, D.C., on August 6, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-23596 Filed 8-13-76;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. PR-154; Docket 29626]

PART 300—RULES OF CONDUCT IN BOARD PROCEEDINGS

Reissuance

This amendment to Part 300 governs the conduct of parties and their representatives and the relationships between the Board, its staff, and all other persons in all Board matters. Though some portions of this regulation are concerned principally with quasi-judicial proceedings, where the analogy to judicial proceedings and conduct is wholly appropriate, it must be remembered that the Board is not a court. It is an administrative agency with quasi-judicial legislative and administrative functions. It is expected to initiate, develop and establish policy for the future as well as to adjudicate matters on past facts as courts do. For certain purposes, it is imperative, therefore, that open lines of communication be maintained with all segments

of the general public and especially those concerned with airline regulations.[1] Therefore, while the changes being established in our regulation are designed to enhance the fairness of Board proceedings and the public acceptability of their results, the limitations on ex parte statements should not be regarded as isolating the Board from those sources which are essential to a proper assessment of the problems facing the agency.

Primarily the existing regulation prohibited (and after this amendment will still prohibit) communication on a substantive or procedural issue in specified kinds of matters from persons in private or public life to Members of the Board, their personal staff, the administrative law judge involved, or any other Board employee, except when made in accordance with the Board's Rules of Practice.

In broad summary, this amendment of Part 300 prohibits ex parte statements:

In hearing cases, the definition of which is significantly expanded;

In contested nonhearing cases.

The amendment however, permits ex parte statements, but limits them to responses to communications initiated by Board Members or employees and requires public recordation of such responses by both Board Members and Employees:

In rulemaking cases, but only up to the time the Board issues an advance notice or notice of proposed rulemaking;

In tariff cases, whether or not a complaint is filed, unless and until the Board orders the tariff investigated;

In contested nonhearing cases to be decided within 30 days (such as requests for emergency exemptions or waivers to perform charters on specified dates);[2]

In uncontested nonhearing cases, except that only Board Members, not employees, are required to make a public record of the responses received in such cases;

In emergency cases, not involving a trial-type hearing, where the Board directs Board employees to obtain needed information not otherwise available on a timely basis.[3]

The existing rules prohibit ex parte statements in so-called hearing matters. The rules as here amended retain that prohibition and expand the hearing concept to include matters as to which the Board has issued an order giving interested persons the opportunity to participate by written or oral submissions even though a formal evidentiary hearing is not involved. The expanded hearing concept includes rulemaking from the time the Board by order establishes specific dates for receipt of comments on an advance notice or notice of proposed rulemaking (ANPRM and NPRM).

Another principal change embodied in this amendment of Part 300 is to expand the rules against prohibited communications (§ 300.2) to include, with certain exceptions, those matters which are decided without hearing but where the Board's rules authorize a responsive pleading to the document initiating the proceeding, whether that initiating document is docketed or not, when such nonhearing matters are contested. A nonhearing matter is deemed contested at the time an identifiable and detailed written opposition to the document initiating the matter is filed or received, whether or not the opposition is in technical compliance with the Rules of Practice.[4] The exceptions to the prohibition of ex parte statements in contested nonhearing cases permit ex parte statements in the very early stages of contested rulemaking proceedings (that is, prior to Board issuance of an ANPRM or NPRM), in tariff cases up to the time the Board orders the tariff investigated, and in contested nonhearing cases to be decided within 30 days. However, such ex parte communications are permitted only where responsive to Board-initiated requests to obtain additional information[5] and must be recorded if "significant," a term defined in the Rules. Also, the amendment expands the rules against improper influence and solicitation to nonhearing cases (§ 300.2a).

Finally, ex parte statements are permitted in nonhearing rulemaking matters and in other uncontested nonhearing matters. Both Board Members and staff must record significant communications relating to rulemaking, but only Members must do so in connection with other uncontested nonhearing cases.

As summarized above and discussed more fully hereinafter, ex parte communications are permitted in certain defined instances. In most of these instances either Board Members or staff, or both, must record "significant" oral communications, that is, communications which are, or appear to be, likely to affect the outcome of a matter, and must place such records and any written ex parte statements in the public file of the matter with which they are concerned. However, oral ex parte communications on certain enumerated subjects are permitted and need not be recorded (§ 300.2(c)). One such subject is, as in the past, an inquiry with respect to the status of a case. Another such subject which was treated differently in the past, and was formerly prohibited, is a request for expedited treatment of a pending matter. The Board firmly believes that requests for expedition of matters, except in conformity with the Rules of Practice, are to be discouraged. Nevertheless, because they are not always readily distinguishable from status inquiries, they will not be prohibited as such. Instead, other means of dealing with this problem will be substituted. All inquiries as to status or expedition should be directed to the processing bureau or the Office of the Managing Director. If calls are made to Members, the Members may, at their discretion, refer any or all such inquiries to the Office of the Managing Director for answer. Should a Member, or his assistant, undertake to answer any such inquiry he will make an explanatory record of the call or other communication which will be placed in the public file of the pending matter.[6] We call the public's attention to the fact that the Rules of Practice (particularly Rules 14 and 18) provide a motion procedure by which the Board may be requested to expedite a pending matter. Oral or written inquiries not in compliance with such Rules will not be considered.

A new paragraph (d) of § 300.4 will require all Board employees to report to the Managing Director any requests, other than status or Freedom of Information Act requests, for information concerning Board proceedings that has not been made public. It is not intended by this requirement to imply that such requests are necessarily improper, but rather to gather at one point information concerning such requests with a view to determining whether Board procedures should be changed to serve the public better, advising employees concerning appropriate responses to such requests, and considering whether practices are developing that should be discouraged.

Permitting ex parte communications in defined situations is believed necessary to the maintenance of the quality and prompt disposition of the Board's work without unfairness to those persons opposed to a course of action the Board proposes to take. In all of the situations which we discuss below, the requirement for speedy action either by statute or by

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[1] For example, preliminary communications on technical accounting and reporting matters prior to rulemaking as embodied in "Observations of the Director" (Bureau of Accounts and Statistics) and the responses thereto are in no way inhibited by this revised regulation.

Similarly, as a preliminary to, during, or as an incident to, negotiations/consultations or in the formulation of U.S. Government positions on international aviation problems full, normal coordination with air carriers or others likely to be affected will go forward as at present without limitation by this part.

[2] This refers to cases in which the Board must take or is expected to take action within 30 days, either because of statutory requirements, its own rules of procedure or announced decisional policies, or because of the factual exigencies of the particular case (e.g., where authority or relief is sought for an operation to take place on a particular date less than 30 days hence).

[3] The Board anticipates that this authority will be sparingly utilized. If it is used, the ex parte information will be recorded and made available publicly.

[4] Of course, we are here referring only to detailed written opposition as opposed to daily letters of inquiry and comment received by the Board.

[5] This limitation, expressed in § 300.2(a), is not intended to preclude an applicant from orally amending its application, provided written documentation of such amendment is filed with the Board together with proof of service upon any other party or person known to be interested in the proceeding.

[6] As provided in section 300.4(b), the recordation requirement is not applicable to communications from U.S. Government agencies relating to the conduct of the foreign affairs or national defense of the United States or to communications from foreign governments, except when such communications are made on substantive aspects of contested cases to be decided after notice and hearing, in which event they are prohibited and, if made, must be recorded, as provided in § 300.2 (b) and (e) of the regulation.

economic necessity and/or the sheer volume of cases would result in the crippling of desirable programs without significantly furthering the interests of other concerned persons if a rigid prohibition against ex parte statements were established. However, to prevent action in these areas from being enveloped in secrecy, provision is made for the recordation and public filing of ex parte statements in such cases if contested. Thus, in rulemaking the prohibitions of § 300.2 will apply only when the Board by order shall so indicate or from the time when the Board by order has established specific dates for receipt of public comments on a notice or advance notice of proposed rulemaking. Similarly, the prohibitions of § 300.2 will not apply to nonhearing matters to be decided within 30 days following the receipt of the document initiating such matter, even though contested. However, recordation will apply in both instances.

As a practical matter, many nonhearing matters are uncontested, and the application of a rule of prohibition to them would not offer benefits outweighing the adverse effect on the efficient performance of the Board's responsibilities. We have, therefore, allowed staff-initiated ex parte communications in such nonhearing cases—but only so long as they are uncontested. When opposition is filed the exception will terminate and the prohibition apply. We do not mean thereby to import any technical rules of pleading. For the purposes of Part 300, a contest will be deemed to have developed whenever written opposition is made, no matter what technical form it takes. Even where the nonhearing matter is not contested Board Members must record ex parte statements which they receive, and members of the staff must do so in rulemaking matters.

Among the exceptions to the prohibited communications listed in § 300.2 two categories, which concern uncontested applications relating to the administration of the charter regulations and rate matters, require special comment. These categories, like other uncontested nonhearing matters, are not only excepted from the prohibited communications but only Board Member recordation of oral ex parte statements is required. The matters involved are by far the most numerous with which we are here concerned, are largely uncontested, and normally call for prompt action by use of the telephone rather than letters or other written documents. These telephonic communications are primarily designed to ascertain facts assuring compliance with Board regulations drafted to protect members of the traveling public and to assure even-handed administration of rate policies. Because of the restricted statutory time limits imposed upon the Board, quick responses to staff-initiated communications, made to obtain additional or clarifying data so the staff can formulate recommendations to the Board concerning the investigation or suspension of tariffs, are essential. Given the extent of the Board's available resources we believe it would be difficult to pass promptly and intelligently on all requests, and thus insure the success of our priority program to provide low-cost transportation to the general public or to meet statutory deadlines for rate suspensions, if substantial additional time were taken to record all necessary oral ex parte communications. For these reasons we have excepted these uncontested matters from the provisions of § 300.2. We have also excepted them from the recordation provisions of § 300.4, unless received by a Member.[7] Such a course permits the Board to achieve its objectives with respect to significant programs without harming the interests of other persons. Should one of these matters be contested, however, ex parte statements in the matter are thereafter prohibited and, if made, must be recorded and placed in the public file. A variation from this would arise if such a matter required decision within 30 days of its presentation to the Board. In these cases, time constraints must be accommodated and ex parte communications will be permitted under the emergency provisions of § 300.2(a)(2), but recordation of such statements would be required under § 300.4.

Thus, subject to the exceptions noted, the change will prohibit ex part statements in a broad new class of contested nonhearing matters, such as those provided for in our Rules of Practice generally (§ 302.6), for exemptions (§ 302.400 et seq.), applications for special operating authorizations (§ 302.1020), contracts for transportation of mail by air (§ 302.1501 et seq.), section 412 contracts and agreements submitted for prior approval (§ 302.1601 et seq.), rulemaking (§ 302.38), and the like.[8]

Comparably to our treatment of hearing cases in the past, the above-described provisions of the regulation do not apply to informal complaints filed with the Board, or to information provided in the course of an investigation to determine whether a complaint shall be docketed, or to the usual informal communications between counsel, including discussions to effectuate a stipulation or other communications which are deemed proper in proceedings in the Federal courts,[9] or to communications from other Government agencies (not parties or participants in a proceeding) relating to the conduct of the foreign affairs or the national defense of the United States, or to communications from foreign governments (except that, in the latter two categories, communications on substantive aspects of contested cases to be decided after notice and hearing are prohibited and, if made, must be recorded), or to settlement discussions or mediation efforts between parties and the Board's employees. For the most part, these permitted communications track the old regulation. The settlement negotiations will normally involve enforcement employees. On the other hand, the "mediation efforts," referred to for the first time in this revision of this part, may involve employees of a number of different Bureaus. For example, mediation efforts would include communications between the Board's Office of Community and Congressional Relations (OCCR) and representatives of State and local community and civic groups, air carriers, or other persons closely allied thereto, in connection with the adequacy, deletion or suspension of air transportation service to a locality in an effort to settle the differences between such persons or groups with respect to such service. Our intention in such a case, and in comparable cases, is to permit free communication between Board employees and conflicting parties where the objective of the Board employees is to bring about an adjustment of the conflicting interests of the parties and the resultant termination of otherwise burdensome proceedings before the Board. We have also for the first time expressly permitted without recordation the receipt in international matters of communications from other agencies of the United States relating to the conduct of the foreign affairs or the national defense of the United States, and communications from foreign governments so long as such communications do not deal with the merits of a contested case to be decided after notice and hearing.

It will be noted that the starting point in time for the application of the prohibitions against ex parte statements and other forms of improper influence in covered matters is most often the filing of a petition, application, motion, request, or the like. In rulemaking, the starting point will be an order specifying dates for receipt of public comments. In other informal cases it will be the point at which a contest develops. The selection of the starting point in each type of case was made for practical reasons relating to the administration and enforcement of the

[7] Communications with Board Members are not included in the exception from the recordation requirement because it would rarely be either necessary or appropriate for a Member's office to engage in the type of prompt telephonic communication with regard to technical or factual details of a matter which the exception is designed to facilitate, and because communication directly with a Member, even on an uncontested matter of the nature described, has a greater potential for creating a possible appearance of impropriety.

[8] The prohibitions of this part shall not be understood as in any way limiting the Board's right to take official notice of facts contained in certain documents in hearing cases (14 CFR 302.24(m)), and the Board shall continue the practice of taking official notice in like manner in nonhearing matters subject to this part.

[9] Specifically, the regulation is intended to permit continuation of the existing practices whereby employees of the Bureaus of Operating Rights and Economics, as well as Enforcement, are not prohibited from communicating on the merits with other parties to a formal proceeding when the Bureaus are also formal parties.

regulations. It is evident, however, that ex parte statements of advocacy—as opposed to inquiry—and other forms of improper influence immediately proceeding such a filing may be equally objectionable, especially when the communication covers a matter as to which a decision to file has already been made. Thus, ex parte statements advocating a course of action on a petition which rests in a briefcase but is about to be filed do not meet the standards expected by the Board.

As before, written ex parte statements in violation of the rule will be placed in the correspondence or other appropriate file for the matter and made available to the public. In addition, a brief summary of any prohibited oral ex parte statement of significance will be placed in the appropriate public file of a matter if the statement is made to a Board Member, his staff, or a Board employee who makes recommendations to or advises the Board on the subject under consideration or who exercises delegated authority for the Board with respect to it. A statement will be deemed to be of "significance" if it is likely in fact or in appearance to affect the outcome of a case. A copy of the summary of a significant oral ex parte statement shall be sent to the communicator.

The regulation has also been amended to state clearly that ex parte statements do not encompass statements or writings made to the Board by persons affiliated with the Board as employees, special government employees, or consultants or experts serving under a contract with the Board. Present rules requiring a separation of functions between the Board and its staff participating in hearings as witness or counsel will be maintained.

As discussed above, in contested nonhearing cases where ex parte statements are permitted, written communications concerning the matter must ordinarily be placed in the appropriate public file. In addition, a brief summary of all significant oral statements made to designated persons will be required to be placed in the appropriate public file. This will primarily insure that a written record will be kept of the basis for action in contested cases. A summary of an oral ex parte statement shall not be necessary if the letter, order or other document ruling on the matter reflects the existence and substance of the ex parte statement.

Further, in this connection, the regulation will now provide that when a private communication takes place within six months prior to the issuance of a notice or advance notice of proposed rulemaking and the communication was considered as one of the reasons for issuance of the notice, a brief written summary of the communication shall either be set forth in the preamble to the notice or placed in the appropriate public file upon issuance of the notice.

The provisions formerly in paragraphs (d) and (e) of § 300.2, which generally prohibited efforts to bring undue pressure or influence to bear upon the Board or to solicit others to do so, while left unchanged, have been transferred to a new § 300.2a. The effect of this change is to make these provisions applicable to all Board business, including all nonhearing cases, rather than just hearing cases as in the past.

Another change in the regulation gives recognition to the obligations of persons coming to the Board as members or employees, including those coming from other agencies of the United States Government,[10] to protect the integrity of the administrative process by expressing limitations as to their subsequent actions and disclosures (including permanent or temporary disqualification from participation in certain Board proceedings). These limitations are substantially the obverse of those applicable to Board employees leaving the agency for other employment as expressed in § 300.13, § 300.14 and § 300.17.[11] In one particular we have departed from those sections, which are derived from 18 U.S.C. 207. Instead of making the disqualification applicable only to a "partner," as is true in 18 U.S.C. 207, we have made it applicable if the prior personal and substantial participation in a Board proceeding was by a "partner, associate, employer, or the like" of the Board member or employee. Moreover, in view of the breadth of the associations covered and the innumerable internal arrangements and sizes of partnerships and corporations, we have made disqualification mandatory only when the Board employee's subsequent participation in the matter as a Board Member or employee could fairly be said to create the appearance that his participation would be affected by h's prior relationship.

The rule is slightly different in the case of an employee coming to the Board from another part of the United States Government, in recognition of the public nature of such employment. Board employees (other than Members)[12] whose personal and substantial participation in a Board proceeding occurred on behalf of another agency of the United States are disqualified only with respect to issues on which the prior governmental employer took a position in the proceeding, unless the employee's subsequent participation could fairly be said to create the appearance that his participation would be affected by his prior relationship.

If an employee can show that his prior employment relationships will not affect the integrity of his services, he may request a waiver of §§ 300.9 and 300.10 in accordance with § 370.735–14.

Section 300.8 continues the prohibition on "unusual hospitality" in the present rule. The regulation has also been amended to urge persons interested in the business of the Board to familiarize themselves with Part 370, *Employee Responsibilities and Conduct*, which contains more specific rules concerning employees' acceptance of gifts, entertainment, and favors, so that persons outside the Board can assist in maintaining compliance. Part 370 in its entirety is currently under review by the Board.

The regulation authorizes the Board's General Counsel to render opinions and rulings on the application of the regulations. Such opinions and rulings are to be open to the public, after review by the Board or the expiration of the time for review, with identifying details normally stricken unless the public interest requires the disclosure of such details. The Board reserves the right, in its discretion, to review the opinions of the General Counsel on its own motion within 25 days, or at the instance of an affected person who so requests within ten days. The Board's decision on review or appeal will similarly be available to the public. In the absence of review by the Board, the opinions and rulings of the General Counsel are not binding on the Board or any future General Counsel.

This amendment to Part 300 not only broadens the limitations on ex parte statements and improper influence in Board proceedings but establishes new and, we believe, more effective devices for deterring violations and remedying their effects. For one thing, we are clarifying the authority of the Board and the administrative law judges in all proceedings to call for detailed public reports of all contacts between parties, their agents, or other persons authorized to act on their behalf, and any governmental legislative or executive body, person, or agency, foreign or domestic, made with a view to obtaining the support of such body, person, or agency for such party, or opposition to another party in such proceeding. Such authority is discretionary and may be exercised upon a showing of good cause.

If violations of Part 300 or other unethical or improper professional conduct occur, we may, as in the past, disqualify and deny temporarily or permanently the privilege of appearing before the Board. The regulation empowers the Board to dispose of alleged violations within the framework of the matter during or concerning which the violations allegedly occur. In addition, and also within the framework of the principal matter, we may deny, delay, or condition the requested relief in such manner as to remedy any violations in order to effectuate the public interest. Alternatively, appropriate remedies may be pursued in separate proceedings.

The Board finds that the public interest would best be served by having this revised regulation go into effect on

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[10] By its terms this refers to prior employment by agencies of the United States other than the Board. Of course, if an employee of the Board became a Member, or if a former employee of the Board was reemployed, disqualification from future participation in particular matters with which he had an earlier connection would have to be determined on an *ad hoc* basis.

[11] Comments are specifically requested on the question whether the temporary (1-year) disqualification in § 300.14 should be for a longer period.

[12] Members may not participate in any matter in which they previously participated on behalf of another agency of the United States Government. See *Trans World Airlines, Inc. v. C.A.B.*, 254 F. 2d 90 (D.C. Cir., 1958).

an interim basis without undue delay, since it deals with important matters of public communication with the Board in areas where rules are presently unclear or do not exist. The regulation is therefore being issued as an interim rule with an effective date approximately 30 days after issuance. At the same time, because rights of members to participate in Board proceedings are affected, and public comment and our experience under the interim rule will be of value in deciding on the final content of the rule, a notice of proposed rulemaking is being issued today, requesting comments on this rule considered as a proposed final rule.

Any person who considers that the interim rule will inflict such substantial injury as to warrant relief prior to the rule's taking effect should so notify the Board, with reasons, by writing to the Docket Section in the same manner as specified in the notice of proposed rulemaking, not later than September 15, 1976.

Accordingly, 14 CFR Part 300, *Rules of Conduct in Board Proceedings*, is revised to read as set forth below, effective September 30, 1976:

Sec.

300.0 Applicability.
300.1 Judicial standards of practice.
300.2 Prohibited communications.
300.2a Prohibited influence and solicitation.
300.3 Separation of functions.
300.4 Permitted communications.
300.5 Conciseness of presentation.
300.6 Attorney-client relationship.
300.7 Contacts with other governmental agencies.
300.8 Gifts and unusual hospitality and other conduct affecting Board employees.
300.9 Permanent disqualification of Board Members and employees in matters in which they personally participated before joining the Board.
300.10 Temporary disqualification of Board Members and employees in matters in which they had official responsibility before joining the Board.
300.11 Disqualification of Government officers and employees.
300.12 Practice of special Government employees permitted.
300.13 Permanent disqualification of former Board Members and employees in matters in which they personally participated.
300.14 Temporary disqualification of former Board Members and employees in matters formerly under their official responsibility.
300.15 Opinions or rulings by the General Counsel.
300.16 Waivers.
300.17 Disqualification of partners of Board Members and employees.
300.18 [Reserved]
300.19 Use of confidential information.
300.20 Violations.

AUTHORITY: Sec. 204, of the Federal Aviation Act of 1958, as amended, 72 Stat. 731, 49 U.S.C. 1324.

§ 300.0 Applicability.

The rules of conduct set forth in this part shall govern the conduct of parties and their representatives, and the relationships between the Members of the Board, Board employees, and all other persons in all Board matters, except as otherwise provided in this or any other Board regulation. For purposes of this part, the terms "Board employee(s)" shall refer to all persons employed by the Board, including Board Members, personal staff of Members, regular employees, special Government employees, consultants or experts under contract with the Board, and administrative law judges.

§ 300.1 Judicial standards of practice.

The Board is a quasi-judicial agency, and as such certain of its functions are similar to those of a court, and parties to cases before the Board and those who represent such parties are expected—in fact and in appearance—to conduct themselves with honor and dignity as they would before a court. By the same token, the Members of the Board and Board employees who may be making recommendations to the Board Members or advising them are expected to conduct themselves with the same fidelity to appropriate standards of propriety that characterize a court and its staff. The standing and effectiveness of the Board are in direct relation to the observance by the Board, Board employees, and the parties and attorneys appearing before the Board of the highest standards of judicial and professional ethics. The rules of conduct set forth in this part are to be interpreted in light of those standards.

§ 300.2 Prohibited communications.

(a) This section applies to all matters initiated by an application, petition, motion, request, complaint, or other document to which a response by any person is authorized by statute or by Board regulation or order, except that this section shall not apply to responses to communications initiated by Board Members or employees made for the purpose of obtaining additional data or clarification of filed data in the following:

(1) Nonhearing rulemaking matters;

(2) Tariff filings, whether or not a complaint is filed, unless and until the Board orders the tariff investigated (with or without suspension).

(3) Contested nonhearing matters to be decided within 30 days following receipt of the document initiating such matter.

(4) Uncontested nonhearing matters other than nonhearing rulemaking matters; and

(5) Any matter (not involving a hearing where an employee presides at the reception of evidence) where in the Board's opinion emergency conditions exist and the rule prohibiting communications prevents the Board from obtaining needed information in a timely manner and the Board directs Board employees to obtain such information.

For purposes of this part, a matter is uncontested up to the time an identifiable and detailed written opposition to the initiating document is filed or received, whether or not such opposition technically complies with the Board's Rules of Practice. Nonhearing matters (including nonhearing rulemaking matters) are those matters which (i) are not required by statute to be determined after notice and hearing, and (ii) as to which the Board has not issued an order giving interested persons the opportunity to participate by submission of written data, views, or argument, in writing or orally, with or without provision for a hearing at which an employee presides at the reception of evidence.

(b) In a matter subject to this section, from the time of the filing of the initial document, the filing or receipt of an identifiable and detailed written opposition, or issuance of a relevant Board order, as the case may be; a written or oral communication by any person not affiliated with the Board as a Board employee on any substantive or procedural issue in a matter to any Member of the Board or Board employee, other than in compliance with the Board's Rules of Practice, shall be deemed a private communication on the merits and as such is hereby prohibited unless otherwise provided for by law or published rule.

(c) The prohibition of paragraph (b) of this section shall not be deemed to apply to informal complaints filed with the Board, or to information provided in the course of an investigation to determine whether a complaint shall be docketed, or to the usual informal communications between counsel, including discussions to effectuate a stipulation or other communications which are deemed proper in proceedings in the Federal courts, or to communications (other than those on substantive aspects of contested cases to be decided after notice and hearing) from other U.S. Government agencies (not parties or participatnts in a proceeding) relating to the conduct of the foreign affairs or the national defense of the United States, or to communications (other than those on substantive aspects of contested cases to be decided after notice and hearing) from foreign governments, or to settlement discussions or mediation efforts between parties and the Board's employees, or to communications in the course of formal negotiations or consultations with one or more foreign governments on international aviation matters. That prohibition shall also not apply to information provided at the request of Board employees who are preparing a hearing case as advocates (witnesses, counsel or their supervisors), in a matter in which § 300.3 prohibits private communications on the merits by those employees to persons, or the staff of persons, hearing the case. Either oral or written communications which make inquiry as to the status of a proceeding or request expeditious treatment of a pending matter without discussing issues are not considered private communications on the merits and are permitted. However, requests for expedition by a party or other person are to be made by motion in accordance with the rules of practice, particularly Rules 14 and 18.

(d) Oral and written communications prohibited by this section shall not be considered as part of the record for decision of the matter.

(e) Any prohibited communication in writing shall be made public by placing it in the correspondence or other appropriate file of the matter, which shall be available for inspection and copying during business hours in the Board's Docket Section or other appropriate office. Any prohibited oral communication shall be briefly summarized by the person receiving it, one copy of the summary being placed in the correspondence or other apropriate public file of the matter and another copy being mailed to the communicator. This requirement with respect to oral ex parte statements shall be limited to matters of significance expressed to Members of the Board or Board employees making recommendations to or advising the Board on the case under consideration or exercising delegated functions on behalf of the Board with respect thereto. A statement shall be deemed to be of "significance" if it is likely in fact or appearance to affect the outcome of a case.

§ 300.2a Prohibited influence and solicitation.

(a) It is improper that there be any effort by any person interested in the case to sway the judgment of the Board by attempting to bring pressure or influence to bear upon any member of the Board or Board employee, or that any person, directly or indirectly, give statements to the communications media by paid advertisements or otherwise to influence the Board's judgment in the matter.

(b) It is improper that any person solicit communications to Members of the Board or Board employees other than proper communications permitted under the Board's rules of practice. Anybody soliciting the support of another person shall call such person's attention to appropriate provisions of the rules of practice, including Rules 14 and 15.

§ 300.3 Separation of functions.

It is improper that there be any private communication on the merits of any substantive or procedural issue in a case of adjudication, or any factually related adjudicatory case, which is to be decided after notice and hearing, to Members of the Board or to Board employees making recommendations to or advising the Board on the matter, or to the administrative law judge in the case, by any members of the Board's staff who participate in the hearing of such case as witnesses or as counsel, or by supervisors exercising review of their positions.

§ 300.4 Permitted communications.

(a) This paragraph applies to those communications excluded from the prohibition of § 300.2 by paragraph (a) thereof. Private communications on the merits in such matters are permissible. However, unless the Board orders otherwise all such communications, written or oral, are to be made public. All written communications concerning a matter are to be placed in an appropriate public file. Further, a brief written summary of any oral statement will be placed in the appropriate public file, except that only Members are required to make such written summary of oral communications in uncontested nonhearing matters excluded from § 300.2 by clause 3 of paragraph (a) thereof. This practice will only be followed with respect to statements deemed to be of significance by the recipient and only when transmitted to Board Members or Board employees making recommendations to or advising Board Members on the matter under consideration, or exercising delegated functions on behalf of the Board. A statement shall be deemed to be of "significance" if it is likely in fact or appearance to affect the outcome of the matter.

(b) This paragraph applies to those communications, oral or written, other than those from other U.S. Government agencies relating to the conduct of the foreign affairs or the national defense of the United States, or from foreign governments, making inquiry as to the status of a proceeding or requesting expeditious treatment of a pending matter without discussing the merits, which are excluded from the prohibitions of § 300.2 by paragraph (c) thereof. Board Members shall either refer such oral inquiries to the Office of the Managing Director, or, if they respond, shall make an explanatory record of such communication and place it in the public file of the pending matter. All Board employees shall cause written inquiries, unless filed in accordance with the Rules of Practice, to be placed in the public file of the matter.

(c) When a private communication takes place within six months prior to the issuance of a notice of proposed rulemaking (or issuance of an advance notice) and the communication was considered as one of the reasons for issuance of the notice, a brief written summary of the communication shall either be set forth in the preamble to the notice or placed in the appropriate public file upon issuance of the notice.

(d) Board employees shall report to the Managing Director, in writing, any request for information or access to records concerning proceedings where such information or records have not been made publicly available at the time of such request. For purposes of this requirement, "proceedings" shall be defined as all matters initiated by an application, petition, motion, request, complaint, or other document to which a response by any person is authorized by statute or by Board regulation or order. This requirement shall not apply to requests for information as to the status of a proceeding or requests for access to records made pursuant to the provisions of Part 310 of this chapter.

§ 300.5 Conciseness of presentation.

Persons practicing before the Board should endeavor to present their cases in concise form avoiding cumulative and repetitious evidence, since the Members of the Board participating in a case which is to be decided after notice and hearing must familiarize themselves with the evidence in the record and with the arguments made on behalf of the parties orally and in written briefs, and must base their decision on the record. The same considerations are applicable to any other matters before the Board in which the public participates and should be recognized to the fullest extent possible.

§ 300.6 Attorney-client relationship.

Persons practicing or appearing before the Board should become cognizant of and have due regard for the standards of professional conduct applicable to the lawyer-client relationship and to the relationship betwee na lawyer and a judicial tribunal.

(a) The nontechnical nature of the Board's procedure calls for special adherence, by practitioners, to scrupulous standards of fairness, candor, and consideration for the rights of others in the pleadings filed, evidence submitted, conduct of hearing, and briefs and arguments made. In appearing for a client, the practitioner thereby vouches on his honor that in his opinion the client's cause is one proper for determination, and in presenting pleadings and offering evidence he represents that the same are not offered for unwarranted delay and that in his opinion the content thereof is not misleading. Nor should he indulge in offensive personalities, unseemly wrangling, or intemperate accusations or characterizations.

(b) A practitioner, moreover, should advise his client to observe the law according to his conscientious belief as to its permissible meaning and should use his best efforts to restrain his client from improprieties in dealing with Members of the Board or Board employees. If a client persists in such improprieties, the practitioner should terminate his representation of the client in the matter.

§ 300.7 Contacts with other governmental agencies.

The Board or any administrative law judge may, for good cause shown and in appropriate cases with respect to, and in the course of, any proceeding, require any party to such proceeding to report any contact by such party, its agents, or persons authorized to act on its behalf, with any federal, state, territorial or local governmental legislative or executive body or agency or any other domestic or foreign governmental authority, person or body made at any time with a view toward obtaining the support of such body, person, or agency for such party or opposition to another party in such proceeding. The reports of such contacts shall be made at such periods and in such detail as ordered by the Board or the administrative law judge and shall be made public in the proceeding.

§ 300.8 Gifts and unusual hospitality and other conduct affecting Board employees.

(a) No person, otherwise than as provided by law for the proper discharge of

official duty, shall directly or indirectly give, offer, or promise anything of value to any Board Member or Board employee for or because of any official act performed or to be performed by such Board Member or Board employee (18 U.S.C. 201).

(b) It is improper for persons interested in the business of the Board to provide unusual hospitality, gifts, entertainment, or favors to any Board Member or Board employee.

(c) Persons interested in the business of the Board should familiarize themselves with Part 370 of the Board's Special Regulations—Employee Responsibilities and Conduct (14 CFR Part 370), in order that they shall not encourage or cause any violation of the provisions of Part 370 by any Board Member or Board employee.

§ 300.9 Permanent disqualification of Board members and employees in matters in which they personally participated before joining the Board.

Any Board member or any Board employee shall permanently disqualify himself from participation in every matter before the Board in which he previously personally and substantially participated for an interested person or entity, including other agencies of the United States Government, before joining the Board, and from disclosing any confidential facts learned in such prior employment or representation. Such disqualification and prohibition against disclosure shall be applicable also if a person closely related to the Board Member or Board employee as partner, associate, employer, or the like, personally and substantially participated in a matter before the Board prior to the Member's or employee's employment by the Board and the circumstances were such that the Board Member's or employee's subsequent participation in the matter as a Board Member or employee could fairly be said to create the appearance that his participation would be affected by his prior relationship. Notwithstanding the foregoing, apart from a Member, the disqualifiaction of any Board employee, including any member of a Board Member's personal staff or a special Government employee, whose prior personal and substantial participation in a Board proceeding or whose relationship to one who so participated occurred on behalf of another agency of the United States Government shall only be applicable with respect to issues on which the prior governmental employer took a position in the proceeding unless participation could fairly be said to create the appearance that his participation would be affected by his prior relationship.

§ 300.10 Temporary disqualification of Board members and employees in matters in which they had official responsibility before joining the Board.

Any Board Member and any Board employee shall temporarily disqualify himself from participation in any matter before the Board if he represented, was associated with or was employed by an interested person or entity including other agencies of the United States Government before joining the Board, and, although he did not personally and substantially participate in the matter, the matter was within his "official responsibility," as that term is defined in § 300.14 except that the action referred to therein shall be private action as well as "Government" action. He shall also be prohibited from disclosing any confidential facts learned through his prior representation or association. Such disqualification and prohibition against disclosure shall be applicable also if a person closely related to the Board employee as partner, associate, employer, or the like, who, while not personally and substantially participating in the matter, had it within his "official responsibility" as that term is defined in § 300.14, and modified above, and the circumstances are such that the Board employee's subsequent participation in the matter as a Board employee could fairly be said to create the appearance that his participation would be affected by his prior relationship. Notwithstanding the foregoing, apart from a Board Member, the disqualification of any Board employee whose prior "official responsibility" or relationship to one with such responsibility occurred on behalf of another agency of the United States Government shall only be applicable with respect to issues on which the prior governmental employer took a position in the proceeding. The temporary disqualification shall run for a period of one year from the date of the termination of the representation, association, or employment with the interested person or entity.

§ 300.11 Disqualification of Government officers and employees.

No officer or employee of the Federal Government, other than a "special government employee" as defined in 18 U.S.C. 202, shal represent anyone, otherwise than in the proper discharge of his official duties, in any Board proceeding or matter in which the United States is a party or has a direct and substantial interest. (18 U.S.C. 205.)

§ 300.12 Practice of special Government employees permitted.

A special Government employee, who qualifies as such under the provisions of 18 U.S.C. 202(a), may participate in Board proceedings only to the extent and in the manner specified in 18 U.S.C. 205.

§ 300.13 Permanent disqualification of former Board members and employees in matters in which they personally participated.

No former Board member or Board employee shall act as agent or attorney before the Board for anyone other than the United States in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise as a Board Member or employee. (18 U.S.C. 207(a).)

§ 300.14 Temporary disqualification of former Board members and employees in matters formerly under their official responsibility.

Within one year after termination of employment with the Board, no former Board Member or Board employee shall appear personally before the Board on behalf of any person other than the United States in any Board proceeding or matter in which the United States is a party or has a direct and substantial interest and which was under his official responsibility at any time within one year preceding termination of such responsibility. The term "official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action (18 U.S.C. 202(b), 207(b)).

§ 300.15 Opinions or rulings by the General Counsel.

(a) The Board's General Counsel is authorized to render opinions or rulings to employees of the Board and to the public on the application of the provisions of this part. Such opinions and rulings, and the reasons therefor, shall be transmitted to the Board and shall be available to the public in the Public Reference Room after any appeal to or review by the Board has been completed or after the time for review has expired. Identifying details shall normally be stricken from copies available to the public unless the public interest requires disclosure of such details. Absent review by the Board, any opinion or ruling of the General Counsel is not binding on the Board or any future General Counsel.

(b) If any person is disqualified from a particular proceeding under the provisions of §§ 300.9, 300.10, 300.13, 300.14, and 300.17 by a ruling of the General Counsel, or by such person's own action, such disqualification shall be memorialized in a writing filed in the appropriate file of the matter by the General Counsel or such person.

(c) The Board may review any opinion or ruling of the General Counsel at its discretion within 25 days from the issuance of such opinion or ruling. Any person affected by an opinion or ruling may file an appeal to the Board within ten days after issuance of such opinion or ruling. Decisions of the Board on review or appeal shall be available to the public. Identifying details shall normally be stricken from copies available to the public unless the public interest requires disclosure of such details.

§ 300.16 Waivers.

(a) A former Board member or Board employee with outstanding scientific or technological qualifications who is disqualified from acting in a representa-

tive capacity under the provisions of §§ 300.13 or 300.14 may nevertheless participate in a proceeding in a scientific or technological field pursuant to the terms of a certificate issued in compliance with the proviso following 18 U.S.C. 207 (a) and (b).

(b) An employee who believes his prior employment relationships will not affect the integrity of his services may request that the prohibition of §§ 300.9 or 300.10 be waived in accordance with the procedures set forth in § 370.735–14.

§ 300.17 Disqualification of partners of Board members and employees.

No partner of a Board member or of a Board employee shall act as agent or attorney for anyone other than the United States in any Board proceeding or matter in which such member or employee participates or has participated personally and substantially through decision, approval, disapproval, recommendation, rendering advice, investigation, or otherwise, or which is the subject of his official responsibility. (18 U.S.C. 207(c).)

§ 300.18 [Reserved]

§ 300.19 Use of confidential information.

No former Board member or employee, or any person associated with him, shall ever use or undertake to use in any Board proceeding or matter any confidential facts or information which came into the possession of such Member or employee or to his attention by reason of his employment with the Board without first applying for and obtaining the consent of the Board for the use of such facts or information.

§ 300.20 Violations.

(a) The Board may disqualify, and deny temporarily or permanently the privilege of appearing or practicing before it in any way to, any person who is found by the Board after written notice of charges and hearing to have engaged in unethical or improper professional conduct. Any violation of this part shall be deemed to be such conduct.

(b) When appropriate in the public interest, the Board may deny any application or other request of a party in a proceeding subject to this part where the Board finds after hearing that such party has, in connection with any Board proceeding, violated any of the provisions of this part or any of the provisions of Chapter 11 of Title 18 of the United States Code. The Board may also condition its further consideration of such party's application or other request or the effectiveness of any order granting such application or other request upon such party's first taking such action as the Board may deem necessary or appropriate to remedy the violation of this part or Chapter 11 of Title 18 of the United States Code to prevent or deter any repetition of such violation. The Board may in addition issue a cease and desist order against any repetition of such or similar misconduct.

(c) The actions authorized by this section may take place within the framework of the matter during or concerning which the violations occur or in a separate matter, as the Board or the presiding administrative law judge may direct. A complaint alleging that a violation has occurred in the course of a matter shall be filed in the docket or appropriate public file of such matter unless such complaint is made after the Board's decision of the matter has become final, in which event such complaint may be filed pursuant to Part 302, Subpart B of the rules of practice. A violation in the course of a matter which may be attributable to or affect the fitness of a party will ordinarily either be disposed of within the framework of such matter or be considered within the context of any subsequent matter involving the interests of such party. Other violations will ordinarily be disposed of in a separate proceeding.

By the Civil Aeronautics Board.

Effective: September 30, 1976.

Adopted: August 10, 1976.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-23840 Filed 8-13-76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Advisory Opinion Denial on Training School Proposal

Three advisory opinions issued by the Commission in 1969, digests of which are set forth below (FR Docs. 76-23771 and 76-23772) were not previously published in the FEDERAL REGISTER. They are considered sufficient in general applicability and legal effect to merit FEDERAL REGISTER publication.

Part 15 of 16 CFR Chapter I is amended by adding a new § 15.317 as follows:

§ 15.317 Commission declines to issue advisory opinion.

The Commission declined to issue an advisory opinion on December 11, 1968 (File No. 693 7061), concerning a proposal by a training school to advertise a refund of charges to graduates who do not receive a timely offer of employment where the conditions stated might be the subject of such a wide variety of interpretations that only the manner of actual implementation would determine legality.

(38 Stat. 717, as amended (15 U.S.C. 41–58); 80 Stat. 378 (5 U.S.C. 552).)

Released: January 28, 1969.

By direction of the Commission.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-23770 Filed 8-13-76;8:45 am]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Advertising Standards by Private Association

Part 15 of 16 CFR Chapter I is amended by adding a new § 15.332 as follows:

§ 15.332 Publication of advertising standards by private association.

The Commission issued an advisory opinion on February 12, 1969 (File No. 693 7094), to the effect that a private association's publication of a statement of practices heretofore found unlawful by the Commission for voluntary agreement by industry members to avoid the listed practices would not be objectionable. The Commission advised that it would have no objection to such a publication, or proposed use, as long as each signer agrees to, and abides by, its provisions without coercion, expressed or implied.

(38 Stat. 717, as amended (15 U.S.C. 41–58); 80 Stat. 378 (5 U.S.C. 552).)

Released: March 19, 1969.

By direction of the Commission.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-23771 Filed 8-13-76;8:45 am]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Refusal of Membership in Trade Association

Part 15 of 16 CFR Chapter I is amended by adding a new § 15.335 as follows:

§ 15.335 Refusal of membership in trade association.

The Commission issued an advisory opinion on February 18, 1969 (File No. 693 7078), concerning the right of a trade association to refuse membership to a member's competitor at the member's insistence. The Commission advised that, as a general rule, a trade association may deny membership for failure to meet reasonable qualifications, but may not deny membership to a potential member if to do so would unreasonably restrain interstate or foreign trade or commerce.

(38 Stat. 717, as amended (15 U.S.C. 41–58); 80 Stat. 378 (5 U.S.C. 552).)

Released: April 18, 1969.

By direction of the Commission.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-23772 Filed 8-13-76;8:45 am]

PART 433—PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES

Statement of Enforcement Policy; Invitation To Comment

Notice is hereby given that the Federal Trade Commission has adopted a State-

ment of Enforcement Policy regarding the Trade Regulation Rule on Preservation of Consumers' Claims and Defenses (promulgated November 14, 1975, effective May 14, 1976; 40 FR 53506). The Statement explains the Rule's definition of "purchase money loan" and is issued as a guide for compliance.

The Commission formally adopted the Statement and directed that the public be provided until October 15, 1976 to comment on the Statement.

STATEMENT OF ENFORCEMENT POLICY IN REGARD TO TRADE REGULATION RULE ON PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES

On May 14, 1976, the Commission's Trade Regulation Rule concerning Preservation of Consumers' Claims and Defenses (16 CFR 433) became effective. In adopting the Rule, the Commission determined that it constitutes an unfair and deceptive practice within the meaning of Section Five of the Federal Trade Commission Act (15 U.S.C. 45), for a seller in the course of financing or arranging the financing of a purchase of consumer goods or services to employ procedures which render the consumer's duty to pay independent of the seller's duty to fulfill his obligations. The Rule requires the insertion of a clause in consumer credit contracts which permits the consumer to raise against the creditor those claims and defenses that he could raise against the seller under applicable law. The Rule does not give the consumer the right to withhold payment unilaterally. The manner and procedure by which a buyer may assert claims and defenses is governed by the terms of any contractual obligation and by applicable state law.

Since the effective date of the Rule, the Commission has received a number of requests for a further clarification of its applicability to transactions in which a seller accepts the proceeds of a loan extended directly from a lender to a purchaser. This Statement of Enforcement Policy explains the Rule's definition of "purchase money loan" which encompasses certain loans of this nature. It is a restatement of the Commission's intent in this regard based on the language of the Rule and the Statement of Basis and Purpose.

This Statement is issued as a guide for compliance with the Rule. It is also intended as an aid to assure consistent application of the Rule under those state laws which create additional private remedies for violation of its requirements.

I. INTRODUCTION

The Rule requires that the prescribed notice be included in a loan document when the seller accepts the proceeds of a "purchase money loan" extended by the creditor directly to the purchaser. The definition of a "purchase money loan" limits the Rule's applicability to direct loans where the seller "refers" customers to the creditor or is "affiliated" with the creditor.[1]

[1] 16 CFR 433.1(d).

The Statement of Basis and Purpose issued with the Rule specifies the nature of the business relationships that are encompassed by this standard.

> [C]onsumer credit obligations should be subject to claims and defenses whenever credit is arranged or secured in connection with a continuing relationship between a seller and a creditor. In such cases a seller and creditor may properly be viewed as joint venturers. The basic rationale for the rule . . . applies in any situation where sellers and creditors work cooperatively to finance consumer sales.[2]

The affiliation and referral standards are intended to delineate those business relationships where sellers and creditors engage in concerted or cooperative conduct to arrange credit for consumers. The terms are not intended to be wholly separate concepts and are to some extent coextensive in their impact. They are employed in this manner to assure that the broad spectrum of business relationships which reflect such joint activity are brought within the Rule.

The affiliation test applies where the lender and seller are part of the same business entity, or where there is a preexisting formal or informal contractual agreement or business arrangement to engage in concerted activity in connection with the financing of consumer goods and services. The referral test does not contemplate a preexisting agreement of this type. It encompasses relationships in which the lender and seller cooperate to channel purchases on a continuing basis. Such a course of conduct results in a de facto or implied relationship. If the seller is sending buyers to a creditor without the express or implied agreement of the creditor or without any concerted or cooperative activity between the seller and creditor in connection with the financing of consumer sales, the transaction is not within the Rule. It is important to note that such agreement or concerted or cooperative activity must relate to the actual financing of the sale and not to ancillary conduct such as perfecting a security interest.

(a) *Affiliation.* The Rule requires a seller to insure that the Notice is used in a consumer's loan contract where the seller is "affiliated with the creditor by common control, contract, or business arrangement."[3]

The first type of affiliation is common control. The Commission has concluded that when a creditor and a seller are functionally part of the same business entity, loans made by the lender for the financing of purchases from the seller should be subject to the Rule. For example, common control would be present where two companies are owned by a holding company or by substantially the same individuals; if one is a subsidiary of the other, or if they are under common control relating to retail sales financing.

An affiliation is also created by "contract" and "business arrangement." The Rule defines contract as any oral or written agreement, formal or informal between a creditor and a seller, which contemplates or provides for cooperative or concerted activity in connection with the sale of goods or services to consumers or the financing thereof. A business arrangement includes any understanding, procedure, course of dealing, or arrangement, formal or informal, between a creditor and a seller, in connection with the sale of goods or services to consumers or the financing thereof.

These definitions encompass all situations where a creditor and seller are party to any agreement, arrangement, understanding, or mutually understood procedure which is specifically related to retail sales or retail sales financing. While the business arrangement or contract need not be formal in a legal sense, it must be ongoing and clearly related to sales or sales financing.

Examples of the business arrangements or contracts which are reached by the Rule's definitions would include those contemplating:

Maintenance of loan application forms in the office of the seller;

Seller agrees with creditor to prepare loan documents;

Creditor's referrals of customers to a sales outlet;

Payment of consideration to a seller for furnishing loan customers or to a creditor for furnishing sales prospects;

The assignment of indirect paper or the referral of loan customers to a creditor;

Active creditor participation in a sales program;

Joint advertising efforts;

An agreement to purchase paper on an indirect basis.

The Rule is not intended to include the many possible business relationships that do not bear directly on the financing of consumers sales. For example, a commercial checking account is not an affiliation within the meaning of the Rule, nor is a commercial credit agreement between the seller and a credit institution which has no relationship to consumer sales activities or the financing thereof. A commercial lease, the factoring of accounts receivable, a general business loan, the financing of inventory, or other similar commercial arrangements or contracts do not invoke the Rule. The installation in a seller's place of business of a system for approval of personal checks is not a business arrangement within the meaning of the Rule. It should also be noted that an agreement between a credit card issuer and a seller does not constitute a business arrangement or a contract within the meaning of the Rule.

The fact that a creditor and seller must confer over a particular transaction does not in itself create an arrangement. Thus, for example, the mere fact that a creditor issues a joint proceeds check to a seller and a buyer or that seller and lender must confer in order to perfect the security agreement under ap-

[2] Statement of Basis and Purpose, 40 FR 53524, November 18, 1975.

[3] 16 CFR 433.1(d)(2).

plicable state law is not a business arrangement or contract.[4]

(b) *Referrals.* The Rule prohibits a seller from accepting the proceeds of a "purchase money loan" unless the credit contract contains the required Notice when the seller "refers consumers to the creditor". The intent of this provision is to reach those situations in which a seller cooperates with a lender to channel consumers to that credit source on a continuing basis. Unlike an "affiliation", which contemplates some preexisting arrangement or agreement, a referral relationship arises from a pattern of cooperative activity directly relating to the arranging of credit.

Several elements are necessary. The seller and creditor must be engaged in cooperative or concerted conduct to channel a consumer to a particular lender. The fact that a seller may suggest credit sources to his customers or otherwise provide information in this regard does not alone invoke the Rule. However, when a seller and a lender work together to arrange financing for seller's customers, the prescribed notice must be incorporated in the loan contract.

This conduct must occur on a continuing basis. Occasional referrals which are not part of a business routine of the seller do not trigger the Rule. Once a referral relationship is established all credit contracts between that lender and buyers who spend the proceeds at the seller's establishment must contain the Notice.

Finally, it should be emphasized that formal consideration need not pass between the seller and lender. The fact that a seller and lender are cooperatively engaged in an effort which is mutually beneficial to their separate business interests is sufficient.

(c) *Application of the referral and affiliation standards.* The following examples illustrate how the referral and affiliation standards are applied.

1. A seller has an agreement with a creditor to maintain loan application forms in the seller's office. When a buyer requests financing, the seller assists the buyer in filing out the forms. This relationship constitutes an affiliation and the Notice must be included in the consumer credit contract.

2. A seller regularly sends his customers to a particular creditor. The creditor, in turn, agrees to provide a favorable financing arrangement for the seller's inventory or directly or indirectly provides some other consideration. The seller and lendor are "affiliated". The Notice must be included in the consumer credit contract.

Comment.—These circumstances would give rise to a "contract" as defined by § 433.1(f).

3. A seller regularly sends his customer to a particular creditor. The creditor agrees that as long as the seller continues to refer his customers, their loan applications will be processed or approved on an expedited basis where the borrower meets certain lending criteria but before a full credit check is completed. The Notice must be in.

Comment. An agreement of this nature would constitute a business arrangement. (Typically in situations such as those in the example, the seller would agree to repurchase any contracts which the lender ultimately did not accept. However, a repurchase agreement of this nature is not essential to bring the above conduct within the Rule.)

4. A seller routinely suggests that customers in need of credit go to a particular source or sources of financing. While the creditor is aware that seller is sending some of his customers, the creditor does not provide any tacit or explicit quid pro quo, and seller and financer have no relationship that would constitute an affiliation and do not otherwise cooperate except insofar as may be necessary to arrange payment, perfect a security interest or otherwise finalize the transaction. The Notice is not required.

Comment. The Rule draws the line between situations in which the seller is acting as an information source or where credit is available and those in which the seller is arranging credit or serving as a conduit for the creditor. For a referral to occur within the meaning of the Rule, there must be something more than a simple suggestion that credit might be available from a particular source. There must be some further affirmative act by the seller to promote the consummation of the loan.

Since a simple suggestion is not a referral, it does not matter how often it is repeated.

This interpretation also answers a question raised by some creditors as to the result if a seller sends customers to them and they do not know the customers are being sent. Such lack of knowledge on the part of the creditor automatically precludes the possibility that a referral has taken place.

5. A buyer asks a seller for credit information. The seller suggests a creditor, calls up the creditor to determine whether the creditor will lend money to the particular buyer, and then sends the buyer to the creditor. Seller and creditor have no agreement, formal or informal, to refer customers. A referral relationship would be created, if the channeling occurs on a continuing basis.

Comment.—When a seller contacts a lender and arranges credit for his customers on a continuing basis, there is sufficient cooperative activity to constitute a referral relationship. Monetary or other formal consideration need not be involved. A pattern of mutual accommodation in arranging loans is sufficient concerted or cooperative activity to establish a referral relationship. However, contact between the seller and creditor which first occurs after the loan has been secured, for purposes of securing a lien or approving a bank draft is not a referral since there is no cooperative activity in the arranging of credit.

6. A buyer asks a seller for credit sources. Seller provides a list of lenders in the area and provides information on the availability of credit from them as an accommodation to his customers. The seller does not contact a creditor to arrange credit for the customers, nor does he have any other business arrangement or affiliation with the creditors in this respect. The Notice is not required.

Comment.—When the seller is merely providing buyer with information on the choices available to the buyer, does not channel the buyer by contacting the creditor, and has no agreement to mention a particular creditor, then the buyer is providing information and the Notice is not required.

7. A seller has a referral or affiliation relationship with a creditor. A buyer, on his own, goes to the creditor to obtain a loan to purchase an item from seller. The Notice must be in.

Comment.—If a seller has an arrangement whereby he refers his customers to a creditor, all loan contracts between that creditor and a borrower who uses the proceeds to purchase goods from that seller must contain the Notice. The Notice must be in whether the particular loan contract was the product of a referral or not.

8. Seller has for years referred his customers to a particular financial institution pursuant to an arrangement with the creditor. He now desires to end the relationship. He stops the referrals and notifies the creditor that he no longer will refer buyers. The referral relationship has been terminated.

Comment.—A referral relationship is a continuing one. It can be stopped as long as the termination is genuine, and the seller is not attempting to temporarily avoid the Rule for a few transactions. The creditor can also end a referral relationship by notifying seller that he does not wish the relationship to continue and by refusing to place the Notice in his loan contracts with purchasers from that seller.

II. DETERMINING THE SOURCE OF THE PROCEEDS

The seller is prohibited from accepting the proceeds of a "purchase money loan" unless the consumer credit contract contains the specified Notice. Since the credit contract is between the borrower and the lender, the seller may not be aware that the money he is receiving is the proceeds of a "purchase money loan." The problem arises when the seller and the creditor are affiliated by common control, contract, or business arrangement or are engaged in a referral relationship and the buyer has unilaterally gone to the creditor for a loan to purchase goods or services from the seller.

The Rule was not intended to subject a seller to liability when he has no reason to believe he is receiving the proceeds of a "purchase money loan." Nor does the Rule require that the seller interrogate the buyer to determine the source of the proceeds. The objective circumstances surrounding the transaction provide the seller with information concerning the source of the proceeds. When these circumstances do not indicate the

[4] See Federal Trade Commission Advisory Opinion #763-7007 to National Automobile Dealers Association. May, 1976.

source of the proceeds or do not provide reason to believe that the proceeds may be from a "purchase money loan", there is no obligation to further investigate the source of the proceeds.

The following examples illustrate how this standard is being applied.

1. A buyer arrives in the seller's showroom with a joint proceeds check or a bank draft drawn on a bank affiliated with the seller. The seller is on notice to inquire as to whether the Notice was included.

Comment.—A joint proceeds check provides actual knowledge that a purchase money loan is involved. A bank draft places a seller on notice that the instrument is probably the proceeds of a purchase money loan.

2. A buyer pays for a seller's product or service with cash or a personal check. There is no duty to inquire.

Comment.—When there are no facts that would place a reasonable man on notice that the money is the proceeds of a "purchase money loan", there is no obligation to interrogate a customer.

3. A buyer pays $5,000 for an automobile with a personal check drawn on the bank that purchases the seller's contracts. The buyer states that he obtained a signature loan from that bank to pay for it. Seller must determine if the Notice was inserted.

4. Seller determines that the money the buyer uses to purchase a product are the proceeds of a "purchase money loan". The seller asks the buyer whether the Notice has been included in the consumer credit contract. The buyer refuses to answer or incorrectly states the Notice was included. The seller must communicate with the creditor.

Comment.—When the seller has a relationship with a creditor, the best source of information concerning the Notice is the creditor. He cannot escape liability through the ignorance of the buyer.

INVITATION TO COMMENT ON STATEMENT OF ENFORCEMENT POLICY

The Commission invites any interested persons to submit data, views, or comments on the above Statement of Enforcement Policy. In light of such data, views, or comments the Commission shall determine what further action, if any, is necessary.

Comments will be accepted until October 15, 1976. To assure prompt consideration, comments should be identified as "Holder in Due Course Statement of Enforcement Policy Comment." Comments should be sent to the Assistant Director for Compliance, Federal Trade Commission, Washington, D.C. 20580.

By direction of the Commission dated August 3, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-23832 Filed 8-13-76;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 76-215]

PART 153—ANTIDUMPING

Turners (of the Type Used in Consumer Electronic Products) From Japan

Correction

In FR. Doc. 76-22430 appearing on page 32421 in the issue for Tuesday, August 3, 1976, the signature now reading "Donald R. McDonald" should have read "David R. MacDonald".

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

[Docket No. 76N-0314]

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Redelegations of Authority and Field Structure

The Food and Drug Administration (FDA) is amending the regulations setting forth its delegations of authority to field officials and its field structure; effective August 16, 1976.

In a recent personnel action, the organizational title for all "Deputy Regional Food and Drug Directors" of FDA was changed to "District Directors." The organizational title change to "District Director" was made to eliminate confusion that existed in the multidistrict regions and to more accurately indicate the role of these field organization managers. The change does not effect the duties or responsibilities of the positions. This amendment deletes all references to the obsolete title from the Commissioner's redelegations of authority. The amendment also updates the field structure for Region I by adding a reference to the District Office in Boston, MA.

Further redelegation of the authority delegated by this amendment is not authorized. Authority redelegated by this amendment to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting," or unless it is not legally permissible.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 5 is amended as follows:

1. In § 5.21, paragraph (a) is revised to read as follows:

§ 5.21 Delegations regarding hearings and review boards.

(a) The Directors and Deputy Directors of Bureaus, Regional Food and Drug Directors, and District Directors are authorized to designate officials to hold informal hearings that relate to their assigned functions under sections 305, 404(b), and 801(a) of the Federal Food, Drug, and Cosmetic Act, section 6 of the Fair Packaging and Labeling Act, section 9(b) of the Federal Caustic Poison Act, and section 5 of the Federal Import Milk Act. Officials so designated are delegated authority vested in the Secretary of Agriculture by 7 U.S.C. 2217 (43 Stat. 803) to administer or to take from any person an oath, affirmation, affidavit, or deposition for use in any prosecution or proceeding under or in enforcement of any law as cited in this section.

* * * * *

2. In § 5.22, by revising paragraphs (a) and (d) to read as follows:

§ 5.22 Delegations regarding imports.

(a) The Regional Food and Drug Directors and District Directors are authorized to designate officials who may request, under section 801(a) of the Federal Food, Drug, and Cosmetic Act, from the Secretary of the Treasury samples of foods, drugs, devices, or cosmetics imported, or offered for import, in order to determine whether such articles are in compliance with the act.

* * * * *

(d) The Regional Food and Drug Directors and District Directors are authorized to exercise all of the functions of the Commissioner of Food and Drugs under section 362 of the Public Health Service Act (42 U.S.C. 265) that relate to the prohibition of the introduction of foods, drugs, devices, cosmetics, and electronic products and other items or products regulated by the Food and Drug Administration into the United States when it is determined that it is required in the interest of public health, and such functions relate to the law enforcement functions of the Food and Drug Administration.

3. By revising § 5.35 to read as follows:

§ 5.35 Delegations regarding certification following inspections.

Regional Food and Drug Directors and District Directors are authorized to issue certificates of sanitation under § 1240.20 of this chapter.

4. In § 5.40, by revising the introductory text to read as follows:

§ 5.40 Delegations regarding detention of meat, poultry, eggs, and related products.

The Regional Food and Drug Directors and District Directors are authorized to perform and to designate other officials

to perform all the functions of the Commissioner of Food and Drugs under:

* * * * *

5. In § 5.115, by revising the entry for "Region I" to read as follows:

§ 5.115 Field Structure.

REGION I

Regional Field Office: 585 Commercial Street, Boston, MA 02109. District Office: 585 Commercial Street, Boston, MA 02109. Winchester Engineering and Analytical Center: 109 Holton Street, Winchester, MA 01890.

* * * * *

Effective date: This amendment shall be effective August 16, 1976.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: August 9, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-23784 Filed 8-13-76;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 75F-0362]

PART 121—FOOD ADDITIVES

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

RESINOUS AND POLYMERIC COATINGS

The Food and Drug Administration is amending the food additive regulations in § 121.2514 Resinous and polymeric coatings (21 CFR 121.2514) to provide for the use of azelaic acid as a component of polyamide resins intended for use as components of side seam cements for containers intended to contact food; effective August 16, 1976, objections by September 15, 1976.

Notice was given by publication in the FEDERAL REGISTER of January 30, 1976 (41 FR 4626) that a petition (FAP 5B3082) had been filed by General Mills Chemical Inc., 2010 E. Hennepin Ave., Minneapolis, MN 55413 proposing that § 121.2514 be amended to provide for use of azelaic acid as a component of polyamide resins for use as side seam cements in containers intended to contact food.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 121.2514 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 121.2514(b)(3)(xxxii), is amended in the list of substances, by alphabetically inserting in the list of acids under the term "Polyamides * * *" a new item, to read as follows:

§ 121.2514 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xxxii) * * *

Polyamides derived from the following acids and amines:

Acids: * * *

Azelaic * * *

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 15, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office during working hours, Monday through Friday.

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

Dated: August 10, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-23782 Filed 8-13-76;8:45 am]

[Docket No. 76F-0187]

PART 121—FOOD ADDITIVES

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

POLYAMIDE-IMIDE RESINS

The Food and Drug Administration is amending the food additive regulations to provide for a specification change in the minimum solution viscosity of polyamide-imide resin; effective August 16, 1976; objections by September 15, 1976.

Notice was given by publication in the FEDERAL REGISTER of June 9, 1976 (41 FR 23223) that a petition (FAP 6B3201) had been filed by the Phelps Dodge Magnet Wire Co., P.O. Box 600, Ft. Wayne, IN 46801, proposing that § 121.2628 (21 CFR 121.2628) be amended to provide for a specification change in the minimum solution viscosity of the resin from 1.550 to 1.200 (as determined by a method available from the Commissioner of Food and Drugs).

The Commissioner, having evaluated data in the petition and other relevant material, concludes that § 121.2628 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), § 121.2628 is amended by revising paragraph (b)(2) to read as follows:

§ 121.2628 Polyamide-imide resins.

* * * * *

(b) * * *

(2) Solution viscosity: not less than 1.200.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 15, 1976, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date: This regulation shall become effective August 16, 1976.

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

Dated: August 10, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner for Compliance.

[FR Doc.76-23783 Filed 8-13-76;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D—PIPELINE SAFETY

[Docket No. OPS-30, Amdt. 192-27]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE; MINIMUM FEDERAL SAFETY STANDARDS

Offshore Pipeline Facilities

This amendment modifies many of the design, construction, testing, operation, and maintenance regulations in Part 192 as they relate to gas pipeline facilities and the transportation of gas offshore in or affecting interstate or foreign commerce. The amendment also enlarges the scope of Part 192 by deleting the exemption in § 192.1 for certain rural gathering lines located offshore.

The purpose of the amendment is to more clearly delineate the applicability

of Part 192 to offshore pipelines used in the transportation of gas and to better assure the safe operation of those pipelines.

This proceeding was begun by the Office of Pipeline Safety (OPS) which issued an advance notice of proposed rulemaking, Notice 74–6 (39 FR 34568, Sept. 26, 1974), to gain additional information before formulating proposed amendments to the existing rules. (However, after the advance notice was issued, OPS was abolished, and the authority to administer pipeline safety matters was delegated to the Director, Materials Transportation Bureau (MTB) (40 FR 30821, July 23, 1975).)

After reviewing the comments to Notice 74–6, on September 25, 1975, MTB proposed to make this amendment by issuing Notice 75–5 (40 FR 45192, Oct. 4, 1975). Interested persons were invited to submit written comments by October 31, 1975. However, acting on a request by the American Petroleum Institute by Notice 75–5A (40 FR 48940, Oct. 20, 1975) MTB extended the deadline for written comments to December 1, 1975, and scheduled a public hearing on the matter in Washington, D.C., on November 17, 1975. The extension allowed all interested persons additional time to study the benefits and problems involved in the proposed rule changes.

The comments received in writing and at the public hearing have been fully considered by MTB. A discussion of the significant comments and their disposition in developing the final rules is set forth hereinafter in the order that the amendments were proposed in the Notice. Some of the proposed amendments have not been adopted as final. Those which have, are adopted under the same section numbers used in the Notice. Editorial modifications in the final rules which do not alter the substance of the proposed amendments are not discussed.

Section 192.1 Scope of part

MTB proposed that this section be amended to include within the scope of Part 192 rural gathering lines located offshore and thereby subject them to the applicable design, construction, testing, operation, and maintenance standards. At present, both onshore and offshore rural gathering lines are exempt from coverage under Part 192. The proposal to regulate offshore gathering lines was made so that the Federal safety regulations would apply to all offshore pipelines used in the transportation of gas, and because the difficulties in installing, monitoring, and maintaining offshore gathering lines are similar to the difficulties with offshore transmission lines.

Many of the comments received on this section, including those of an industry trade association, concurred with the proposed extension of jurisdiction. The commenters stated, however, that the extended jurisdiction should be limited to gathering lines located seaward of the coast line because it would be confusing to apply the term "offshore" to inland water areas as proposed in Notice 75–5. The concurring commenters also suggested that standards in Part 192 for design, construction, and initial testing not be applied to existing offshore gathering lines.

MTB believes that the reservations which these commenters expressed are satisfied by the final rules. First, the proposed definition of the term "offshore" is changed to apply, in general, to areas located seaward of the coast line, as discussed further hereinafter. Secondly, although the commenters did not estimate how many existing offshore gathering lines would be nonconforming if the design, construction, and testing standards were applied retroactively, MTB does not believe that the various hazards against which the proposed extension of jurisdiction was intended to protect warrant retroactive application of those standards. In the absence of a compelling reason to the contrary, MTB believes that the establishment of a new safety standard does not make existing facilities which do not meet the new standard unsafe. Therefore, a provision has been added to § 192.13 to exempt existing offshore gathering lines or those readied for service before the final rules become effective from the design, construction, and initial testing requirements. Should MTB learn of safety problems with existing offshore gathering lines, however, due to inadequate design, construction, or testing, it will either deal with the pipelines involved on an individual basis or issue another general notice of proposed rulemaking regarding those problems which can be solved through the regulatory process.

A few commenters indicated that the precise effect of the proposed regulation of offshore gas gathering lines could not be evaluated because Part 192 does not clearly state the meaning of the term "gathering line." They said, for example, the term "production facility" in the definition of the term "gathering line" in § 192.3 is not defined and thus the proposed extension of jurisdiction could be interpreted to cover production oriented facilities.

MTB believes that the objection expressed by these commenters arises because of their view that offshore pipelines which carry hydrocarbons between a well and any initial processing equipment are commonly associated with the industry of producing gas rather than with the industry of transporting gas to markets. Also, these pipelines are regulated for safety and other purposes by the U.S. Department of the Interior (DOI).

This indistinctness between production and transportation is of slight significance, however, in view of the recently completed Memorandum of Understanding (MOU) between the Department of Transportation (DOT) and DOI regarding the regulation of offshore pipelines. Under the MOU, which was published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23746), DOT exercises exclusive responsibility for the safety regulation of oil and gas offshore pipelines downstream to the shore from the outlet flange of each facility where hydrocarbons are produced, or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream. Also, DOT regulation includes subsequent on-line transmission equipment but not any subsequent production equipment. DOI regulates the pipelines upstream from these locations. As shown in item 1 below, § 192.1 is amended to include this provision of the MOU and indicate the seaward limits of the jurisdiction of Part 192 over offshore gathering lines.

MTB recognizes that the MOU does not completely resolve the confusion regarding the meaning of the term "gathering line." The proceeding begun by OPS to redefine the term is still under consideration by MTB (Docket OPS–31, 39 FR 34569, Sept. 26, 1974). However, the purpose of Notice 75–5 as it relates to offshore gathering lines was to extend the scope of Part 192 to cover all offshore transportation of gas by pipeline in or affecting interstate or foreign commerce within the jurisdiction of DOT. Therefore, to the extent that gathering lines located downstream from the aforementioned outlet flanges are subject to that jurisdiction, their inclusion within the scope of Part 192 is consistent with the purpose of the rulemaking proposal.

Other commenters speculated that the cost of compliance would far exceed the safety benefits to be gained because there have not been any deaths or injuries attributable to offshore gas gathering lines. The commenters did not submit any cost or benefit data, though, to support the charge. MTB believes to the contrary that the cost of compliance should not be high because the standards in Part 192 do not largely differ from the industry standards and practices to which offshore gathering lines are designed, constructed, operated, and maintained. These industry standards and practices are by and large based on the B31.8 Code published by the American National Standards Institute, the 1968 edition of which served as a basis for Part 192. Also, since the design and construction requirements in Part 192 are not to be applied retroactively to existing pipelines, any costs projected in this area will not exist. Further, as indicated by one commenter at the public hearing, the total costs of compliance must take into account the likely savings in operating costs and insurance rates due to the reduced potential for accidents.

As for benefits, MTB does not agree with the argument that the absence of deaths and injuries means there would be no benefit from safety regulation. If that argument were true, a gathering line which is patently unsafe by any standard would present no safety problem because, fortuitously, deaths or injuries have not yet occurred. One commenter stated at the public hearing that "Offshore construction requires the highest degree of technology to cope with forces and phenomena encountered. It also requires the very best equipment

available * * * " Given this situation for pipeline transportation offshore, it is reasonable to conclude that since offshore gathering lines located downstream from the aforementioned outlet flanges are so similar to offshore transmission lines, which are currently subject to the safety requirements of Part 192, there is a comparable need for regulation. Clearly, the record does not contain technical justification for an opposite view. Rather, it appears that the many factors which can cause the failure of an offshore transmission line and resulting consequences can also cause gathering lines to fail.

Section 192.3 Definitions

MTB proposed in Notice 75–5 to establish a definition of the term "offshore" based in part on the term "lands beneath inland navigation waters" as it is defined in the Submerged Lands Act (43 USC 1331). One reason for the proposal was to ensure that pipelines in many inland bodies of water, the Chesapeake Bay, meet the same safety requirements as pipelines within the area now generally recognized as "offshore"—the area lying seaward of the coastline—because of alleged similarities of operating conditions.

Proposing this broad definition of "offshore" had the simultaneous effect of proposing that all proposed and existing regulations in Part 192 written in terms of "offshore" apply to pipelines crossing inland navigable waters (except where otherwise specifically provided). MTB considered this result in formulating the various proposed substantive amendments in Notice 75–5 regarding "offshore" pipelines. In addition, interested persons were asked to comment on whether any of the proposed amendments should be modified in view of their intended applicability to inland navigable waters.

Commenters were unanimously opposed to the proposal, generally stating that few, if any, inland waters present the same safety problems as open seas regarding the design, construction, operation, and maintenance of pipeline facilities. The commenters pointed out that different construction techniques are used for river and bay crossings than for pipelines within the area now general recognized as "offshore." For instance, at inland water crossings, commenters stated that during construction, pipe is usually connected onshore and then pulled into a prepared ditch. Also, even when inland water crossings are laid from a barge, commenters noted that unlike open sea conditions, the water is usually not as deep, and, consequently, the location of the pipeline can be ascertained from the surface or divers can work with comparative ease. Commenters further stated that the stresses imposed by pipe laying operations are less, overburden and dynamic loads are seldom significant design considerations, and inland water crossings can be inspected more easily.

Furthermore, commenters were concerned that designating "lands beneath inland navigable waters" as "offshore" would be confusing in light of the present general understanding of the term "offshore." In addition, because dry washes in the West, accretion, and filled areas are "lands beneath inland navigable waters" as defined in the Submerged Lands Act, subjecting pipelines in those areas to "offshore" safety requirements would be onerous.

Clearly, the comments did not support the establishment of a broad definition of "offshore," even to the extent of including within the definition large inland bodies of water. In view of these comments, the proposed definition is not adopted because of the apparent confusion and uncertainty which would result in the industry from applying "offshore" requirements to pipelines in inland water areas and because, contrary to the assertion in the notice, the record shows that operating conditions in inland water areas are not generally similar to open-sea operating conditions. This decision does not mean, however, that the various substantitve amendments proposed in Notice 75–5 for "offshore" pipelines are likewise not adopted as they relate to pipelines crossing inland navigable waters. Some of the proposed amendments regarding pipelines in inland water areas have been adopted, others have not. The decision on whether or not each proposed amendment written in terms of "offshore" should be adopted for either open-sea or inland navigable waters, or both, is based on the merits of the proposal, as discussed hereinafter.

Section 192.5 Class locations

This section classifies gas pipelines according to their proximity to populated areas, and many requirements in Part 192 vary in stringency depending on a pipeline's classification. In Notice 75–5, MTB proposed to amend § 192.5 to clarify that the existing classifications apply to offshore as well as onshore pipelines. At the same time, where it was considered necessary to provide a different level of safety between offshore and onshore pipelines of the same classification, MTB proposed to amend the relevant safety requirements.

Comments to this section were unanimous in their disapproval of the proposed amendment. Most commenters stated that the existing criteria for pipeline classifications are based on onshore operating conditions and are, therefore, unrealistic when applied offshore. Commenters also favored regulation of offshore pipelines to provide a single level of safety rather than various levels based on onshore factors which are not closely related to the risks involved.

MTB concurs with the commenters to the extent that the existing classification criteria are mostly inappropriate when applied to offshore areas. However, the existing standards in Part 192 are, to a large extent, written in terms of pipeline classifications, regardless of whether a pipeline is located offshore or onshore. To delete the classification reference from the many existing requirements applicable to offshore pipelines would in most instances merely result in restating an existing safety standard in different terms. Only in those relatively few instances where the standards applicable to offshore pipelines are amended to require a different level of safety than for offshore pipelines would a separate statement of onshore and offshore requirements be beneficial.

As an alternative, MTB has amended § 192.5(a) to exclusively designate offshore pipelines as "Class 1" pipelines. This designation is consistent with the fact that most offshore pipelines are in Class 1, as that classification is presently defined, and it alleviates the commenters' concerns since there is no need to apply the existing classification criteria to offshore pipelines. This designation also has the benefit of continuing the existing regulatory format which is preferable to one that would largely provide separate but duplicate requirements for onshore and offshore pipelines. As indicated hereinafter, where a different standard is established for Class 1 offshore pipelines than for Class 1 onshore pipelines, the particular section involved is amended to separately state that different requirement.

Section 192.111. Notice 75–5 proposed that a design factor of 0.50, or less, be used in the design formula for steel pipe on an offshore platform and within 300 feet therefrom. If operators were to use the proposed design factor instead of 0.72, as now required for pipe in a Class 1 location, any new, replaced, or relocated pipe installed after the effective date of the amendment would have a lower operating stress level. The comments indicate that for pipe risers on platforms, it is industry practice to use a design factor of 0.60, and that for underwater pipelines the existing 0.72 is used. A few commenters questioned the need for a more stringent design factor in terms of the expected costs and benefits, especially for pipelines within 300 feet of a platform. Other commenters stated that the external force of water on pipelines provides additional safety. At least one commenter supported the proposed 0.50 factor for pipe risers, and MTB believes a more stringent factor is justified for risers because of their vulnerability to wave action and to interference by vessels. In view of these comments and the level of potential hazards involved, the final rule is changed to provide that a design factor of 0.50 must be used for steel pipe on platforms, including risers. The existing factor of 0.72 is not changed as it applies to pipelines located within 300 feet of a platform because of the protection provided by water depth and because these pipelines are not subject to the same causes of excessive stresses as are pipelines on platforms.

MTB believes that pipelines on platforms which are being constructed in inland navigable waters have the same need for protection against increased stresses as pipelines on offshore platforms due to the similarity of operating conditions which can cause excessive stress

levels and the confinement of personnel. Therefore, the final rule provides that a design factor of 0.50 must be used for pipe, including risers, on platforms located in inland navigable waters as well as offshore.

Section 192.145. Alleging that valves with pressure containing parts made of ductile iron may be hazardous if used on an offshore platform, MTB proposed that § 192.145(d) be amended to prohibit the use of those valves on platforms. However, comments submitted by the Ductile Iron Society raise doubts about the veracity of the information upon which MTB relied in making the proposal. Therefore the proposal is withdrawn and not adopted at this time. MTB intends to review further the available information on the use of ductile-iron valves. If that review substantiates the assertion in Notice 75–5 that ductile iron valves on offshore platforms are hazardous, another notice of proposed rulemaking will be issued on the subject.

Section 192.161. It was proposed that offshore pipelines be exempt from the requirement of paragraph (f) that each underground pipeline being connected to a branch line have a firm foundation to prevent lateral and vertical movement. This proposal was intended to allow operators to install flexible connections which are preferable offshore. One commenter objected to the proposal on grounds that an absolute exemption would mean that the connections would not be required to withstand external forces. This commenter further suggested that MTB should regulate the connections used offshore. MTB does not agree with these comments. First, other safety standards in Part 192 are sufficient to provide for the integrity of underground offshore branch connections. Also, as the record indicates, flexible connections are better able to withstand any unusual stresses which may arise in an offshore environment. Secondly, more specific regulation of the types of connections used offshore does not appear warranted at this time based on existing information. However, MTB is seeking additonal information on the hazards associated with operating offshore pipelines. Should this information indicate a problem with the safety of branch connections which can be corrected through regulation, MTB will issue a future notice of proposed rulemaking on the subject. Therefore, the amendment to § 192.161(f) is adopted as proposed.

Because comments to Notice 75–5 indicate that pipelines in inland water areas are not subject to as severe operating conditions as offshore pipelines, the proposed amendment to § 192.161 does not appear warranted for underground pipelines in inland water areas.

Section 192.163. MTB proposed that paragraph (a) of this section be amended to exempt compressor station buildings constructed on offshore platforms from the location requirements. Commenters did not object. Since the rationale for exemption, as stated in the notice, is equally applicable to platforms in open seas and to platforms in inland navigable waters, the proposal is adopted with only editorial change.

Section 192.167. An amendment was proposed for paragraph (a)(4)(ii) of this section to permit the control of a compressor station's emergency shutdown system to be operable near the emergency exit if the station is not fenced. A further amendment was proposed to require that the emergency shutdown system for a station on an offshore platform be actuated automatically by certain events.

While commenters had no problem with the first proposed amendment, the second drew several suggestions for changes. First, the proposal which would have required automatic emergency shutdown of an offshore, unattended compressor station when the gas pressure equals the maximum allowable operating pressure plus 10 percent was viewed as too restrictive and not consistent with § 192.169(a). That section requires each compressor station to have pressure relief devices set to function when the maximum allowable operating pressure (MAOP) of the station is exceeded by more than 10 percent. The commenters asserted that emergency shutdown systems should only function when normal overpressure protection fails. They proposed that the emergency shutdown system should be required to operate automatically at a pressure higher than MAOP plus 10 percent, and recommended a pressure equal to MAOP plus 15 percent.

Secondly, the proposal to require automatic shutdown of an offshore compressor station if there is a leak in a building which has a source of ignition was viewed as unreasonable. Commenters pointed out that it is difficult if not impossible to entirely eliminate the escape of gas from around packing glands and similar areas in compressor equipment. While commenters agreed that stations should be shut down if there is an uncorrected leak that causes a hazardous condition, they opposed the automatic shutdown of operations at the first sign of a leak. As an alternative, these commenters suggested that a system set to shut down when gas in the building reaches 50 percent of the lower explosive limit should provide adequate safety. They projected that with adequate alarms, an operator would have the opportunity to correct the gas leak before the station is shut down automatically.

Finally, the commenters pointed out that many fires occur on platforms under controlled conditions, which are not reasons for actuating an automatic shutdown system. For example, fires in welding operations and in dehydrator reboilers should not cause all operations to cease. Instead, it was suggested that the final rule require automatic shut down in the event of an uncontrolled fire.

MTB concurs with these comments and has changed the final rule accordingly. Also, because of the confining nature of a platform wherever it may be located, the final rule applies to compressor stations or platforms located in open seas and in inland navigable waters.

Section 192.179. MTB proposed that this section be amended to require that offshore transmission lines be equipped with valves which meet the requirements of § 192.179(b) to shut off the flow of gas to and from an offshore platform in an emergency. The comments to this proposal state that the safety of personnel and equipment on a platform can be provided by directing the incoming flow of gas around the facilities on the platform. The commenters stated that in this way, gas may be shut off "to" the facilities on a platform but the continuity of gas flowing "from" the platform is not interrupted. Other comments indicate that in most cases when the flow of gas "to" a platform is shut off, gas will also stop flowing "from" the platform. Commenters also pointed out that the valve standards of § 192.179(b) are more appropriate for valves in onshore transmission lines than for valves near an offshore platform because of the differences in operating conditions. Further, it was stated that components other than valves may be developed in the future which would provide an equal or better means of shutting off the flow of gas to an offshore platform in an emergency.

MTB believes that changing the final rule to reflect these comments would result in a more reasonable standard but still provide for the safety of persons and property on platforms in an emergency situation. Therefore, the proposed new § 192.179(d) is changed as finally adopted to require that offshore segments of transmission lines be equipped with valves or other components to shut off the flow of gas to the facilities on an offshore platform in an emergency. Onshore segments of transmission lines, including those in inland navigable waters, are subject to the existing requirements for valve location in § 192.174.

Section 192.243. The existing paragraph (d) of this section requires that 100 percent if practicable but not less than 90 percent of the butt welds made daily must be nondestructively tested at crossings of major or navigable rivers and that 10 percent must be tested in Class 1 locations. In Notice 75–5 MTB proposed to amend this rule to require that 100 percent if practicable but not less than 90 percent of the butt welds be nondestructively tested on pipelines in all offshore areas. Commenters did not disagree with the desirability of 100 percent testing in offshore areas lying seaward of the coast line. However, because of their objections to the proposed definition of "offshore," the commenters did not favor amending the existing rule as it applies to pipelines in inland navigable waters. MTB concurs with these commenters, and has changed the final rule to require 100 (or 90) percent testing "offshore," as that term is defined by the amendment to § 192.3. MTB believes that the existing requirement for 100 (or 90) percent testing of butt welds on pipelines crossing major or navigable rivers, pro-

vides for safety in almost all of the inland water areas where problems could arise.

Section 192.245. Only one commenter objected to the proposed amendment to this section which would permit the repair of all unacceptable welds on pipelines being installed from a lay barge. This commenter argued that if unacceptable welds may not be repaired onshore, then, likewise, offshore welds should not be repaired. MTB does not agree with this comment because, as discussed in the Notice, many safety problems arise in connection with removal of welds from pipelines being installed offshore from a lay barge which do not occur onshore. These problems create potential hazards for both the pipeline and the installation personnel which, in the opinion of MTB, overcome the safety advantages to be gained by removing unacceptable welds.

In the final rule, the only change to this section is that the term "lay barge" used in the Notice is replaced with the term "pipelay vessel." This change is made so that as adopted the proposed exception from the existing welding requirements for offshore pipelines is not restricted to pipelines being installed from a vessel called a "lay barge" but applies to pipelines installed from any similar type of marine craft designed to lay offshore pipelines. The change is consistent with the objective of the proposal which was to eliminate the hazard associated with the removal, rather than repair, of unacceptable welds on pipelines being installed under the operating and working conditions of a lay barge.

In view of the comments which indicate that laying pipelines in inland waters from a lay barge is not as hazardous as laying pipelines in open seas, the proposed amendment to § 192.245 has not been adopted as it relates to installation of pipelines in inland waters.

Section 192.317. MTB proposed that the list of hazards in paragraph (a) against which a pipeline must be protected should be amended to include hazards peculiar to offshore pipelines. Commenters indicated that inclusion of the additional named hazards would be redundant since they are within the meaning of the term "other hazards" in the existing list. MTB does not agree because as now written paragraph (a) pertains more to onshore than offshore conditions, and the amendment was intended to call attention to hazards which may occur offshore. In view of the comments, MTB now believes, however, that the existing list of hazards in paragraph (a) is satisfactory for protection in inland water areas. There were no objections to the proposed amendment to paragraph (b), which would clarify that it only applies to onshore pipelines, or to the proposed new paragraph (c) concerning protection of pipelines on platforms. Therefore, the amendments to § 192.317 are adopted as proposed with only minor editorial change, except that the amendment to paragraph (a) does not apply to pipelines in inland waters.

Section 192.319. In Notice 75–5, MTB proposed to amend paragraph (b) to provide that the existing requirements relating to backfilling a ditch dug for a transmission line or main apply only when a ditch is actually backfilled. The proposal arose because many offshore pipelines are installed by directing jets of water under them after they have reached the bottom, and cover for the pipelines results from a natural action of water currents rather than backfilling. Since there were no adverse comments to this proposal, it is adopted without change.

Further, in Notice 75–5, MTB proposed that a new paragraph (c) be added to § 192.319 to require that offshore pipelines in water not more than 200, but at least 12, feet deep be installed so that the top of the pipeline is below the natural bottom. The proposal was intended to provide for protection of these offshore pipelines against possible interference by fishing trawlers, damage by hurricanes, and underwater currents. MTB recognized, however, that installation below the bottom might not be an appropriate safety measure in all cases, and thus included in the proposal a provision that pipelines need not be buried where they are otherwise appropriately protected or where unstable soil conditions would subject the pipelines to greater external forces when buried than when they are laid directly on the bottom.

Two commenters objected to the proposed burial requirement as not an appropriate general rule for all situations because burial may not always be needed for adequate protection. Similarly, another commenter suggested that the proposed rule would be too difficult to meet in areas with a rock bottom. MTB believes, however, that these comments do not warrant changing the final rule in view of the flexibility which the proposed rule would provide by permitting operators to use a means of protection other than burial. MTB does not believe that offshore pipelines should be permitted to be installed without any means of protection. The proposed requirement for burial below the bottom is, therefore, adopted as final, with exceptions as discussed below.

Another commenter criticized the proposed amendment because it would not require that pipelines be buried at least 3 feet below the bottom. This commenter suggested that burial at least 3 feet deep is necessary for protection from dragging trawls and anchors. This comment was not adopted because trawls and anchors were among the possible causes of damage considered by MTB in proposing the requirement for burial below the surface, and the commenter did not submit any evidence to show why pipelines should be buried at least 3 feet deep. Also, while installation below the bottom is the most common method of protecting an offshore pipeline from damage, it is not the only acceptable method available. MTB believes that other means of protection must be permitted because certain seabed materials make ditching a pipeline in the conventional manner very difficult or almost impossible.

In the final rule, MTB has deleted the proposed exception regarding unstable soil as unnecessary because the normal industry safety practice is to protect pipelines in areas of unstable soil by either burial or an appropriate alternate means. If an appropriate alternate means is used, the exception in the proposed amendment which was intended to allow the use of that means would apply.

Although Notice 75–5 provided an exception from the proposed burial requirement for pipelines which are "otherwise appropriately protected," MTB now believes the exception for alternative means of protection should be written in more precise terms to avoid confusion in understanding the requirement. Therefore, in the final rule, the exception is changed to apply to the types of protection which are normally used in the industry in lieu of burial—support on stanchions, anchors, and heavy concrete coating. MTB believes that a pipeline protected by any of these means would be "appropriately protected" as stated in the Notice. Also, under the final rule, a means of protection may be used other than the ones which are named if it provides a level of protection equivalent to those named. MTB anticipates that criteria governing the appropriate level of protection of offshore pipelines will be the subject of future rulemaking. MTB is now seeking additional information on the safety of offshore pipelines to serve as a basis for that criteria. If adopted, the criteria would eliminate the need to specify acceptable means of protection and allow more flexibility in providing that protection.

The new § 192.319(c) does not apply to pipelines in inland navigable waters since the burial requirement contained in § 192.327 appears to provide sufficient protection for those pipelines.

Section 192.327. It was proposed that this section be amended to require at least 36 inches of cover for offshore pipelines installed under water less than 12 feet above the natural bottom. At the same time, at least 48 inches of cover was proposed for all submerged pipelines in a river, stream, or harbor.

Commenters to this section did not object to the proposed burial depths, and they are adopted as final. The final rule is changed, however, to allow installation with one half of the proposed cover in areas with a consolidated rock bottom. Also, in consideration of the comments concerning the proposed definition of "offshore" with respect to inland waters, MTB now believes that adoption of the proposed 48-inch burial requirement for rivers, streams, and harbors is sufficient to cover those inland water situations where additional cover than now required is needed to protect against damage to pipelines by environmental and other external causes. As adopted, the terms "river," "stream," and "harbor" are modified by the word "navigable" to maintain consistent terminology in Part 192. Consistent with the existing cover

requirement, a further change to the final rule allows less cover where an underground structure prevents installation with the minimum cover and additional protection is provided.

Section 192.465. MTB proposed that paragraph (a) of this section be amended to require that cathodically protected offshore pipelines be tested at intervals not exceeding 7 months to determine if the protection is adequate. The existing rule, which does not apply where impractical on offshore pipelines, requires testing once a year, but with intervals not exceeding 15 months. MTB anticipated that if the proposal were adopted, the likelihood of leaks developing due to faulty cathodic protection would be reduced. Moreover, additional testing appeared doubly justified because leaks occurring offshore are more difficult to locate and repair than on shore leaks.

All of the commenters to this section as well as the Technical Pipeline Safety Standards Committee (TPSSC) opposed adoption of the proposed amendment. Several commenters stated that it is not necessary to require more frequent testing of offshore pipelines because corrosion occurs more uniformly and is more predictable offshore. Other commenters argued that corrosion is less of a safety problem offshore than onshore and that cathodic protection is not any more difficult to maintain offshore than onshore. Still others argued that the existing period for testing is not inadequate.

Also, commenters and the TPSSC urged that the existing exception for impractical situations offshore be maintained, alleging that with the various electrical testing means in use, the most practical test points are generally only available at either end of an offshore pipeline or at platforms. They further stated that except in shallow waters, testing at other points along the length of a line would require the use of divers or underwater craft.

MTB recognizes the many problems associated with the testing of cathodic protection on offshore pipelines. MTB also recognizes that, in general, corrosion occurs offshore at a more uniform rate than onshore because the offshore environment is constantly corrosive. However, MTB is not convinced that these factors overcome the apparent benefits to be gained from more frequent testing offshore.

In an offshore underwater environment the need for maintenance is not as observable as onshore. Damage to pipelines by anchor dragging, wave or current action, mud slides, or trawls may go undetected for longer periods of time than onshore. Would disruption of a cathodic protection system by an external cause which goes undetected for 12 months raise the potential for the occurrence of leaks to an unsafe level? What would be the cumulative effect of accelerated corrosion due to a defective or disrupted system over successive 12 month periods? On the other hand, can a uniform rate of corrosion be taken into account as a design factor so that offshore testing of cathodic protection may be performed less frequently than onshore? Unfortunately, the record does not provide satisfactory information on these questions.

The proposed 7-month interval for testing is, therefore, not adopted at this time. This part of the proposal is withdrawn pending receipt of the additional information which MTB is seeking by study contract on the hazards and safety practices in an offshore environment. The study is needed to provide for more comprehensive regulation of the safety of offshore pipelines. If warranted by the additional information, MTB will issue a future notice of proposed rulemaking on the frequency of testing issue.

In view of the comments which indicate that underwater leaks in inland waters do not present problems of the same magnitude as leaks in open seas and the impracticality of scheduling more frequent tests on the relatively few underwater portions of an onshore pipeline, MTB has decided that a requirement for more frequent testing should not be adopted for pipelines crossing inland waters.

MTB does not agree, however, that the testing requirement should provide an exception for impractical situations on offshore pipelines. Even though the argument may be true that with methods now being used it is only practical to conduct tests at the various accessible points on offshore pipelines, § 192.319 does not require testing at particular locations along a pipeline. Any location may be chosen for testing as long as the level of cathodic protection on the pipeline is effectively determined. Given the relative consistency of an underwater offshore environment, testing from accessible points appears to be sufficient for compliance with the annual test requirement for offshore pipelines. On the other hand, as it is now written, the exception may be understood to authorize various reasons for not testing within the required period which are unrelated to the location of tests. Therefore, in the final rule, the exception for impractical situations on offshore pipelines has been deleted.

Section 192.469. This section requires that, except where impractical on offshore and wet marsh area pipelines, each pipeline under cathodic protection must have sufficient test stations or other contact points for electrical measurement to determine the adequacy of that cathodic protection. In Notice 75-5, MTB proposed that the exception for impractical situations be deleted. All the commenters and the TPSSC were opposed to this proposal, stating that for most submerged offshore pipelines it is still impractical to install and maintain test stations along the pipelines. Commenters and the TPSSC indicated that the only practical locations for test stations are on platforms or accessible onshore points. MTB does not disagree with these comments, but believes they are not a compelling argument for keeping the impracticality exception in the rule. Absent the exception, § 192.469 would require each offshore pipeline to have a sufficient number of test stations from which the adequacy of cathodic protection could be checked. The comments to this section and to § 192.465 indicate that tests from accessible locations are "sufficient" to determine the adequacy of cathodic protection in an offshore environment. Under these circumstances, the impracticality of installing and maintaining test stations elsewhere along an offshore line is immaterial. Certainly the exception is not intended to permit some offshore lines to have less than a sufficient number of stations since this result would nullify the rule. Therefore, since there does not appear to be a cogent reason to the contrary, MTB has decided that the proposed deletion of the impracticality exception should be adopted as final.

Section 192.481. This section is amended to require that offshore pipelines exposed to the atmosphere be evaluated yearly to determine the adequacy of atmospheric corrosion protection. No adverse comments were received on the proposal. However, since comments indicate that the potential for atmospheric corrosion is not as significant for pipelines over inland waters, under the final rule, the annual evaluation only applies to pipelines located seaward of the coastline which are exposed to the atmosphere.

Section 192.619. MTB proposed that the table of factors in § 192.619(a)(2)(ii) be amended by adding a footnote to provide that new or uprated offshore steel pipelines be tested at a higher pressure level than presently required. For underwater pipelines, a factor of 1.25 was proposed to require a 25 percent difference between test pressure and a pipeline's maximum allowable operating pressure (MAOP). On platforms a factor of 1.5 would require a 50 percent difference between test pressure and MAOP. None of the comments opposed the proposed amendment except to point out that as expresed in the notice, it could be interpreted to require that existing pipelines be retested. Since retroactive application was clearly not intended, the final rule is restated to remove any doubt that the new factors do not apply to pipelines installed or uprated before the effective date of the amendment. Also, since it appears that submerged pipelines under inland waters are not normally subject to greater stresses due to their environment, the proposed amendment is not adopted regarding those pipelines. The same is not true for pipelines on platforms in inland waters, and the proposed factor of 1.5 is adopted for those pipelines.

Section 192.707. In Notice 75-5, it was proposed that § 192.707 be amended to exempt offshore buried and aboveground pipelines from the existing marking requirements. It was further proposed that risers on platforms that are exposed to damage by marine traffic be marked in the same manner as onshore pipelines at navigable waterway crossings. While the comments did not object to exempting offshore pipelines from the existing requirements, they opposed the proposed new marking requirements. One comment stated that adequate protection

is already provided by the Coast Guard's requirements for navigational aids on platforms which involve warning lights and fog signals (33 CFR Part 67). Also, objections were raised concerning the inappropriateness of the proposed warning "Do Not Anchor or Dredge" for a pipe riser. Finally, commenters emphasized that the relatively few serious incidents which have resulted from vessels contacting platforms did not involve pipe risers. The TPSSC suggested that final action be deferred pending the outcome of MTB's study of offshore safety problems.

On the basis of these comments and other considerations, MTB now believes that additional information is needed to determine whether marking offshore pipe risers would be a significant safety benefit. Therefore, the proposal to require that pipe risers be marked is not adopted as a final rule. The issue may be reopened by a future notice of proposed rulemaking if warranted by the additional information which MTB is seeking on the safety of offshore pipelines.

However, for the reasons stated in the notice, the proposed exemption from marking buried offshore pipelines is adopted as final by an amendment to § 192.707(b). In inland water areas, the exemption is limited to pipelines under navigable waters because a significant factor in the rationale for the exemption, information on pipeline location furnished by the Corps of Engineers, only relates to pipelines crossing navigable waters.

The proposed exemption from marking aboveground "offshore" pipelines is not adopted. Since the existing marking requirement only applies to aboveground pipelines in areas accessible to the public, and compliance is not impractical, MTB now believes that pipelines located over water should not be excluded from the marking requirement of § 192.707(c).

Sections 192.713 and 192.717. MTB proposed in Notice 75-5 that these sections be amended to permit the use of mechanically applied full-encirclement split sleeves in lieu of welding for permanent repairs on submerged pipelines located seaward of the coast and under inland navigable waters. Since there were no adverse comments, the proposed amendments are adopted as final.

Section 192.727. It was proposed that this section be amended to require that abandoned or inactivated offshore pipelines be filled with either water or inert material. The rationale for the proposal was that offshore pipelines have a greater probability of retaining liquid hydrocarbons after being purged of gas. Since no adverse comments were received on the proposal, it is adopted as final. However, in light of comments, the rationale for the proposal now appears more apropos of pipelines lying seaward of the coast, thus, the final rule does not apply to abandoned or inactivated pipelines in inland navigable waters.

Report of the Technical Pipeline Safety Standards Committee

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968 requires that all proposed standards and amendments to such standards pertaining to gas pipelines be submitted to the Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each proposal." The proposed amendment to Part 192 was submitted to the Committee as Item A-2 in a list of three proposed amendments.

On April 16, 1976, the Committee filed the following report:

This communication is the official report of the Technical Pipeline Safety Standards Committee concerning the Committee's action on three amendments to 49 CFR Part 192 proposed by the Office of Pipeline Safety Operations and other matters which the Committee decided should be brought to the attention of the Department of Transportation.

The following described actions were taken by the Committee at a meeting held in New Orleans, Louisiana on March 30, 31, 1976.

* * * * *

Item A-2 of the agenda was a proposal to revise a number of Sections in Part 192 to recognize unique characteristics of Offshore Pipeline Facilities.

The Committee unanimously voted that the addition of the following definition of the word "Offshore" to Section 192.3 is technically feasible, reasonable and practicable.

* * * * *

[The suggested definition is adopted as the final rule.]

By a vote (12 affirmative—1 not voting) the Committee found that the change to Section 192.5, Class Locations as proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

By a vote (12 affirmative—1 not voting) the Committee found that the change to Section 192.111, Design Factor (F) for steel pipe, as proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

By a vote (12 affirmative—1 negative) the Committee found that the revision of Section 192.145, Valves, as proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

The Committee by unanimous vote agreed that the revision to Section 192.161, Supports and anchors as proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

The Committee by unanimous vote agreed that the revision to Section 192.163, Compressor stations; design and construction, as proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

By a unanimous vote the Committee agreed that the following language would represent a technically feasible, reasonable, and practicable change to Section 192.167, Compressor stations: emergency shutdown.

* * * * *

[The suggested language is incorporated in the final rule with minor editorial changes.]

By a unanimous vote the Committee agreed that the following language would represent a technically feasible, reasonable, and practicable revision to Section 192.179, Transmission line valves.

* * * * *

[The suggested language is incorporated in the final rule with minor editorial changes.]

By unanimous vote the Committee found that the change to Section 192.243, Nondestructive testing, as proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

By unanimous vote the Committee found that the change to Section 192.245 Repair or removal of defects, as proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

By unanimous vote the Committee found that the change to Section 192.317, Protection from hazards, as proposed by OPSO is technically feasible, reasonable and practicable and should be implemented.

By unanimous vote the Committee agreed that the following language would represent a technically feasible, reasonable, and practicable revision to Section 192.319, Installation of pipe in ditch.

* * * * *

[The suggested language is incorporated in the final rule with minor editorial changes.]

By unanimous vote the Committee agreed that the following language would represent a technically feasible, reasonable, and practicable revision to Section 192.327, Cover.

* * * * *

[The suggested language is incorporated in the final rule with minor editorial changes.]

By unanimous vote the Committee found that the change to Section 192.481, Atmospheric corrosion control: monitoring, as proposed by OPSO is technically feasible, reasonable and practicable and should be implemented.

By unanimous vote the Committee found that the change to Section 192.619 Maximum allowable operating pressure; steel or plastic pipelines, as proposed by OPSO would be technically feasible, reasonable, and practicable provided appropriate changes are made to the regulations to clarify the applicability of effective dates to gathering lines.

[The suggested changes are made in the final rule.]

* * * * *

By unanimous vote the Committee agreed to recommend that no action be taken on the OPSO proposal to revise Section 192.707, Line markers for mains and transmission lines, pending receipt and review of the results of a contract study on pipeline facility safety practices.

By a vote (12 affirmative—1 not present) the Committee found that the change to Section 192.713, Transmission lines: permanent field repair of imperfections and damages, proposed by OPSO is technically feasible reasonable, and practicable and should be implemented.

By a vote (12 affirmative—1 not present) the Committee found that the change to Section 192.717 Transmission lines: permanent repair of leaks, proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

By a vote (12 affirmative—1 not present) the Committee found that the change to Section 192.727 Abandonment or inactivation of facilities, proposed by OPSO is technically feasible, reasonable, and practicable and should be implemented.

By a vote (10 affirmative—2 negative—1 not present) the Committee found that the change to Section 192.465 External corrosion control: monitoring, proposed by OPSO is not technically feasible, reasonable, and practicable and the proposed change should not be made until either experience or studies clearly establish the need for more restrictive monitoring of offshore pipelines. A comprehensive discussion of the committee's views may be found in the official transcript of the meeting.

* * * * *

By a vote (1 affirmative—10 negative—2 not voting) the Committee rejected a mo-

tion to approve the change to Section 192.-469 External corrosion control: test stations, proposed by OPSO and found the proposed change not to be technically feasible, reasonable, nor practicable. The Committee is convinced that circumstances exist, particularly in offshore areas where it is neither practicable nor beneficial to require "test stations or other contact points for electrical measurements to determine the adequacy of cussion setting forth the Committee's views on this matter will be found in the official transcript of the meeting.

* * * * *

Throughout the body of this report the OPSO proposals which were accepted by the Committee as technically feasible, reasonable, and practicable were those proposals contained in the agenda submitted to the Committee and do not necessarily conform to the proposals contained in the Notice of Proposed Rulemaking which appeared in the FEDERAL REGISTER.

Effective date. Notice 75–5 requested that interested persons comment on the amount of time that would be needed to comply with the amendments being proposed. MTB also discussed with the Technical Pipeline Safety Standards Committee what time would be needed for compliance. The comments received on this question indicate that design and construction regulations which apply to new, replaced or relocated pipelines require a longer lead time for compliance than regulations for operation or maintenance. One commenter suggested that as much as two years lead time be allowed for lines in the planning stage but not yet under construction. Taking these comments into account and the amount of time reasonably needed for compliance, MTB has decided that the final rules are to become effective November 1, 1976, except as follows:

1. Amendments to §§ 192.111, 192.167, 192.179, 192.317, 192.319, 192.327, and 192.619 do not become effective until August 1, 1977.

2. The corrosion control requirements of Subpart I of Part 192 do not apply to offshore gathering lines until August 1, 1977.

3. Offshore gathering lines which are constructed before August 1, 1977, need not comply with the design and construction requirements of Subparts B–G, and J of Part 192.

Provisions have been added to §§ 192.13 and 192.451 to provide for the extended effective dates regarding offshore gathering lines.

In consideration of the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended as set forth below:

1. The statement of authority is amended to read as follows:

AUTHORITY: Sec. 3, Pub. L. 90–481, 82 Stat 721 (49 U.S.C. 1672); sections applicable to offshore gathering lines also issued under Sec. 105, Pub. L. 93–633, 88 Stat 2157 (49 U.S.C. 1804); 40 FR 43901, 49 CFR 1.53; unless otherwise noted.

2. Section 192.1(b) is amended to read as follows:

§ 192.1 Scope of part.

* * * * *

(b) This part does not apply to—

(1) Offshore gathering of gas upstream from the outlet flange of each facility on the outer continental shelf where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream; and

(2) Onshore gathering of gas outside of the following areas:

(i) An area within the limits of any incorporated or unincorporated city, town, or village.

(ii) Any designated residential or commercial area such as a subdivision, business or shopping center, or community development.

3. Section 192.3 is amended by adding the following new definition in alphabetical order:

§ 192.3 Definitions.

* * * * *

"Offshore" means beyond the line of ordinary low water along that portion of the coast of the United States that is in direct contact with the open seas and beyond the line marking the seaward limit of inland waters.

* * * * *

4. Section 192.5(a) is amended to read as follows:

§ 192.5 Class locations.

(a) Offshore is Class 1 location. The Class location onshore is determined by applying the criteria set forth in this section: The class location unit is an area that extends 220 yards on either side of the centerline of any continuous 1-mile length of pipeline. Except as provided in paragraphs (d)(2) and (f) of this section, the class location is determined by the buildings in the class location unit. For the purposes of this section, each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy.

* * * * *

5. In § 192.13, paragraphs (a) and (b) are amended to read as follows:

§ 192.13 General.

(a) No person may operate a segment of pipeline that is readied for service after March 12, 1971, or in the case of an offshore gathering line, after July 31, 1977, unless that pipeline has been designed, installed, constructed, initially inspected, and initially tested in accordance with this part.

(b) No person may operate a segment of pipeline that is replaced, relocated, or otherwise changed after November 12, 1970, or in the case of an offshore gathering line, after July 31, 1977, unless that replacement, relocation, or change has been made in accordance with this part.

* * * * *

6. Section 192.111(d) is revised to read as follows:

§ 192.111 Design factor (F) for steel pipe.

* * * * *

(d) For Class 1 and Class 2 locations, a design factor of 0.50, or less, must be used in the design formula in § 192.105 for—

(1) Steel pipe in a compressor station, regulating station, or measuring station; and

(2) Steel pipe, including a pipe riser, on a platform located offshore or in inland navigable waters.

7. Section 192.161(f) is amended to read as follows:

§ 192.161 Supports and anchors.

* * * * *

(f) Except for offshore pipelines, each underground pipeline that is being connected to new branches must have a firm foundation for both the header and the branch to prevent lateral and vertical movement.

8. Section 192.163(a) is revised to read as follows:

§ 192.163 Compressor stations: design and construction.

(a) *Location of compressor building.* Except for a compressor building on a platform located offshore or in inland navigable waters, each main compressor building of a compressor station must be located on property under the control of the operator. It must be far enough away from adjacent property, not under control of the operator, to minimize the possibility of fire being communicated to the compressor building from structures on adjacent property. There must be enough open space around the main compressor building to allow the free movement of fire-fighting equipment.

* * * * *

9. In § 192.167, paragraph (a)(4)(ii) is amended and a new paragraph (c) is added to read as follows:

§ 192.167 Compressor stations: emergency shutdown.

(a) * * *

(4) * * *

(ii) Near the exit gates, if the station is fenced, or near emergency exits, if not fenced; and

* * * * *

(c) On a platform located offshore or in inland navigable waters, the emergency shutdown system must be designed and installed to actuate automatically by each of the following events:

(1) In the case of an unattended compressor station—

(i) When the gas pressure equals the maximum allowable operating pressure plus 15 percent; or

(ii) When an uncontrolled fire occurs on the platform; and

(2) In the case of a compressor station in a building—

(i) When an uncontrolled fire occurs in the building; or

(ii) When the concentration of gas in air reaches 50 percent or more of the

lower explosive limit in a building which has a source of ignition.

For the purpose of paragraph (c)(2)(ii) of this section, an electrical facility which conforms to Class 1, Group D of the National Electrical Code is not a source of ignition.

10. In § 192.179, a new paragraph (d) is added to read as follows:

§ 192.179 Transmission line valves.

* * * * *

(d) Offshore segments of transmission lines must be equipped with valves or other components to shut off the flow of gas to an offshore platform in an emergency.

11. In § 192.243, paragraphs (d)(1) and (3) are amended to read as follows:

§ 192.243 Nondestructive testing.

* * * * *

(d) * * *

(1) In Class 1 locations, except offshore, at least 10 percent.

* * * * *

(3) In Class 3 and Class 4 locations, at crossings of major or navigable rivers, and offshore, 100 percent if practicable, but not less than 90 percent.

* * * * *

12. Section 192.245 is amended to read as follows:

§ 192.245 Repair or removal of defects.

(a) Each weld that is unacceptable under § 192.241(c) must be removed or repaired. Except for welds on an offshore pipeline being installed from a pipelay vessel, a weld must be removed if it has a crack that is more than 2 inches long or that penetrates either the root or second bead.

(b) Each weld that is repaired must have the defect removed down to clean metal and the segment to be repaired must be preheated. After repair, the segment of the weld that was repaired must be inspected to ensure its acceptability. If the repair is not acceptable, the weld must be removed, except that additional repairs made in accordance with written welding procedures qualified under § 192.225 are permitted for welds on an offshore pipeline being installed from a pipelay vessel.

13. Section 192.317 is amended to read as follows:

§ 192.317 Protection from hazards.

(a) Each transmission line or main must be protected from washouts, floods, unstable soil, landslides, or other hazards that may cause the pipeline to move or to sustain abnormal loads. In addition, offshore pipelines must be protected from damage by mud slides, water currents, hurricanes, ship anchors, and fishing operations.

(b) Each aboveground transmission line or main, not located offshore or in inland navigable water areas, must be protected from accidental damage by vehicular traffic or other similar causes, either by being placed at a safe distance from the traffic or by installing barricades.

(c) Pipelines, including pipe risers, on each platform located offshore or in inland navigable waters must be protected from accidental damage by vessels.

14. In § 192.319, paragraph (b) is amended and a new paragraph (c) is added to read as follows:

§ 192.319 Installation of pipe in a ditch.

* * * * *

(b) When a ditch for a transmission line or main is backfilled, it must be backfilled in a manner that—

(1) Provides firm support under the pipe; and

(2) Prevents damage to the pipe and pipe coating from equipment or from the backfill material.

(c) All offshore pipe in water at least 12 feet deep but not more than 200 feet deep, as measured from the mean low tide, must be installed so that the top of the pipe is below the natural bottom unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means.

15. In § 192.327, paragraph (a) is amended and paragraph (e) is added to read as follows:

§ 192.327 Cover.

(a) Except as provided in paragraphs (c) and (e) of this section, each buried transmission line must be installed with a minimum cover as follows:

* * * * *

(e) All pipe which is installed in a navigable river, stream, or harbor must have a minimum cover of 48 inches in soil or 24 inches in consolidated rock, and all pipe installed in any offshore location under water less than 12 feet deep, as measured from mean low tide, must have a minimum cover of 36 inches in soil or 18 inches in consolidated rock, between the top of the pipe and the natural bottom. However, less than the minimum cover is permitted in accordance with paragraph (c) of this section.

16. In § 192.451, the existing paragraph is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 192.451 Scope.

* * * * *

(b) Notwithstanding the deadlines for compliance in this subpart, the corrosion control requirements of this subpart do not apply to offshore gathering lines until August 1, 1977.

17. Section 192.465(a) is amended to read as follows:

§ 192.465 External corrosion control: monitoring.

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463. However, if tests at those intervals are impractical for separately protected service lines or short sections of protected mains, not in excess of 100 feet, these service lines and mains may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system, must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

* * * * *

18. Section 192.469 is amended to read as follows:

§ 192.469 External corrosion control: test stations.

Each pipeline under cathodic protection required by this subpart must have sufficient test stations or other contact points for electrical measurement to determine the adequacy of cathodic protection.

19. Section 192.481 is amended to read as follows:

§ 192.481 Atmospheric corrosion control: monitoring.

After meeting the requirements of §§ 192.479 (a) and (b), each operator shall, at intervals not exceeding 3 years for onshore pipelines and 1 year for offshore pipelines, reevaluate each pipeline that is exposed to the atmosphere and take remedial action whenever necessary to maintain protection against atmospheric corrosion.

20. The table in § 192.619(a)(2)(ii) is amended to read as follows:

§ 192.619 Maximum allowable operating pressure: steel or plastic pipelines.

(a) * * *

(2) * * *

(ii) * * *

Class location	Factors [1]	
	Segment installed before (Nov. 12, 1970)	Segment installed after (Nov. 11, 1970)
1	1.1	1.1
2	1.25	1.25
3	1.4	1.5
4	1.4	1.5

[1] For offshore segments installed or uprated after July 31, 1977, that are not located on a platform, the factor is 1.25. For segments installed or uprated after July 31, 1977, that are located on an offshore platform or on a platform in inland navigable waters, including a pipe riser, the factor is 1.5.

* * * * *

21. In § 192.707(b), subparagraphs (1) and (2) are redesignated as (2) and (3), respectively, and a new subparagraph (1) is added, to read as follows:

§ 192.707 Transmission lines: leakage surveys.

* * * * *

(b) *Exceptions for buried pipelines.* Line markers are not required for buried mains and transmission lines—

(1) Located offshore or under inland navigable waters;

* * * * *

22. Section 192.713 is amended to read as follows:

§ 192.713 Transmission lines: permanent field repair of imperfections and damages.

(a) Except as provided in paragraph (b) of this section, each imperfection or damage that impairs the serviceability of a segment of steel transmission line operating at or above 40 percent of SMYS must be repaired as follows:

(1) If it is feasible to take the segment out of service, the imperfection or damage must be removed by cutting out a cylindrical piece of pipe and replacing it with pipe of similar or greater design strength.

(2) If it is not feasible to take the segment out of service, a full encirclement welded split sleeve of appropriate design must be applied over the imperfection or damage.

(3) If the segment is not taken out of service, the operating pressure must be reduced to a safe level during the repair operations.

(b) Submerged offshore pipelines and submerged pipelines in inland navigable waters may be repaired by mechanically applying a full encirclement split sleeve of appropriate design over the imperfection or damage.

23. Section 192.717 is amended to read as follows:

§ 192.717 Transmission lines: permanent field repair of leaks.

(a) Except as provided in paragraph (b) of this section, each permanent field repair of a leak on a transmission line must be made as follows:

(1) If feasible, the segment of transmission line must be taken out of service and repaired by cutting out a cylindrical piece of pipe and replacing it with pipe of similar or greater design strength.

(2) If it is not feasible to take the segment of transmission line out of service, repairs must be made by installing a full encirclement welded split sleeve of appropriate design, unless the transmission line—

(i) Is joined by mechanical couplings; and

(ii) Operates at less than 40 percent of SMYS.

(3) If the leak is due to a corrosion pit, the repair may be made by installing a properly designed bolt-on-leak clamp; or, if the leak is due to a corrosion pit and on pipe of not more than 40,000 psi SMYS, the repair may be made by fillet welding over the pitted area a steel plate patch with rounded corners, of the same or greater thickness than the pipe, and not more than one-half of the diameter of the pipe in size.

(b) Submerged offshore pipelines and submerged pipelines in inland navigable waters may be repaired by mechanically applying a full encirclement split sleeve of appropriate design over the leak.

24. In § 192.727, paragraphs (b) and (c) are amended to read as follows:

§ 192.727 Abandonment or inactivation of facilities.

* * * * *

(b) Each pipeline abandoned in place must be disconnected from all sources and supplies of gas; purged of gas; in the case of offshore pipelines, filled with water or inert materials; and sealed at the ends. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

(c) Except for service lines, each inactive pipeline that is not being maintained under this part must be disconnected from all sources and supplies of gas; purged of gas; in the case of offshore pipelines, filled with water or inert materials; and sealed at the ends. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

* * * * *

(Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 USC 1672), Section 105 of the Hazardous Materials Transportation Act (49 USC 1804), and § 1.53 of the regulations of the Office of the Secretary of Transportation (49 CFR 1.53).)

Issued in Washington, D.C. on August 9, 1976.

JAMES T. CURTIS, Jr.,
Director,
Materials Transportation Bureau.

[FR Doc.76-23592 Filed 8-13-76;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-27; Notice 05]

PART 575—CONSUMER INFORMATION REGULATIONS

Vehicle Stopping Distance Information Item; Correction

In FR Doc. 76-35248, appearing at page 1066 in the FEDERAL REGISTER of Tuesday January 6, 1976, a conforming amendment that would have deleted the phrase "without locking the wheels" from the text of § 575.101 was inadvertently omitted, although this deletion is necessary to permit the use of a new test procedure as intended. Also the phrase "(d) of this section and procedures specified in paragraph" was inadvertently omitted from the text of § 575.101(c).

Accordingly, the phrase ", without locking the wheels," is deleted from the text of Figure 1 and the text of § 575.101 (c)(5). The phrase "(d) of this section and the procedures specified in paragraph" is inserted before the phrase "(e) of this section" that appears at the end of the first paragraph of § 575.101(c).

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8).

Issued on August 10, 1976.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.76-23796 Filed 8-13-76;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1249; Corrected]

PART 1033—CAR SERVICE

Octoraro Railway, Inc., Authorized To Operate Over Portion of USRA Line No. 142, Former Octoraro Branch of Penn Central Transportation Company

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of July, 1976.

It appearing, That railroad service on the former Octoraro Branch of the Penn Central, (PC) identified in the Final System Plan of Reorganization of the Northeastern Railroads as USRA Line No. 142 between former PC milepost 18.0 and the end of the branch at Rising Sun, Maryland, has been discontinued; that that portion of this line between mileposts 18.0 and 54.2 at the Maryland-Pennsylvania state line south of Nottingham, Pennsylvania, has been purchased by the Southeastern Pennsylvania Transportation Authority, an agency of the Commonwealth of Pennsylvania (the Commonwealth); that the Commonwealth has designated the Octoraro Railway, Inc. (ORI), as its operator of rail service over this line and has entered into a rail service continuation payment operating agreement with ORI pursuant to Section 304(d)(i) of the Regional Rail Reorganization Act of 1973, as amended (the Rail Act); that by virtue of the Commonwealth's ownership of said line and the stated intention of ORI to provide service over this line so long as it can profitably do so with or without subsidy, the ORI is not eligible to receive a Certificate of Designated Operator pursuant to regulations issued by the Commission on March 17, 1976; that the ORI will apply to the Commission under Section 1(18) of the Interstate Commerce Act seeking permanent authority to operate this line on behalf of the Commonwealth; that unless service over this line is immediately required by the Commission to be continued until the ORI's application has been acted upon there may be a loss of rail service on or about July 29, 1976, in violation of the express requirements of Section 304(d)(3) of the Rail Act; that the Commission act to prevent any disruption or loss of service under the circumstances presented herein; that operation by the ORI over the aforementioned tracks formerly operated by the PC is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1249 Octoraro Railway, Inc., authorized to operate over portion of USRA Line No. 142, former Octoraro branch of Penn Central Transportation Company.

(a) The Octoraro Railway, Inc. (ORI) be, and it is hereby authorized to operate over certain tracks of USRA Line No. 142, formerly known as the Octoraro Branch of the Penn Central Transportation Company (PC) between former PC milepost 18.0 in the vicinity of Wawa, Pennsylvania, and milepost 54.2 at the Pennsylvania-Maryland state line south of Nottingham, Pennsylvania, pending disposition by the Commission of the application of ORI seeking permanent authority to operate over the aforementioned tracks.

(b) *Rates Applicable.* Inasmuch as this operation by the ORI over tracks formerly operated by the PC is deemed to be due to carrier disability, the rates applicable to traffic moved by the ORI over these lines shall be the rates which were formerly in effect on such traffic when routed via the PC until tariffs naming rates specifically applicable via the ORI become effective.

(c) *Station Conditions.* The cancellation of former PC Pennsylvania District Stations 7521, Chester Heights, Pennsylvania, to 7582, Nottingham, Pennsylvania, inclusive, published in the Supplement 13 to the Official List of Open and Prepay Stations No. [1] 90, ICC No. A–55, issued by the Station List Publishing Company to become effective July 29, 1976, is hereby suspended until such stations are adopted by the ORI.

(d) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(e) In transporting traffic over these lines the ORI and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 p.m., July 28, 1976.

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 15, 1976, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2). Sec. 304 of Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 744); Pub. L. 95–236 and 94–210.)

[1] Correction of Tariff Reference.

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Lewis R. Teeple, Thomas J. Byrne and William J. Love.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-23896 Filed 8-13-76;8:45 am]

Title 24—Housing and Urban Development

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

[Docket No. R–76–411]

PART 260—INTEREST SUBSIDY GRANTS

Final Regulations for Section 802(c)(2) Program

On June 17, 1976, the Department of Housing and Urban Development published a proposed new Part 260 to 24 CFR to implement Section 802(c)(2) of the Housing and Community Development Act of 1974, Pub. L. 93–383, 88 Stat. 633, (42 USC 1440(c)(2)). Under that subsection, the Secretary is authorized to make grants to a total of $600 million, at a rate of not more than $15 million per year, for the benefit of State housing finance or development agencies to subsidize up to 33⅓ percent of the interest payable on their bonds, debentures, notes, or other obligations which are made subject to Federal taxation at the election of the State agency and which are issued to finance certain development activities. Only eligible taxable obligations, as defined in these regulations, may qualify for the subsidy. The final regulations set forth the procedures and requirements for submission of applications for interest subsidy grants, procedures for selection and approval of applications by the Department, and general program standards.

The Department has received 12 responses to its invitation for public comment on the proposed rule, all of which have been reviewed and carefully considered. These comments are discussed below, along with the Department's action on those comments, and the changes made in the proposed rule.

1. DEFINITIONS: ELIGIBLE OBLIGATION. A number of comments on § 260.2(a)(3) were received, requesting that the maximum mortgage term be extended to either 42 or 45 years, to allow for both temporary note financing and permanent bond financing. The Department has carefully reviewed this requirement, and determined that the maximum mortgage term cannot exceed 40 years. The legislative history of appropriation action indicates that the total term may not exceed 40 years.

2. DEFINITIONS: ELIGIBLE OBLIGATION. Section 260.2(a)(5) has been changed to state that interest on the obligations assisted by interest subsidy grants must be payable annually, semi-annually or quarterly. This was done both for reasons of clarity and for consistency with § 260.5(f).

3. DEFINITIONS: ELIGIBLE PROJECT. Many comments were received on § 260.2(b), suggesting that this program not be limited to obligations used to finance new or substantially rehabilitated projects assisted under Section 8 of the U.S. Housing Act of 1937 (42 USC 1437f). Several comments suggested that both single family and multifamily units be eligible for the subsidy, while another suggested that section 236 assisted project be eligible. Finally, another comment stated that limiting the program to section 8 would be detrimental because this would represent a portfolio of only one type of security to the potential investor, implying that a mixed portfolio would be more marketable.

The Department has determined that the proposed rule will not be changed, i.e., only Section 8 projects will be eligible for the interest subsidy grants. While it is true that some State agencies do have Section 236 assisted projects under construction or completed but without permanent financing, the number of such projects has decreased substantially in recent months along with the general improvement in the tax-exempt bond market and, therefore, it is not essential that further aid be given to these projects. This is especially appropriate in light of the fact that the Department will soon be publishing final regulations implementing a multifamily co-insurance program for State agencies. These projects are eligible under the multifamily coinsurance program.

As to the desirability of a mixed portfolio, we have determined that both tax-exempt bonds and taxable bonds eligible for subsidy under this part, can be included in the same bond issue. However, only that portion of the issue which consists of eligible taxable obligations, which have a commitment from the Department for an interest subsidy grant under this part, will be assisted.

4. APPLICATIONS. Two comments were received on § 260.3. The first comment stated that the proposed two-tier application/batching submission deadline was too short. It was suggested that the first submission period be September 20, 1976. Although the Department realizes that August 20, 1976 is a tight time deadline, it has decided not to change the proposed rule. The Department considers it desirable to adopt a plan which would make the contract authority available

for obligation prior to September 30, 1976. If the initial submission period were extended until September 20, 1976, it would be extremely difficult for the Department to carry out this objective. The second comment enumerated that the information stated in § 260.3(a)(6), which is required to accompany an application for interest subsidy grants, is difficult to provide. The Department has decided not to change the proposed rule in this regard, since the information required is essential to judge the applications, and make the appropriate selections, in conjunction with the procedures set forth in § 260.4.

5. SELECTION AND APPROVAL OF APPLICATIONS. A majority of the comments received were opposed to the proposed ranking system set forth in § 260.4. One comment stated that it was not in keeping with the intent of Congress to have potential participants compete for the limited subsidy funds, while others stated that it would be very difficult, if not impossible, for State agencies to predict in advance what interest rates they would have to pay on taxable bonds, which is a new type of security to them. It was suggested that the Department allocate the available funds on the basis of those agencies that applied, and allow the agencies to determine the depth of the subsidy, so long as it did not exceed the statutory maximum. Still another comment suggested that such a ranking system would be inequitable because it would favor those agencies that submitted unrealistically low bids in order to get the subsidy. In addition, it was suggested that the proposed method of settling ties favored the more established agencies because they could reach the market faster.

The Department devoted a substantial amount of time to considering this issue. It believes that the method selected provides the most equitable method of allocating the available subsidy. A fair share allocation (using those factors listed in Section 213(d) of the HCD Act of 1974 (42 USC 1439)) was considered but adoption of this method could result in many agencies getting a very small share of the available subsidy, a share which might be too small to actually use for a reasonably sized housing project. The Department also considered permitting any State agency so inclined to apply for the available funds, and then allocating those funds among those applying on a modified fair share basis. However, this method suffers from the same disadvantage as the previous one.

The Department is, however, sensitive to the comment that some applicants may submit unrealistically low estimates, and after receiving an allocation for interest subsidy grants, not be able to use the funds. For this reason, it intends to pursue the design of another allocation method for possible use if this situation does materialize.

In addition, the Department decided that an outside date must be placed on the use of these funds, since it is possible that a State agency getting a Section 802(c)(2) allocation may not use it within a reasonable time. It has determined that the bonds, to be eligible, must be issued by September 30, 1978. If not, the commitment will terminate.

6. SELECTION AND APPROVAL OF APPLICATIONS. Two comments were received which stated that the actual contract to be executed between the Department and the State agency should have been available for comment. The Department does not believe that final regulations need be delayed for publication of a detailed subsidy contract. It considers the proposed rules published for comment to provide an adequate description of the intended framework of the subsidy program to give interested individuals the basis for informed review and comment.

7. PROGRAM-STANDARDS. Three comments were received on § 260.5. One comment was on § 260.5(g), and stated that a disbursing agent should be permitted to bill the Secretary for each scheduled grant payment, as well as the State agency. This has not been changed in the final rule. Since the State agency is to be both the obligor on the assisted bonds and the obligee of the Federal commitment for assistance and since it must certify as to the current status of its payments on the bonded debt when it submits an invoice for the subsidy, it is considered appropriate that this certification not be delegated to the disbursing agent.

Two comments addressed § 260.5(j). One comment stated that the time period was too short and that more than 90 days should be permitted. The other suggested that one or more extension periods should be permitted before the commitment is terminated. The Department has changed § 260.5(j) to state that the bonds must be issued within 90 days after the date specified in the application, but that one extension period of 30 days may be granted.

8. Two general comments on the proposed regulations were also received. One comment stated that State agencies were being given an unfair competitive advantage by permitting them to receive interest subsidy grants on taxable obligations. However, HUD considers this to be consonant with the statute, which states: "It is the purpose of this section (802) to encourage the formation and effective operation of State housing finance agencies and State development agencies * * *". The other comment stated that the regulations should explicitly provide that the subsidy will continue through default on the obligation. The proposed rule was unclear on this point. The Department will not continue the interest subsidy grant through default; if the State agency does not make its payment, the Department will not make the grant. However, if the State agency resumes its payments after failing to make one or more previous payments, the Department will also resume making the grants.

The proposed regulations did not make clear how the determination of interest payable would be made. The Department has given this serious consideration during the comment period.

On obligations which are amortized, interest as a percentage of debt service decreases as the obligation ages. Thus, if the subsidy were calculated as a percentage of interest payable in a specific year, the subsidy would also decrease. In subsequent years, even though the full $15 million would be obligated during the first year, there would be a reduction of the interest subsidy paid by HUD. Thus, on a level debt service bond issue (and in other payment schedules established on an amortized basis, the revenue requirements to support the bond issue would increase as the subsidy decreases. Therefore, the Department has determined that for the purpose of these regulations, interest payable and the subsidy grant will be calculated in the following manner:

Instead of making an annual determination of interest payable, and calculating the subsidy based on that amount, interest payable will be calculated as a lump-sum amount. The annual amounts of interest payable will be aggregated into one total amount of interest payable over the full term of the bond issue. Thus, if the term of the bond issue is 40 years, HUD will divide the total interest payable amount by forty to determine the average annual interest amount. The subsidy will then be calculated as a percentage of this average. The subsidy payment will then be constant throughout the life of the obligation, instead of a decreasing amount. In addition, this percentage will constitute the ranking criterion for comparing applications, instead of the ratio of the maximum annual interest subsidy grant requested during the term of the eligible obligation to the principal amount of the obligation.

The final rules reflect this determination.

The Department has determined that these regulations will not have an environmental impact, as defined in HUD Handbook 1390.1. The finding of inapplicability may be inspected during regular business hours in the Office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of these regulations have been carefully evaluated in accordance with OMB Circular No. A-107.

Accordingly, Chapter II, Subchapter B of Title 24 of the Code of Federal Regulations, is amended by adding a new Part 260 to provide as follows:

Sec.
260.1 Purpose.
260.2 Definitions.
260.3 Applications.
260.4 Selection and approval of applications.
260.5 Program standards.

AUTHORITY: Sec. 7(d), Department of HUD Act (42 USC 3535(d)); Sec. 802(c)(2), Housing and Community Development Act of 1974 (Pub. L. 93-383, 88 Stat. 633 (42 USC 1440(c)(2))).

§ 260.1 Purpose.

These regulations establish rules and procedures for implementation by the Secretary of Section 802(c)(2) of the Housing and Community Development

Act of 1974 (42 USC 1440(c)(2)) to the extent of all currently available contract and budget authority under that subsection. State housing finance and development agencies currently obtain capital for low income housing development through the issuance of tax-exempt financing. Section 802(c)(2) authorizes the Secretary to make, and to contract to make, grants to or on behalf of eligible State agencies to cover not to exceed 33⅓ percent of the interest payable on their bonds, debentures, notes and other obligations which are made subject to Federal taxation and which are issued to finance certain development activities including the provision of housing for lower income families. Thus, Section 802 (c)(2) and these regulations afford eligible State agencies the option of using taxable obligations to finance certain of their development activities.

§ 260.2 Definitions.

(a) "Eligible obligation"—Any bond, note, debenture or other obligation which:

(1) Is issued by an eligible State Agency;

(2) Is issued for the purpose of financing the construction or development of eligible projects, or issued to refinance short-term obligations of the same issuer issued for such purpose;

(3) Is issued for a term, including refinancings, which shall not exceed forty (40) years;

(4) Would not have been subject to Federal taxation except for the decision of the eligible State agency to obtain assistance under Section 802 (42 USC 1440 (c)(2)); and,

(5) Provides for interest payments on the full outstanding principal balance of the obligation annually, semi-annually, or quarterly.

(b) "Eligible project"—A new construction or substantial rehabilitation project (as defined in 24 CFR 883.202) for which a final proposal has been approved by the Secretary pursuant to 24 CFR 880.210(c), 881.210(c) or 883.311(a).

(c) "Eligible State Agency"—A Housing Finance Agency (HFA), designated by the Governor of the State (or Governors in the case of an interstate agency) for purposes of participating in this program under this Part and which has been approved as a participating agency pursuant to § 883.103 of this Title.

(d) "Secretary"—The Secretary of Housing and Urban Development or an officer authorized to perform the functions of the Secretary.

(e) "State"—Any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(f) "Subject to Federal taxation"—An obligation is deemed subject to federal taxation for purposes of this part, if the interest paid thereon and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of Chapter 1 of the Internal Revenue Code of 1954.

§ 260.3 Applications.

(a) Any eligible State agency may apply for interest subsidy grants under this Part; however, the allocation of grant contract authority requested by a single such agency for the period commencing October 1, 1976 and ending September 30, 1977, shall not exceed $2 million, nor shall the allocation requested exceed $2 million of contract authority for use in any subsequent annual period. Applications will be processed in two separate groups as more fully described in § 260.4. To be processed with the first group, an application must be delivered to the Office of Assisted Housing, Room 6106, HUD Building, 451 Seventh Street, SW., Washington, D.C. 20410 no later than 5:00 p.m., August 20, 1976. Applications so delivered after 5:00 p.m. August 20, 1976, and prior to 5:00 p.m., September 20, 1976, will be processed with the second group. Applications so delivered after 5:00 p.m., September 20, 1976, will be rejected. Applications must be placed in a sealed envelope marked "Section 802(c)(2) Interest Subsidy Grant Application" and must state or include the following:

(1) A certificate executed by the Governor(s) of the State(s) in which the applicant conducts development activities authorizing the applicant to receive interest subsidy grants under this Part and approving the applications.

(2) The amount of interest subsidy grants requested for the period commencing October 1, 1976 and ending September 30, 1977.

(3) The estimated capital amount of the eligible obligation to which those grants will be applied.

(4) The actual or anticipated issue date of the eligible obligation.

(5) A duly certified resolution of the applicant stating that the bond, debenture, note or other obligation to which the interest subsidy grants requested will be applied, is, or will be, an eligible obligation.

(6) A description of the major anticipated features of the eligible obligations to which the interest subsidy grants requested will be applied, including term, type, amortization schedule, interest rate, total interest payable, acceleration rights, prepayment rights and penalties, and identification of purchasers of the obligation (if known at time of application submission).

(7) The estimated total amount of interest subsidy grants required during the term of the eligible obligation, the percentage of interest payable on the eligible obligation anticipated to be defrayed by those grants (not to exceed 33⅓ percent), where interest payable is calculated as provided in § 260.5(d), and the estimated amount of such grants for each annual period commencing October 1, 1977, until the expiration of the eligible obligation.

(8) The requested manner of grant payment, i.e. annually, semi-annually, quarterly, and the identification of the disbursing agent, if known.

Each application must be executed by an authorized officer of the eligible State agency and must be accompanied by an opinion of the counsel for the eligible State agency as to the authority of that officer to so execute the application on behalf of the eligible State agency.

§ 260.4 Selection and approval of applications.

(a) *First group.* (1) All applications delivered prior to 5:00 p.m., August 20, 1976, and otherwise meeting the requirements of § 260.3 of this part will constitute the first group and will be reviewed by the Secretary to determine acceptability under this part. If the total amount of interest subsidy grants requested by acceptable applications for the period commencing October 1, 1976, and ending September 30, 1977, or for any subsequent annual period, does not exceed $15 million, then all such applications in the first group shall be approved.

(2) If the total amount of interest subsidy grants requested by these applications for the period commencing October 1, 1976, and ending September 30, 1977, or for any subsequent annual period, exceeds $15 million, then the applications shall be ranked according to the ratio described in § 260.5(d). First ranking shall be awarded to the application with the lowest such ratio; second ranking shall be awarded to the application with the second lowest such ratio, and so forth. In the event of a tie, higher ranking as between the tied applications shall be awarded to that application setting forth the earlier anticipated issue date for the eligible obligation. The Secretary will then approve applications in the order of ranking in the maximum annual amounts requested. In the event it is not possible under this procedure to approve applications for the total maximum annual amount of interest subsidy grants requested by an application, the applicant shall be so advised by the Secretary and given the option of either having approved an amount equal to the then available annual amount of interest subsidy grants or relinquishing its ranking to the next ranked applicant.

(b) *Second group.* If the total amount of interest subsidy grants for the period commencing October 1, 1976, and ending September 30, 1977, or for any subsequent annual period, requested by acceptable applications in the first group equals or exceeds $15 million, then all applications delivered pursuant to § 260.3 of this part after 5:00 p.m. August 20, 1976, will be rejected. If the total amount of interest subsidy grants for the period commencing October 1, 1976, and ending September 30, 1977, or for any subsequent annual period, requested by acceptable applications in the first group is less than $15 million, then all applications delivered after 5:00 p.m. August 20, 1976, and prior to 5:00 p.m. September 20, 1976, and otherwise meeting the requirements of § 260.3, will constitute the second group and will be reviewed by the Secretary. If the total

amount of interest subsidy grants for the period commencing October 1, 1976, and ending September 30, 1977, or any subsequent annual period, requested by acceptable applications in the second group does not exceed the difference between $15 million and the total amount of such grants for such periods requested by applications in the first group, then all of the applications in the second group shall be approved. If the total amounts of interest subsidy grants requested by applications in the second group for the period commencing October 1, 1976, and ending September 30, 1977, or any subsequent annual period, exceeds the difference between $15 million and the total amount of such grants for such period requested by applications in the first group, then the ranking and approval systems, as set forth in § 260.5(d), shall be used.

(c) *Approved Applications.* The Secretary will promptly notify in writing all eligible State agencies whose applications have been approved.

§ 260.5 Program standards.

(a) Interest subsidy grants under this part will be made only to eligible State agencies or to disbursing agents duly designated by such eligible State agencies.

(b) Interest subsidy grants under this part may be applied only to eligible obligations.

(c) Interest subsidy grants under this part will not exceed $15 million per year commencing October 1, 1976 and $600 million in total amount. No applicant may receive a commitment for more than $2 million during the period commencing October 1, 1976 and ending September 30, 1977, or for any subsequent annual period.

(d) Interest subsidy grants under this part for any eligible obligation shall not exceed 33⅓ percent of interest payable thereon. Interest subsidy grants will be calculated in the following manner:

(1) The total amount of scheduled interest payable during the full term of the obligation will be divided by the number of years in the term of the obligation. The result of this calculation will be the average annual interest payable.

(2) the subsidization percentage will be calculated on the basis of the average annual interest payable, i.e., the ratio of the maximum annual amount of interest subsidy grants requested to the average annual interest payable amount will be defined as the subsidization rate; such rate shall not exceed 33⅓ percent.

(3) The subsidization rate as calculated above will be used to rank applications, as provided in § 260.4.

(e) Interest subsidy grants under this part shall be paid for not more than forty (40) years.

(f) Payments of interest subsidy grants under this part will be made annually, semi-annually or quarterly, at the option of the eligible State agency.

(g) An eligible State agency must bill the Secretary for each scheduled grant payment at least 30 days in advance of the due date of the agency's scheduled interest payment on the eligible obligation to which the grant payment will be applied. The billing will refer to the case number, the amount of grant payment due, and the current status of the agency's payment on the debt.

(h) If the interest payable on each eligible obligation issued by an approved applicant is less than the amount set forth in its approved application, then the approved amounts of interest subsidy grants committed on the basis of said application shall be reduced according to the ratio of interest payable on the eligible obligation set forth in the approved application to interest payable on each eligible obligation actually issued by the applicant.

(i) If the interest payable on each eligible obligation issued by an approved applicant is greater than the amount set forth in its approved application, no adjustment shall be made in the approved amounts of interest subsidy grants committed on the basis of said application.

(j) A commitment of interest subsidy grants under this Part shall automatically terminate in the event the applicant fails to issue the eligible obligation for which the grants were requested within ninety (90) days after the issue date specified in its application, except that one extension period of thirty (30) days may be permitted at the discretion of the Secretary. However, in no event may the obligation be issued any later than September 30, 1978. The commitment of interest subsidy grants under this Part shall automatically terminate if the applicant fails to issue the eligible obligation prior to September 30, 1978.

(k) In the event of default or arrearage by an eligible State agency in the payment of principal and/or interest due on an eligible obligation, payments of interest subsidy grants under this part in relation to such eligible obligation may be suspended and/or terminated at the discretion of the Secretary.

Issued at Washington, D.C., August 9, 1976.

Effective date: August 16, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing.

[FR Doc.76-23799 Filed 8-13-76;8:45 am]

CHAPTER III—GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

[Docket No. R-76-210]

PART 300—GENERAL

List of Attorneys-in-Fact

Section 300.11 is amended to add additional names to the list of attorneys-in-fact authorized to act on behalf of the Association and to remove names from the current list.

Notice and public procedure on this amendment are unnecessary and impracticable because of the large volume of legal documents that must be executed on behalf of the Association in connection with its recent auctions of mortgages.

§ 300.11 [Amended]

1. Paragraph (c) of § 300.11 is amended by deleting the following names from the current list of attorneys-in-fact:

Name	*Region*
Helen M. Eltzeroth	Atlanta, Ga.
B. J. Hendryk	Dallas, Tex.
David G. Hooper	Do.
Clark Lauderdale	Do.
Victoria Leyendecker	Do.
Joseph T. F. Quinn	Philadelphia, Pa.
Thomas W. Page	Dallas, Tex.

2. Paragraph (c) of § 300.11 is further amended by adding the following names in alphabetical sequence to the current list of attorneys-in-fact:

Name	*Region*
Victoria Duffield	Dallas, Tex.
B. J. Hendryx	Do.
Calvin W. Heptinstall	Los Angeles, Calif
Charleen N. Munson	Philadelphia, Pa.

3. Paragraph (d) of § 300.11 is amended by deleting the following names from the current list of attorneys-in-fact:

Name	*Region*
James W. Cotts	Pittsburgh, Pa.
Robert J. Eisenberg	Boston, Mass.
James P. McTernan	Washington, D.C.
Charles Reid III	Do.

(It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.)

Effective date: This amendment shall be effective on August 16, 1976.

DAVID M. DEWILDE,
President, Government National Mortgage Association.

[FR Doc.76-23850 Filed 8-13-76;8:45 am]

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-279]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Borough of Upper Saddle River, New Jersey

On January 16, 1974, in 39 F.R. 1986, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Borough of Upper Saddle River, New Jersey. Map No. H 340077 01 indicates that Lot 8K, North Valley Estates, Upper Saddle River, New Jersey, as recorded on Map No. 6535, on file in the office of the Clerk of Bergen County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 340077 01

is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 4, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23869 Filed 8-13-76;8:45 am]

[Docket No. FI-454]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Chesterfield County, Virginia

On January 28, 1975, in 40 FR 4134, the Federal Insurance Administrator published a list of communities with special hazard areas which included Chesterfield County. Map Nos. H 510035 34, 44 & 45 indicate that Whale Rock Subdivision. Chesterfield County, Virginia, as recorded in Planbook 26, Page 11 in the office of the Clerk of the Circuit Court of Chesterfield County, Virginia, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property with the exception of the 100-year flood plain easement, as shown on the recorded plat map cited above, is not within the Special Flood Hazard Area. Accordingly, Map Nos. H 510035 34, 44 & 45 are hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 10, 1975.

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

Issued: July 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23853 Filed 8-13-76;8:45 am]

[Docket No. FI-965]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Auburn, Indiana

On March 30, 1976, in 41 F.R. 13347, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Auburn, Indiana. Map No. H 180046A 01 indicates that Lots 11–14, Foxcroft Addition, Auburn, Indiana, as recorded in Record Plat 5, Pages 74 and 75 in the office of the Recorder of DeKalb County, Indiana, are in their entirety within the Special Flood Hazard Area. However, portions of these lots which can be collectively described as follows:

Commencing at the southwest corner of Lot 10 being on the northern line of Eastwood Drive; thence North along the western line of Lot 10 approximately 78 feet to the actual point of beginning; thence N 32°30' W, approximately 192 feet to a point on the northern line of Lot 12; thence North, approximately 157 feet to a point on the northern line of Lot 13; thence N 16°E, approximately 129.5 feet to a point on the southwestern line of Lot 15; thence S 45°E, approximately 175 feet to a point on the centerline of Duryea Drive; thence South approximately 190 feet to a point on the northern line of Lot 10; thence S 68°W, along the northern line of Lot 10 approximately 62 feet to the northwest corner of Lot 10; thence South along the western line of Lot 10; approximately 106 feet to the actual point of beginning, are not within the Special Flood Hazard Area. Accordingly, Map No. H 180046A 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on December 28, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23879 Filed 8-13-76;8:45 am]

[Docket No. FI-690]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Auburn, Washington

On September 17, 1975, in 40 FR 42876, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Auburn, Washington. Map No. H 530073A 03 indicates that Lots 27, 28 and 29 of Green River Village Addition, Division No. 5, Auburn, King County, Washington, as recorded in Volume 96, Pages 8 and 9 of the Book of Plats, in the Division of Records and Elections of King County, Washington, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 530073A 03 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on September 19, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 18, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23852 Filed 8-13-76;8:45 am]

[Docket No. FI-326]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Aurora, Colorado

On August 7, 1974, in 39 FR 28424, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Aurora, Colorado. Map No. H 080002 05 indicates that Lot 1, I–225 Shopette Subdivision Filing No. 2, Aurora, Colorado, as recorded in Book 28, Page 7, in the office of the Clerk and Recorder of Arapahoe County, Colorado, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 080002 05 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on July 26, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23872 Filed 8-13-76;8:45 am]

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Baltimore, Maryland

On August 6, 1974, in 39 FR 28256, the Federal Insurance Administrator published a list of communities with special hazard areas which included the city of Baltimore, Maryland. Map No. H 240087 01 indicates that a parcel of land known as 6004 Baywood Avenue being Lot 35, Block 4400A, Ward 27, Section 22, Baltimore, Maryland, as recorded in Plat book 4100–4599, Page 4400–A in the office of the Department of Public Works, Bureau of Surveys of Baltimore, Maryland is in

its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 240087 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

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

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–23865 Filed 8–13–76;8:45 am]

[Docket No. FI–340]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Columbus, Ohio

On April 10, 1975, in 40 FR 16192, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Columbus, Ohio. Map No. H 390170 40 indicates that Parcels 1–4 of a tract of land lying along Noe-Bixby Road, Columbus, Franklin County, Ohio, as recorded in Volume 3493, Page 61–68, and Page 379, of Warranty Deeds, in the office of the Recorder of Franklin County, Ohio are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that a portion of the above property which can be described as follows:

Commencing at the point of intersection of the centerline of Noe-Bixby Road and the extension of the south lot line of parcel number one; thence S 86°20'42" W, 33.39 feet to the point of beginning; thence S 86°20'42" W, 157 feet to a point; thence N 25°10' W, 411.5 feet to a point on the north lot line of parcel number 4; thence N 85°42'01" E, 125 feet to a point; thence S 30°59'31" E, 14.75 feet to a point; thence S 29°42'20" E, 412.31 feet to the point of beginning, is not within the Special Flood Hazard Area. Accordingly, Map No. H 390170 40 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 9, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 18, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–23860 Filed 8–13–76;8:45 am]

[Docket No. FI–885]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Gulf Breeze, Florida

On February 20, 1976, in 41 FR 7762, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Gulf Breeze, Florida. Map No. H 120275A 01 indicates that Lot 35, Block 1, First Addition to Casablanca, Gulf Breeze, Florida, as recorded in Plat Book A, Page 90, in the office of the Clerk of the Circuit Court of Santa Rosa County, Florida, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 120275A 01 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

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

Issued: July 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–23877 Filed 8–13–76;8:45 am]

[Docket No. FI–440]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Houston, Texas

On January 10, 1975, in 40 FR 2190, the Federal Insurance Administrator published a list of communities with special hazard areas which included Houston, Texas. Map. No. H 480296 138 indicates that two tracts of land (7.45 acres and 8.193 acres) both taken from the H. T. & B. R. R. Company Survey No. 7, A–398, Houston, Harris County, Texas, recorded as Trustee's Deeds with Film Code Numbers 122–03–0169 and 105–10–1230 respectively, in the office of the Clerk of Harris County, Texas, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 480296 138 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on December 27, 1974.

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

Issued: July 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–23854 Filed 8–13–76;8:45 am]

[Docket No. FI–270]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Indianapolis, Indiana

On May 17, 1974, in 39 FR 17518, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Indianapolis, Indiana. Map No. H 180159 53 indicates that a parcel of land 62 feet by 228 feet being Lot 55, 5023 East Naomi Street, Indianapolis, Indiana, as recorded in Book 85, Page 188 in the office of the Assessor of Marion County, Indiana, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 180159 53 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 17, 1974.

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

Issued: July 14, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–23880 Filed 8–13–76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Lakewood, Colorado

On January 8, 1976, in 41 FR 1472, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Lakewood, Colorado. Map No. H 085075 10 indicates that Lot 20, Block 2, Woodlake Subdivision Filing No. 2, Lakewood, Colorado, as recorded in Book 29, Page 5, in the office of the County Clerk and Recorder of Jefferson County, Colorado, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is within Zone C, and is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 085075 10 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 4, 1974.

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

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23873 Filed 8-13-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Lakewood, Colorado

On June 25, 1976, in 41 FR 26403, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Lakewood, Colorado. Map No. H 085075 07 indicates that Linwood Subdivision, Filing No. 2, Lakewood, Colorado, as recorded in Book 7, Page 29, in the office of the Clerk and Recorder of Jefferson County, Colorado, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that Lots 1 through 6 and 9 through 11, and the existing structures on Lots 7 and 8 are within Zone C, and are not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 085075 07 is hereby corrected to reflect that the above property and structures are not within the Special Flood Hazard Area identified on July 21, 1972.

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

Issued: August 5, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23874 Filed 8-13-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Lakewood, Colorado

On June 25, 1976, in 41 F.R. 26402, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Lakewood, Colorado. Map No. H 085075 11 indicates that Lot 11, Block 12, Calahan Homes, Unit Three, Amended, Lakewood, Colorado, as recorded in Book 21, Page 26, in the office of the Clerk and Recorder of Jefferson County, Colorado, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is within Zone C, and is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 085075 11 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 4, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23875 Filed 8-13-76;8:45 am]

[Docket No. FI-340]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Longview, Texas

On August 21, 1975, in 40 F.R. 36564, the Federal Insurance Administrator published a list of communities with special hazard areas which included Longview, Texas. Map No. H 480264A 06 indicates that a parcel of land being Tract I, in Longview, Gregg County, Texas, as recorded in Volume 1000, Page 278 of Deed Records, in the office of the Clerk of the County Court of Gregg County, Texas, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 480264A 06 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on October 10, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: July 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23862 Filed 8-13-76;8:45 am]

[Docket No. FI-352]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Lubbock, Texas

On September 12, 1974, in 39 F.R. 32890, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Lubbock, Texas. Map No. H 480452 10 indicates that Lot 4, Holiday Park Addition, as recorded in Volume 1366, Page 473 in the office of the Clerk of Lubbock County, Texas, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that with the exception of the drainage easement shown on the recorded plat map cited above, the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 480452 10 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 30, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23855 Filed 8-13-76;8:45 am]

[Docket No. FI-893]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Rogers, Arkansas

On March 19, 1976, in 41 F.R. 11485, the Federal Insurance Administrator published a list of communities with special hazard areas which included Rogers, Arkansas. Map No. H 050013A 02 indicates that Lots 9 and 10, Block 2, Lots 1–5, Block 6, and Lots 3–5, Block 5, Unit 1, Turtle Creek Place Subdivision, Rogers, Arkansas, as recorded in Platbook O, Page 18 in the office of the Clerk of Benton County Arkansas, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 050013A 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on February 27, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: August 5, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23870 Filed 8-13-76;8:45 am]

[Docket No. FI-455]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of San Jose, California

On January 27, 1975, in 40 F.R. 3986, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of San Jose, California. Map No. H 060349 28 indicates that Tract No. 5534, San Jose, California, as recorded in Book 345, Pages 54 and 55, in the office of the County Recorder of Santa Clara County, California, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 060349 28 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 24, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23871 Filed 8-13-76;8:45 am]

[Docket No. FI-842]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Shreveport, Louisiana

On February 3, 1976, in 41 F.R. 4910, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Shreveport, Louisiana. Map No. H 220036 28 indicates that Lot 91, The Meadow Subdivision Unit No. 1, Shreveport, Louisiana, as recorded in Book 1500, Page 19, of the records of Caddo Parish, Louisiana, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after technical review of the above map in light of additional, recently acquired flood information, that the structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 220036 28 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on January 3, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968) as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23863 Filed 8-13-76;8:45 am]

[Docket No. FI-842]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Shreveport, Louisiana

On February 3, 1976, in 41 F.R. 4910, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Shreveport, Louisiana. Map No. H 220036A 26 indicates that a tract of land in Caddo Parish, Louisiana, as recorded in Book 1545, Page 350, in the Conveyance Records of the Clerk of Court, Caddo Parish, Louisiana, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that a portion of the above mentioned property legally described as:

"A tract of land located in the NE¼ of Section 26 and the NW¼ of Section 25, T17N–R15W, Caddo Parish, Louisiana and being more particularly described as follows: From the point of intersection of the south right-of-way of West 70th Street and the west right-of-way line of Pines Road as recorded in Book 1100, Pages 459–469, records of Caddo Parish, Louisiana, proceed N. 89°15' W. along said south right-of-way line of West 70th Street a distance of 1285.05 feet to the Point of Beginning, thence S. 5°46'15" E., 108.5 feet, thence S. 37°16'10" E., 656.83 feet, thence S. 85°33'35" E., 150.99 feet, thence N. 55°32' E., 114.91 feet, thence along a curve to the right (arc 228.13 feet, radius 272.30 feet), thence S. 76°28' E., 457.22 feet to the west right-of-way line of Pines Road, thence southerly along the west right-of-way line of Pines Road and along a curve to the right (arc 174.14 feet, radius 1243.39 feet), thence along a curve to the left (arc 362.26 feet, radius 1220.95 feet), thence along a curve to the right (arc 270.77 feet, radius 1581.70 feet), thence S. 11°34'20" W., 100.0 feet, thence along a curve to the left (arc 114.00 feet, radius 2516.05 feet), thence N. 45°33'10" W., 519.13 feet, thence along a curve to the left (arc 103.39 feet, radius 726.68 feet), thence N. 53°42'57" W. 579.89 feet, thence along a curve to the right (arc 96.4 feet, radius 700.21 feet), thence N. 45°49'40", 257.90 feet, thence along a curve to the right (arc 94.75 feet, radius 481.15 feet), thence N. 34°32'40" W., 290.0 feet), thence along a curve to the right (arc 88.86 feet, radius 225.73 feet), thence N. 11°59'20" W., 126.48 feet, thence along a curve to the right (arc 94.03 feet, radius 422.92 feet), thence N. 0°45' E., 32.95 feet to the south right-of-way of West 70th Street (Louisiana Highway 511), thence S. 89°15' E. 332.56 feet along south right-of-way of West 70th Street to Point of Beginning. Said tract containing 22.2 acres, more or less."

is not within the Special Flood Hazard Area. Accordingly, Map No. H 220036A 26 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 3, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: July 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23864 Filed 8-13-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of West Hartford, Connecticut

On June 25, 1976, in 41 F.R. 26402, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of West Hartford, Connecticut. Map No. H 095082 05 indicates that Lot No. 18, Braeburn Acres, West Hartford, Connecticut, as recorded in Volume 544, Pages 772 through 775, in the office of the Town Clerk of West Hartford, Connecticut, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is within Zone C, and is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 095082 05 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on September 24, 1971.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.76-23876 Filed 8-13-76;8:45 am]

[Docket No. FI-209]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Wilmington, North Carolina

On March 1, 1974, in 39 F.R. 7937, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Wilmington, North Carolina. Map No. H 370171 03 indicates that property in Wilmington, North Carolina, as recorded in Book 989, Page 521, in the office of the Register of Deeds of New Hanover County, North Carolina, is in its entirety within the Special Flood Hazard Area. This property is more particularly described as follows:

Beginning at a point in the Western line of North 23rd Street (a 100 foot right-of-way) said point being the Northeast corner of the Mobile Textile Company Tract and located North 5 degrees 54 minutes East 650.0 feet as measured with said Western line from its intersection with the Northern line of Smith Creek Boulevard as shown by map recorded in Map Book 13 at Page 40 in the New Hanover County Registry, running thence from said beginning with said Western line North 5 degrees 54 minutes East 447.38 feet to a point in the Southern edge of Smith Creek, thence with said Southern edge Southwestward 545 feet more or less to an iron pipe in the Eastern line of Mobile Textile Tract, thence with said Eastern line South 5 degrees 54 minutes West 263.46 feet to a corner of said Mobile Textile Tract, thence with a Northern line of said tract South 84 degrees 06 minutes East 480.0 feet to the point of beginning, containing 3.40 acres.

It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 370171 03 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on March 1, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.76-23857 Filed 8-13-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Prince Georges County, Maryland

On June 25, 1976, in 41 F.R. 26408, the Federal Insurance Administrator published a list of communities with special hazard areas which included Prince Georges County, Maryland. Map No. H & I 245208 47 indicates that Lot 19, Block E, Murray Hill Subdivision, Oxon Hill, Prince Georges County, Maryland, as recorded in Platbook 25, Folio 75 in the office of the Clerk of the Circuit Court of Prince Georges County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H & I 245208 47 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 4, 1972.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974).

Issued: August 5, 1976.

HOWARD B. CLARK,
Acting Federal
Insurance Administrator.

[FR Doc.76-23866 Filed 8-13-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Prince Georges County, Maryland

On June 25, 1976, in 41 FR 26408, the Federal Insurance Administrator published a list of communities with special hazard areas which included Prince Georges County, Maryland. Map No. H 245208 59 indicates that 2008 Brierhill Road being Lot 22, Block J, Section 3 of Forest Knolls Subdivision, Oxon Hill, Prince Georges County, Maryland as recorded in Liber 4552, Folio 577 in the office of Land Records of Prince Georges County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is within Zone B, and not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 245208 59 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 4, 1972.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974)

Issued: July 14, 1976.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.76-23867 Filed 8-13-76;8:45 am]

[Docket No. FI-483]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Alexandria, New Hampshire

On March 3, 1975, in 40 FR 8815, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Town of Alexandria, New Hampshire. Map No. H 330041 05 indicates that property along the north side of River Road, Alexandria, New Hampshire, as recorded in Liber 1055, Folio 485, in the office of the Registry of Deeds of Grafton County, New Hampshire, is in its entirety

within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 330041 05 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

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

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23868 Filed 8-13-76;8:45 am]

[Docket No. FI-454]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Fairview, Texas

On January 28, 1975, in 40 FR 4133, the Federal Insurance Administrator published a list of communities with special hazard areas which included Fairview, Texas. Map Nos. H 481069 02 & 04 indicate that Montecito Estates Addition, Fairview, Collin County, Texas, as recorded in Volume 10, Page 3 of Plat Records in the office of the Clerk of Collin County, Texas, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that a portion of the above property which can be described as follows:

Beginning at a point being the northwest corner of Lot 1, Block C, Montecito Estates Addition, proceed S 88°34′ E, approximately 997.70 feet to a point; thence N 00° 26′ E, approximately 965.0 feet to a point; thence S 80°08′ E, approximately 1,151.7 feet to a point; thence N 86°12′ E, approximately 630.5 feet to a point; thence S 00°45′ W, approximately 512.0 feet to a point; thence S 42°45′ W, approximately 742 feet to a point; thence S 49°30′ W, approximately 600 feet to a point; thence S 22°30′ W, approximately 230 feet to a point; thence S 55°30′ W, approximately 238 feet to a point; thence S 84°30′ W, approximately 315 feet to a point; thence S 56°15′ W, approximately 228 feet to a point; thence S 77°30′ W, approximately 586 feet to a point; thence S 56°00′ W, approximately 326 feet to a point; thence S 36°15′ W, approximately 254 feet to a point; thence N 10°00′ E, approximately 925 feet to a point; thence to the left along a curve with a radius of approximately 668.25 feet, approximately 328.89 feet to a point; thence N 18°12′ W, approximately 498.3 feet to a point, also being the point of beginning,

is not within the Special Flood Hazard Area. Accordingly, Map No. H 481069 02 & 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 10, 1975.

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

Issued: July 13, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23861 Filed 8-13-76;8:45 am]

[Docket No. FI-425]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Poughkeepsie, New York

On December 13, 1974, in 40 F.R. 43395, the Federal Insurance Administrator published a list of communities with special hazard areas which included the Town of Poughkeepsie. Map No. H 361142 02 indicates that a parcel of land located at Rochdale Road and Titus Road being the Old Mill Parcel, Poughkeepsie, Dutchess County, New York, as recorded in Book 1362 of Deeds, Pages 496 and 497 as recorded in the office of the Clerk of Dutchess County, New York is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional recently acquired flood information, that a portion of the above property, which can be described as follows:

Beginning at a point in the southerly line of Rochdale Road at the northeasterly corner of the herein described parcel; thence along the easterly line of this parcel, S 0°18′17″ W, 20 feet to a point; thence S 59° W, approximately 252 feet to a point; thence S 55° W, approximately 62 feet to a point; thence N 35° W, approximately 22 feet to a point; thence N 26°50′50″ E, 90.78 feet to a point; thence N 63°44′00″ E, 171.73 feet to a point; thence N 74°19′55″ E, 85.16 feet to the point of beginning.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: July 29, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23858 Filed 8-13-76;8:45 am]

[Docket No. FI-204]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Township of Hamilton, New Jersey

On February 25, 1974, in 39 F.R. 7173, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Township of Hamilton, New Jersey. Map No. H 340246 01 indicates that Lot 25, Section Seven, Fairfield Manor, Township of Hamilton, New Jersey, as recorded on Map No. 2237, in the office of the Clerk of Mercer County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 340246 01 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on February 22, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: July 14, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23856 Filed 8-13-76;8:45 am]

[Docket No. FI-352]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Canal Winchester, Ohio

On September 12, 1974, in 39 F.R. 32889, the Federal Insurance Administrator published a list of communities with special hazard areas which included the Village of Canal Winchester. Map No. H 390169 02 indicates that Lot 48, Washington Knoll Subdivision, Canal Winchester, Ohio, as recorded in Platbook 48, Page 11 in the office of the Recorder of Franklin County, Ohio, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 390169 02 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on August 30, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 18, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Adminis-

trator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: July 13, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23859 Filed 8-13-76:8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Palatine, Illinois

On June 25, 1976, in 41 F.R. 26402, the Federal Insurance Administrator published a list of communities with special hazard areas which included the Village of Palatine, Illinois. Map No. H 175170A 02 indicates that Lot 76, Virginia Lake Subdivision Unit No. 1, Palatine, Cook County, Illinois, recorded as Document No. 20990619 in the office of the Recorder of Deeds of Cook County, Illinois, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area, but is within Zone C. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 175170A 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on March 19, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 18, 1969 (33 F.R. 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: July 14, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-23878 Filed 8-13-76:8:45 am]

SUBCHAPTER C—FEDERAL CRIME INSURANCE PROGRAM

[Docket No. R-2249]

PART 1930—DESCRIPTION OF PROGRAM AND OFFER TO AGENTS

PART 1931—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Updating List of Companies and States

The purpose of this amendment to § 1930.6 and § 1931.1, is to provide a current list of servicing companies for the Federal Crime Insurance Program and to update the list of States eligible for the sale of crime insurance.

On the basis of the Administrator's continuing review of the crime insurance availability situation in the various States, and on the basis of findings and recommendations by the Governor and the Commissioner of Insurance, it has been determined that a critical market unavailability situation exists in the States set forth in revised § 1931.1 and that as of the effective date of this regulation these States will be made eligible for the sale of crime insurance, or continue to be eligible for such sale. Because the sale of crime insurance is beneficial to the public, it is unnecessary to provide for notice and public procedure, and good cause exists for making these amendments effective on August 16, 1976.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the following address:

Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 10245, 451 Seventh Street, SW., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

Accordingly, Subchapter C of Chapter X of Title 24 is amended as follows:

1. Section 1930.6 is revised to read as follows:

§ 1930.6 Names and addresses of servicing companies.

The following companies have been designed to act as servicing companies for the Federal Crime Insurance Program in the State indicated:

Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Kansas, Maryland, Minnesota, Missouri, Ohio, Rhode Island, and Tennessee: Safety Management Institute, Federal Crime Insurance, P.O. Box 41033, Washington, D.C. 20410. SMI toll-free number is 800-638-8780. In D.C. or Md., 301-652-2637. In Md., call collect if outside Metro. Wash. Area.

Massachusetts: Insurance Company of North America, 1 Center Plaza, Boston, Massachusetts 02108 (617-227-7300).

New Jersey: Aetna Casualty and Surety Company, 494 Broad Street, Newark, New Jersey 07102 (201-624-1900).

New York: Insurance Company of North America, 79 John Street, New York, New York 10038 (212-233-5010).

Pennsylvania: Insurance Company of North America, 625 Walnut Street, Philadelphia, Pa. 19105 (215-925-8330).

2. Paragraph (b) of § 1931.1 is revised to read as follows:

§ 1931.1 States eligible for sale of crime insurance.

* * * * *

(b) On the basis of the information available, the Administrator has determined that the States set forth in this paragraph have an unresolved critical market availability situation that requires the operation of the Federal Crime Insurance Program therein. Accordingly, the program is in operation in the following states:

Arkansas	Massachusetts
Colorado	Minnesota
Connecticut	Missouri
Delaware	New Jersey
District of Columbia	New York
Florida	Ohio
Georgia	Pennsylvania
Illinois	Rhode Island
Kansas	Tennessee
Maryland	

* * * * *

(Sec. 7(d), 79 Stat. 670; (42 U.S.C. 3535(d)); Sec. 1103, 82 Stat. 566, (12 U.S.C. 1749bbb-17.))

Effective date: August 16, 1976.

H. B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-23798 Filed 8-13-76:8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 7428]

INCOME TAX; ESTATE TAX; GIFT TAX

Loss of Exemption of Certain Exempt Organizations Under Sections 503 and 504 of the Code

PREAMBLE

By a notice of proposed rulemaking appearing in the FEDERAL REGISTER for May 10, 1976 (41 FR 19115), amendments to the Income Tax Regulations (26 CFR Part 1), the Estate Tax Regulations (26 CFR Part 20), and the Gift Tax Regulations (26 CFR Part 25) were proposed in order to conform such regulations to provisions of section 101(j) of the Tax Reform Act of 1969 (83 Stat. 526) and section 2003(b) of the Employee Retirement Income Security Act of 1974 (88 Stat. 978). This document adopts those amendments without change.

The amendments to the regulations provide that section 503 (relating to prohibited transactions) does not apply to section 501(c)(3) organizations effective January 1, 1970, and to qualified retirement plans (other than certain church and government plans) effective January 1, 1975. Also the amendments reflect the repeal of section 504, effective January 1, 1970.

The amendments provide that those 501(c)(3) organizations that have lost their exemption under section 501(a) because of violation of section 503 or 504 during 1969 or a prior year do not cease to be described in section 501(c)(3). As a result of being described in section 501(c)(3), such organizations may be subject to the provisions of chapter 42 as private foundations. A loss of exemption, however, does mean that contributions to the organization are not to be treated as deductible charitable con-

tributions until the organization has reapplied to the Commissioner for recognition of exemption. In addition, other technical and conforming amendments are adopted.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Based on the foregoing, the Income Tax Regulations (26 CFR Part 1), the Estate Tax Regulations (26 CFR Part 20), and the Gift Tax Regulations (26 CFR Part 25) are amended by adopting the proposed rules.

(NOTE.—This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917 (26 U.S.C. 7805)).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: August 10, 1976.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

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

Section 1.101 is amended by revising section 101(b)(2)(B)(iii) and by revising the historical note. These amended provisions read as follows:

§ 1.101 Statutory provisions; certain death benefits.

Sec. 101 *Certain death benefits.* * * *
(b) *Employees' death benefits.* * * *
(2) *Special rules for paragraph (1).* * * *
(B) *Nonforfeitable rights.* * * *

(iii) Under an annuity contract purchased by an employer which is an organization referred to in section 170 (b) (1) (A) (ii) or (vi) or which is a religious organization (other than a trust) and which is exempt from tax under section 501(a), but only with respect to that portion of such total distributions payable which bears the same ratio to the amount of such total distributions payable which is (without regard to this subsection) includible in gross income, as the amounts contributed by the employer for such annuity contract which are excludable from gross income under section 403(b) bear to the total amounts contributed by the employer for such annuity contract.

* * * * *

[Sec. 101 as amended by sec. 23(d), Technical Amendments Act 1958 (72 Stat. 1622); sec. 7(c), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 829); sec. 1(c), Act of March 8, 1966 (Pub. Law 89-365, 80 Stat. 32); sec. 101(j)(1), Tax Reform Act 1969 (83 Stat. 526)]

2. Paragraph (d)(2) of § 1.101-2 is amended by revising so much of such paragraph as precedes the examples contained therein, and paragraph (d)(4) of § 1.101-2 is amended by revising paragraph (d)(4)(i)(*a*), paragraph (d)(4)(iv), the eighth sentence of example (1) of paragraph (d)(4)(v), and the fifth sentence of example (3) of paragraph (d)(4)(v) to read as follows:

§ 1.101-2 Employee's death benefits.

* * * * *

(d) *Nonforfeitable rights.* * * *

(2) The application of paragraph (d)(1) of this section may be illustrated by the following examples, in which it is assumed that the plans are not "qualified plans" and that no employer is an organization referred to in section 170 (b)(1)(A) (ii) or (vi) or a religious organization (other than a trust) which is exempt from tax under section 501(a):

* * * * *

(4)(i) * * *

(*a*) If such amounts are paid under an annuity contract purchased by an employer which is an organization referred to in section 170(b)(1)(A) (ii) or (vi) or which is a religious organization (other than a trust) and which is exempt from tax under section 501(a).

* * * * *

(iv) For purposes of this subparagraph, an annuity contract will be considered to have been purchased by an employer which is an organization referred to in section 170(b)(1)(A) (ii) or (vi) or which is a religious organization (other than a trust) and which is exempt from tax under section 501(a), if any of the contributions paid toward the purchase price of such contract by the employer were paid at a time when the employer was such an organization. Thus an annuity contract may be regarded as purchased by such an organization even though part of the organization's contributions for such annuity contract were paid at a time when the organization was not such an exempt organization.

* * * * *

(v) * * *

Example (1). * * * However, all the contributions paid by X Organization were paid at a time when X Organization was an organization referred to in section 170(b)(1)(A)(ii) and exempt from tax under section 501(a). * * *

* * * * *

Example (3). * * * However, all the contributions paid by Y Organization were paid at a time when it was an organization referred to in section 170(b)(1)(A)(ii) and exempt from tax under section 501(a). * * *

3. Paragraph (b)(5) of § 1.401-1 is amended by deleting the last two sentences of paragraph (b)(5)(i) and by changing the first sentence of paragraph (b)(5)(ii) to read as follows:

§ 1.401-1 Qualified pension, profit sharing and stock bonus plans.

* * * * *

(b) *General rules.* * * *

(5) * * *

(ii) Where the trust funds are invested in stock or securities of, or loaned to, the employer or other person described in section 503(b), full disclosure must be made of the reasons for such arrangement and the conditions under which such investments are made in order that a determination may be made whether the trust serves any purpose other than constituting part of a plan for the exclusive benefit of employees. * * *

* * * * *

4. Paragraph (k) of § 1.401-12 is revised to read as follows:

§ 1.401-12 Requirements for qualification of trusts and plan benefiting owner-employees.

* * * * *

(k) *Contributions of property under a qualified plan.* (1) The contribution of property, other than money, prior to January 1, 1975, by the person who is the employer (within the meaning of section 401(c)(4)) to a qualified trust forming a part of a plan which covers employees some or all of whom are owner-employees who control (within the meaning of section 401(d)(9)(B) and the regulations thereunder) the trade or business with respect to which the plan is established is a prohibited transaction between such trust and the employer-grantor of such trust (see section 503(g) prior to its repeal by sec. 2003(b)(5) of the Employee Retirement Income Security Act of 1974 (88 Stat. 978)).

(2) A contribution of property, other than money, prior to January 1, 1975, to a qualified trust by an owner-employee who controls, or a member of a group of owner-employees who together control, the trade or business with respect to which the plan is established, or a contribution of property, other than money, to a qualified trust by a member of such an owner-employee's family (as defined in section 267(c)(4)), is a prohibited transaction. (See section 503(g) prior to its repeal by section 2003(b)(5) of the Employee Retirement Income Security Act of 1974 (88 Stat. 978)).

(3) See section 4975 and the regulations thereunder with respect to rules relating to the contribution of property, other than money, made after December 31, 1974.

5. Section 1.501(a) is amended by revising section 501(a) and by adding a historical note. The amended and added provisions read as follows:

§ 1.501(a) Statutory provisions; exemption from tax on corporations; certain trusts, etc.

Sec. 501. *Exemption from tax on corporations, certain trusts, etc.*—(a) *Exemption from taxation.* An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

[Sec. 501(a) as amended by sec. 101(j)(3), Tax Reform Act 1969 (83 Stat. 526)]

6. Paragraphs (a) (1) and (3) of § 1.501(a)-1 are amended to read as follows:

§ 1.501(a)-1 Exemption from taxation.

(a) *In general; proof of exemption.* (1) Section 501(a) provides an exemption from income taxes for organizations which are described in section 501 (c) or (d) and section 401(a), unless such organization is a "feeder organization" (see section 502), or unless it engages in a transaction described in section 503. However, the exemption does not extend to "unrelated business taxable income" of such an organization (see part III

(Section 511 and following), subchapter F, chapter 1 of the Code).

* * * * *

(3) An organization claiming exemption under section 501(a) and described in any paragraph of section 501(c) (other than section 501(c)(1)) shall file the form of application prescribed by the Commissioner and shall include thereon such information as required by such form and the instructions issued with respect thereto. For rules relating to the obtaining of a determination of exempt status by an employees' trust described in section 401(a), see the regulations under section 401.

* * * * *

7. Section 1.501(b) is amended by revising section 501(b) and by adding a historical note. The amended and added provisions read as follows:

§ 1.501(b) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; tax on unrelated business income.

Sec. 501. *Exemption from tax on corporations, certain trusts, etc.* * * *

(b) *Tax on unrelated business income and certain other activities.* An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided in parts II, III, and VI of this subchapter, but (notwithstanding parts II, III, and VI of this subchapter) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

[Sec. 501(b) as amended by sec. 101(j)(4), Tax Reform Act 1969 (83 Stat. 526); sec. 10(c), Act of Jan. 3, 1975 (P.L. 93-625, 88 Stat. 2119)]

§ 1.501(c)(3)-1 [Amended]

8. Paragraph (e)(3) of § 1.501(c)(3)-1 is deleted.

9. Section 1.501(c)(16) is amended by revising section 501(c)(16) and by adding a historical note. The amended and added provisions read as follows:

§ 1.501(c)(16) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; corporations organized to finance crop operations.

Sec. 501 *Exemption from tax on corporations, certain trusts, etc.* * * *

(c) List of exempt organizations. * * *

(16) Corporations organized by an association subject to part IV of this subchapter or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, on dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose.

[Sec. 501(c)(16) as amended by sec. 101(j)(5), Tax Reform Act 1969 (83 Stat. 527)]

10. Section 1.503(a) through § 1.503(j)-1 are amended to read as follows:

§ 1.503(a) Statutory provisions; requirements for exemption; denial of exemption to organizations engaged in prohibited transactions.

Sec. 503. *Requirements for exemption.* (a) *Denial of exemption to organizations engaged in prohibited transaction*—(1) *General rule.* (A) An organization described in section 501(c)(17) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after December 31, 1959.

(B) An organization described in section 401(a) which is referred to in section 4975(g)(2) or (3) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after March 1, 1954.

(C) An organization described in section 501(c)(18) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after December 31, 1969.

(2) *Taxable years affected.* An organization described in section 501(c)(17) or (18) or paragraph (a)(1)(B) shall be denied exemption from taxation under section 501(a) by reason of paragraph (1) only for taxable years after the taxable year during which it is notified by the Secretary or his delegate that it has engaged in a prohibited transaction, unless such organization entered into such prohibited transaction with the purpose of diverting corpus or income of the organization from its exempt purposes, and such transaction involved a substantial part of the corpus or income of such organization.

[Sec. 503(a) as amended by sec. 2, Act of July 14, 1969 (P.L. 86-667, 74 Stat. 535); Secs. 101(j)(7) and (8) and 121(b)(6)(B), Tax Reform Act 1969 (83 Stat. 527, 542); secs. 2003(b)(1), (2), and (3), Employee Retirement Income Security Act of 1974 (88 Stat. 978)]

§ 1.503(a)-1 Denial of exemption to certain organizations engaged in prohibited transactions.

(a)(1) Prior to January 1, 1970, section 503 applies to those organizations described in sections 501(c)(3), 501(c)(17), and section 401(a) except—(i) A religious organization (other than a trust);

(ii) An educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on;

(iii) An organization which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a)) from the United States or any State or political subdivision thereof or from direct or indirect contributions from the general public;

(iv) An organization which is operated, supervised, controlled or principally supported by a religious organization (other than a trust) which is itself not subject to the provisions of this section; and

(v) An organization the principal purposes or functions of which are the providing of medical or hospital care or medical education or medical research or agricultural research.

(2) Effective January 1, 1970, and prior to January 1, 1975, section 503 shall apply only to organizations described in section 501(c)(17) or (18) or section 401(a).

(3) Effective January 1, 1975, section 503 shall apply only to organizations described in section 501(c)(17) or (18) or described in section 401(a) and referred to in section 4975(g)(2) or (3).

(b) The prohibited transactions enumerated in section 503(b) are in addition to and not in limitation of the restrictions contained in section 501(c)(3), (17), or (18) or section 401(a). Even though an organization has not engaged in any of the prohibited transactions referred to in section 503(b), it still may not qualify for tax exemptions in view of the general provisions of section 501(c)(3), (17), or (18) or section 401(a). Thus, if a trustee or other fiduciary of the organization (whether or not he is also a creator or such organization) enters into a transaction with the organization, such transaction will be closely scrutinized in the light of the fiduciary principle requiring undivided loyalty to ascertain whether the organization is in fact being operated for the stated exempt purpose.

(c) An organization—(1) Described in section 501(c)(3) which after July 1, 1950, but before January 1, 1970, has engaged in any prohibited transaction as defined in section 503(b), unless it is excepted by the provisions of paragraph (a)(1) of this section;

(2) Described in section 401(a) and referred to in section 4975(g)(2) or (3) which after March 1, 1954, has engaged in any prohibited transaction as defined in section 503(b);

(3) Described in section 401(a) and not referred to in section 4975(g)(2) or (3) which after March 1, 1954, but before January 1, 1975, has engaged in any prohibited transaction as defined in section 503(b) or which after December 31, 1962, but before January 1, 1975, has engaged in any prohibited transaction as defined in section 503(g) prior to its repeal by section 2003(b)(5) of the Employee Retirement Income Security Act of 1974 (88 Stat. 978);

(4) Described in section 501(c)(17) which after December 31, 1959, has engaged in any prohibited transaction as defined in section 503(b); or

(5) Described in section 501(c)(18) which after December 31, 1969, has engaged in any prohibited transaction described in section 503(b);

shall not be exempt from taxation under section 501(a) for any taxable year subsequent to the taxable year in which there is mailed to it a notice in writing by the Commissioner that it has engaged in such prohibited transactions. Such

notification by the Commissioner shall be by registered or certified mail to the last known name and address of the organization. However, notwithstanding the requirement of notification by the Commissioner, the exemption shall be denied with respect to any taxable year if such organization during or prior to such taxable year commenced the prohibited transaction with the purpose of diverting income or corpus from its exempt purposes and such transaction involved a substantial part of the income or corpus of such organization. For the purpose of this section, the term "taxable year" means the established annual accounting period of the organization; or, if the organization has no such established annual accounting period, the "taxable year" of the organizations means a calendar year. See 26 CFR § 1.503(j)–1 (rev. as of Apr. 1, 1974) for provisions relating to the definition of prohibited transactions in the case of trusts benefitting certain owner-employees after December 31, 1962, but prior to January 1, 1975. See also section 2003 (c)(1)(B) of the Employee Retirement Income Security Act of 1974 (88 Stat. 978) in the case of an organization described in section 401(a) with respect to which a disqualified person elects to pay a tax in the amount and manner provided with respect to the tax imposed by section 4975 of the Code so that the organization may avoid denial of exemption under section 503.

(d) The application of section 503(b) may be illustrated by the following examples:

Example (1). A creates a foundation in 1954 ostensibly for educational purposes. B, a trustee, accumulates the foundation's income from 1957 until 1959 and then uses a substantial part of this accumulated income to send A's children to college. The foundation would lose its exemption for the taxable years 1957 through 1959 and for subsequent taxable years until it regains its exempt status.

Example (2). If under the facts in example (1) such private benefit was the purpose of the foundation from its inception, such foundation is not exempt by reason of the general provisions of section 501(c)(3), without regard to the provisions of section 503, for all years since its inception, that is, for the taxable years 1954 through 1959 and subsequent taxable years, since under section 501(c)(3) the organization must be organized and operated exclusively for exempt purposes. See § 1.501(c)(3)–1.

§ 1.503(b) Statutory provisions; requirements for exemption; prohibited transactions.

Sec. 503. *Requirements for exemption.* * * *

(b) *Prohibited transactions.* For purposes of this section, the term "prohibited transaction" means any transaction in which an organization subject to the provisions of this section—

(1) Lends any part of its income or corpus, without the receipt of adequate security and a reasonable rate of interest, to;

(2) Pays any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to;

(3) Makes any part of its services available on a preferential basis to;

(4) Makes any substantial purchase of securities or any other property, for more than adequate consideration in money or money's worth, from;

(5) Sells any substantial part of its securities or other property, for less than an adequate consideration in money or money's worth, to; or

(6) Engages in any other transaction which results in a substantial diversion of its income or corpus to;

the creator of such organization (if a trust); a person who has made a substantial contribution to such organization; a member of the family (as defined in section 267(c)(4)) of an individual who is the creator of such trust or who has made a substantial contribution to such organization; or a corporation controlled by such creator or person through the ownership, directly or indirectly, of 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of the corporation.

[Sec. 503(b) as amended by sec. 101(j)(14), Tax Reform Act 1969 (83 Stat. 522)]

§ 1.503(b)–1 Prohibited transactions.

(a) *In general.* The term "prohibited transaction" means any transaction set forth in section 503(b) engaged in by any organization described in paragraph (a) of § 1.503(a)–1. Whether a transaction is a prohibited transaction depends on the facts and circumstances of the particular case. This section is intended to deny tax-exempt status to such organizations which engage in certain transactions which inure to the private advantage of (1) the creator of such organization (if it is a trust); (2) any substantial contributor to such organization; (3) a member of the family (as defined in section 267(c)(4)) of an individual who is such creator of or such substantial contributor to such organization; or (4) a corporation controlled, as set forth in section 503(b), by such creator or substantial contributor.

(b) *Loans as prohibited transactions under section 503(b)(1)—(1) Adequate security.* For the purposes of section 503(b)(1), which treats as prohibited transactions certain loans by an organization without receipt of adequate security and a reasonable rate of interest, the term "adequate security" means something in addition to and supporting a promise to pay, which is so pledged to the organization that it may be sold, foreclosed upon, or otherwise disposed of in default of repayment of the loan, the value and liquidity of which security is such that it may reasonably be anticipated that loss of principal or interest will not result from the loan. Mortgages or liens on property, accommodation endorsements of those financially capable of meeting the indebtedness, and stock or securities issued by corporations other than the borrower may constitute security for a loan to the persons or organizations described in section 503(b). Stock of a borrowing corporation does not constitute adequate security. A borrower's evidence of indebtedness, irrespective of its name, is itself not security for a loan, whether or not it was issued directly to the exempt organization. However, if any such evidence of indebtedness provides for security that may be sold, foreclosed upon, or otherwise disposed of in default of repayment of the loan, there may be adequate security for such loan. If an organization subject to section 503(b) purchases debentures issued by a person specified in section 503(b), the purchase is considered, for purposes of section 503(b)(1), as a loan made by the purchaser to the issuer on the date of such purchase. For example, if an exempt organization subject to section 503(b) makes a purchase through a registered security exchange of debentures issued by a person described in section 503(b), and owned by an unknown third party, the purchase will be considered as a loan to the issuer by the purchaser. For rules relating to loan of funds to, or investment of funds in stock or securities of, persons described in section 503(b) by an organization described in section 401(a), see paragraph (b)(5) of § 1.401–1.

(2) *Effective dates.* The effective dates for the application of the definition of adequate security in paragraph (b)(1) of this paragraph are:

(i) March 15, 1956, for loans (other than debentures) made after March 15, 1956;

(ii) January 31, 1957, for loans (other than debentures) made before March 16, 1956, and continued after January 31, 1957;

(iii) November 8, 1956, for debentures which were purchased after November 8, 1956;

(iv) December 1, 1958, for debentures which were purchased before November 9, 1956, and held after December 1, 1958;

(v) If an employees' pension, stock bonus, or profit-sharing trust described in section 401(a) made a loan before March 1, 1954, repayable by its terms after December 31, 1955, and which would constitute a prohibited transaction if made on or after March 1, 1954, the loan shall not constitute a prohibited transaction if held until maturity (determined without regard to any extension or renewal thereof);

(vi) January 1, 1960, for loans (including the purchase of debentures) made by supplemental unemployment benefit trusts, described in section 501(c)(17);

(vii) January 1, 1970, for loans (including the purchase of debentures) made by employees' contribution pension plan trusts described in section 501(c)(18).

(3) *Certain exceptions to section 503(b)(1).* See section 503(e) and §§ 1.503(e)–1, 1.503(e)–2, and 1.503(e)–3 for special rules providing that certain obligations acquired by trusts described in section 401(a) or section 501(c)(17) or (18) shall not be treated as loans made without the receipt of adequate security for purposes of section 503(b)(1). See section 503(f) and § 1.503(f)–1 for an ex-

ception to the application of section 503 (b)(1) for certain loans made by employees' trusts described in section 401 (a).

(c) *Examples.* The principles of this section are illustrated by the following examples: (Assume that section 503 (e) and (f) are not applicable.)

Example (1). A, creator of an exempt trust subject to section 503, borrows $100,000 from such trust in 1960, giving his unsecured promissory note. The net worth of A is $1,000,000. The net worth of A is not "security" for such loan and the transaction is a prohibited transaction. If, however, the note is secured by a mortgage on property of sufficient value, or is accompanied by acceptable collateral of sufficient value, or carries with it the secondary promise of repayment by an accommodation endorser financially capable of meeting the indebtedness, it may be adequately secured. However, subordinated debenture bonds of a partnership which are guaranteed by the general partners are not adequately secured since the general partners are liable for the firm's debt and their guaranty adds no additional security.

Example (2). Assume the same facts as in example (1) except that A's promissory note in the amount of $100,000 to the trust is secured by property which has a fair market value of $75,000. A's promissory note secured to the extent of $75,000 is not adequately secured within the meaning of section 503 (b)(1) since the security at the time of the transaction must be sufficient to repay the indebtedness, interest, and charges which may pertain thereto.

Example (3). Corporation M, a substantial contributor to an exempt organization subject to section 503, borrows $150,000 from such organization in 1960, giving its promissory note accompanied by stock of the borrowing corporation with a fair market value of $200,000. Since promissory notes and debentures have priority over stock in the event of liquidation of the corporation, stock of a borrowing corporation is not adequate security. Likewise, debenture bonds which are convertible on default into voting stock of the issuing corporation do not constitute "adequate security" under section 503(b)(1).

Example (4). B, creator of an exempt trust subject to section 503, borrows $100,000 from such trust in 1960, giving his secured promissory note at the rate of 3 percent interest. The prevailing rate of interest charged by financial institutions in the community where the transaction takes place is 5 percent for a loan of the same duration and similarly secured. The loan by the trust to the grantor is a prohibited transaction since section 503 (b)(1) requires both adequate security and a reasonable rate of interest. Further, a promise to repay the loan plus a percentage of future profits which may be greater than the prevailing rate of interests does not meet the reasonable rate of interest requirement.

Example (5). N Corporation, a substantial contributor to an exempt organization subject to section 503 borrows $50,000 on or after March 16, 1956, from the organization. If the loan is not adequately secured, the organization has committed a prohibited transaction at the time the loan was made. If the loan had been made on or before March 15, 1956, and is continued after January 31, 1957, it must be adequately secured on February 1, 1957, or it will be considered a prohibited transaction on that date. However, if the exempt organization were an employees' trust, described in section 401(a), and the loan were made before March 1, 1954, repayable by its terms after December 31, 1955, it would not have to be adequately secured on February 1, 1957. Moreover, if the exempt organization were a supplemental unemployment benefit trust, described in section 501(c)(17), and the loan were made before January 1, 1960, repayable by its terms after December 31, 1959, it would not have to be adequately secured on January 1, 1960.

Example (6). An exempt organization subject to section 503 purchases a debenture issued by O Corporation, which is a substantial contributor to the organization. The organization purchases the debenture in an arm's length transaction from a third person on or after November 9, 1956. The purchase is considered as a loan by the organization to O Corporation. The loan must be adequately secured when it is made, or it is considered as a prohibited transaction at that time. If the organization purchased the debenture before November 9, 1956, and holds it after December 1, 1958, the debenture must be adequately secured on December 2, 1958, or it will then be considered as a prohibited transaction. However, if the organization were an employees' trust described in section 401(a), and if the debenture were purchased before March 1, 1954, and its maturity date is after December 31, 1955, the debenture does not have to be adequately secured. Moreover, if the organization were an employees' contribution pension plan trust described in section 501(c)(18), and if the debenture were purchased before January 1, 1970, and its maturity date is after December 31, 1969, the debenture does not have to be adequately secured.

§ 1.503(c) Statutory provisions; requirements for exemption; future status of organizations denied exemption.

Sec. 503. *Requirements for exemption.* * * *

(c) *Future status of organizations denied exemption.* Any organization described in section 501(c) (17) or (18) or subsection (a)(1)(B) which is denied exemption under section 501(a) by reason of subsection (a) of this section, with respect to any taxable year following the taxable year in which notice of denial of exemption was received, may, under regulations prescribed by the Secretary or his delegate, file claim for exemption, and if the Secretary or his delegate, pursuant to such regulations, is satisfied that such organization will not knowingly again engage in a prohibited transaction, such organization shall be exempt with respect to taxable years after the year in which such claim is filed.

[Sec. 503(c) as amended by sec. 2(c), Act of July 14, 1960 (Pub. Law 86-667, 74 Stat. 535); sec. 101(j) (9) and (14), and by sec. 121(b)(6)(B) Tax Reform Act 1969 (83 Stat. 527, 542); sec. 2003(b)(4), Employee Retirement Income Security Act 1974 (88 Stat. 978).]

§ 1.503(c)-1 Future status of organizations denied exemption.

(a) Any organization described in section 501(c) (3), (17), or (18), or an employees' trust described in section 401(a), which is denied exemption under section 501(a) by reason of the provisions of section 503(a), may file, in any taxable year following the taxable year in which notice of denial was issued, a claim for exemption. In the case of organizations described in section 501(c) (3), (17), or (18), the appropriate exemption application shall be used for this purpose, and shall be filed with the district director. In the case of an employees' trust described in section 401(a), the information described in § 1.404(a)-2 shall be submitted with a letter claiming exemption. An employees' trust described in section 401(a) shall submit this information to the district director with whom a request for a determination as to its qualification under section 401 and exemption under section 501 may be submitted under paragraph (o) of § 601.201 of this chapter (Statement of Procedural Rules). A claim for exemption must contain or have attached to it, in addition to the information generally required of such an organization claiming exemption as an organization described in section 501(c) (17), or (18), or section 401(a) (or section 501(c)(3) prior to January 1, 1970), a written declaration made under the penalties of perjury by a principal officer of such organization authorized to make such declaration that the organization will not knowingly again engage in a prohibited transaction, (as defined in section 503(b) (or 4975(c) if such section applies to such organization)). In the case of section 501(c)(3) organizations which have lost their exemption after December 31, 1969, pursuant to section 503, a claim for exemption must contain or have attached to it a written agreement made under penalties of perjury by a principal officer of such organization authorized to make such agreement that the organization will not violate the provisions of chapter 42. In addition, such organization must comply with the rules for governing instruments as prescribed in § 1.508-3. See § 1.501(a)-1 for proof of exemption requirements in general.

(b) If the Commissioner is satisfied that such organization will not knowingly again engage in a prohibited transaction (as defined under section 503(b) or 4975 (c), as applicable to such organization) or in the case of a section 501(c)(3) organization, will not violate the provisions of chapter 42, and the organization also satisfied all the other requirements under section 501(c) (3), (17), or (18), or section 401(a), the organization will be so notified in writing. In such case the organization will be exempt (subject to the provisions of section 501(c)(3), or sections 501(c) (17), (18) or 401 (a), and 503, and 504 when applicable) with respect to the taxable years subsequent to the taxable year in which the claim described in section 503(c) is filed. Section 503 contemplates that an organization denied exemption because of the terms of such section will be subject to taxation for at least one full taxable year. For the purpose of this section, the term "taxable year" means the established annual accounting period of the organization; or, if the organization has no such established annual accounting period, the "taxable year" of the organization means the calendar year.

(c) For taxable years beginning after December 31, 1969, the denial of an exemption pursuant to this section, for a taxable year prior to January 1, 1970, of an organization described in section 501 (c)(3) shall not cause such organization to cease to be described in section 501(c) (3) for purposes of part II of subchapter F, chapter 1 and for purposes of the application of chapter 42 taxes.

(d) In the case of an organization described in section 501(c)(3), which has lost its exemption pursuant to section 503, and which has not notified the Commissioner that it is applying for recognition of its exempt status under section 508(a) and this section, no gift or contribution made after December 31, 1969, which would otherwise be deductible under sections 170, 642(c), or 545(b)(2) shall be allowed as a deduction. For rules relating to the denial of deductions with respect to gifts or contributions made before January 1, 1970, see, § 1.503(e)–4.

§ 1.503(d) Statutory provisions; requirements for exemption; special rules for loans.

Sec. 503. *Requirements for exemption.* * * *

(d) *Special rule for loans.* For purposes of the application of subsection (b)(1), in the case of a loan by a trust described in section 401(a), the following rules shall apply with respect to a loan made before March 1, 1954, which would constitute a prohibited transaction if made on or after March 1, 1954:

(1) If any part of the loan is repayable prior to December 31, 1955, the renewal of such part of the loan for a period not extending beyond December 31, 1955, on the same terms, shall not be considered a prohibited transaction.

(2) If the loan is repayable on demand, the continuation of the loan without the receipt of adequate security and a reasonable rate of interest beyond December 31, 1955, shall be considered a prohibited transaction.

[Sec. 503(d) as amended by secs. 101(j)(10) and (14), Tax Reform Act 1969 (83 Stat. 527).]

§ 1.503(d)—1 Cross references.

For provisions relating to loans described in section 503(b)(1) by a trust described in section 401(a), see § 1.503(b)–1 and section 503 (e) and (f) and the regulations thereunder.

§ 1.503(e) Statutory provisions; requirements for exemption; special rules.

Sec. 503. *Requirements for exemption.* * * *

(e) *Special rules.* For purposes of subsection (b)(1), a bond, debenture, note, or certificate or other evidence of indebtedness (hereinafter in this subsection referred to as "obligation") shall not be treated as a loan made without the receipt of adequate security if—

(1) Such obligation is acquired—

(A) On the market, either (i) at the price of the obligation prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (ii) if the obligation is not traded on such a national securities exchange, at a price not less favorable to the trust than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer;

(B) From an underwriter, at a price (i) not in excess of the public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, and (ii) at which a substantial portion of the same issue is acquired by persons independent of the issuer; or

(C) Directly from the issuer, at a price not less favorable to the trust than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;

(2) Immediately following acquisition of such obligation—

(A) Not more than 25 percent of the aggregate amount of obligations issued in such issue and outstanding at the time of acquisition is held by the trust, and

(B) At least 50 percent of the aggregate amount referred to in subparagraph (A) is held by persons independent of the issuer; and

(3) Immediately following acquisition of the obligation, not more than 25 percent of the assets of the trust is invested in obligations of persons described in subsection (b).

[Sec. 503(e) as added by sec. 30(a), Technical Amendments Act 1958 (72 Stat. 1629); amended by Sec. 2(d), Act of July 14, 1960 (Pub. Law 86-667, 74 Stat. 535); secs. 101 (j) (11) and (14), Tax Reform Act 1969 (83 Stat. 527).]

§ 1.503(e)–1 Special rules.

(a) *In general.* (1) Section 503(e) provides that for purposes of section 503(b)(1) (relating to loans made without the receipt of adequate security and a reasonable rate of interest) the acquisition of a bond, debenture, note, or certificate or other evidence of indebtedness shall not be treated as a loan made without the receipt of adequate security if certain requirements are met. Those requirements are described in § 1.503(e)–2.

(2) Section 503(e) does not affect the requirement in section 503(b)(1) of a reasonable rate of interest. Thus, although the acquisition of a certificate of indebtedness which meets all of the requirements of section 503(e) and of § 1.503(e)–2 will not be considered as a loan made without the receipt of adequate security, the acquisition of such an indebtedness does constitute a prohibited transaction if the indebtedness does not bear a reasonable rate of interest.

(3) The provisions of section 503(e) do not limit the effect of section 401(a) and § 1.401–2, section 501(c)(17)(A)(i), or section 501(c)(18)(A), all relating to the use or diversion of corpus or income of the respective employee trusts. Furthermore, the provisions of section 503 (e) do not limit the effect of any of the provisions of section 503 other than section 503(b)(1). Thus, for example, although a loan made by an employees' trust described in section 503(a)(1)(B) meets all the requirements of section 503(e) and therefore is not treated as a loan made without the receipt of adequate security, such an employees' trust making such a loan will lose its exempt status if the loan is not considered as made for the exclusive benefit of the employees or their beneficiaries. Similarly, a loan which meets the requirements of section 503(e) will constitute a prohibited transaction within the meaning of section 503(b)(6) if it results in a substantial diversion of the trust's income or corpus to a person described in section 503(b).

(b) *Definitions.* For purposes of section 503(e):

(1) The term "obligation" means bond, debenture, note, or certificate or other evidence of indebtedness.

(2) The term "issuer" includes any person described in section 503(b) who issues an obligation.

(3) (i) The term "person independent of the issuer" means a person who is not related to the issuer by blood, by marriage, or by reason of any substantial business interests. Persons who will be considered not to be independent of the issuer include but are not limited to:

(*a*) The spouse, ancestor, lineal descendant, or brother or sister (whether by whole or half blood) of an individual who is the issuer of an obligaiton;

(*b*) A corporation controlled directly or indirectly by an individual who is the issuer, or directly or indirectly by the spouse, ancestor, lineal descendant, or brother or sister (whether by whole or half blood) of an individual who is the issuer;

(*c*) A corporation which directly or indirectly controls, or is controlled by, a corporate issuer;

(*d*) A controlling shareholder of a corportion which is the issuer, or which controls the issuer;

(*e*) An officer, director, or other employee of the issuer, of a corporation controlled by the issuer, or of a corporation which controls the issuer;

(*f*) A fiduciary of any trust created by the issuer, by a corporation which controls the issuer, or by a corporation which is controlled by the issuer; or

(*g*) A corporation controlled by a person who controls a corporate issuer.

(ii) For purposes of paragraph (b)(3)(i) of this section, the term "control" means, with respect to a corporation, direct or indirect ownership of 50 percent or more of the total combined voting power of all voting stock or 50 percent or more of the total value of shares of all classes of stock. If the aggregate amount of stock in a corporation owned by an individual and by the spouse, ancestors, lineal descendants, brothers, and sisters (whether by whole or half blood) of the individual is 50 percent or more of the total combined voting power of all voting stock or is 50 percent or more of the total value of all classes of stock, then each of these persons shall be considered as the controlling shareholder of the corporation.

(iii) In determining family relationships for purposes of paragraph (b)(3)(i) of this subparagraph, a legally adopted child of an individual shall be treated as a child of such individual by blood.

(4) The term "issue" means all the obligations of an issuer which are offered for sale on substantially the same terms. Obligations shall be considered offered for sale on substantially the same terms if such obligation would, at the same time and under the same circumstances, be traded on the market at the same price. On the other hand, if the terms on which obligations are offered for sale differ in such manner as would cause such obligations to be traded on the market at different prices, then such obligations are not part of the same issue. The following are examples of

terms which, if different, would cause obligations to be traded on the market at different prices: (i) Interest rate; (ii) Maturity date; (iii) Collateral; and (iv) Conversion provisions.

The fact that obligations are offered for sale on different dates will not preclude such obligations from being part of the same issue if they all mature on the same date and if the terms on which they are offered for sale are otherwise the same, since such obligations would, at the same time and under the same conditions, be traded on the market at the same price. Obligations shall not be considered part of the same issue merely because they are part of the same authorization or because they are registered as part of the same issue with the Securities and Exchange Commission.

§ 1.503(e)–2 Requirements.

(a) *In general.* The requirements which must be met under section 503(e) for an obligation not to be treated as a loan made without the receipt of adequate security for purposes of section 503(b)(1) are described in paragraphs (b), (c), and (d) of this section. For purposes of this section, the term "employee trust" shall mean any of the three kinds of organizations described in section 503(a)(1).

(b) *Methods of acquisition*—(1) *In general.* The employee trust must acquire the obligation on the market, by purchase from an underwriter, or by purchase from the issuer, in the manner described in subparagraph (2), (3), or (4) of this paragraph.

(2) *On the market.* (i) An obligation is acquired on the market when it is purchased through a national securities exchange which is registered with the Securities and Exchange Commission, or when it is purchased in an over-the-counter transaction. For purposes of the preceding sentence, securities purchased through an exchange which is not a national securities exchange registered with the Securities and Exchange Commission shall be treated as securities purchased in an over-the-counter transaction.

(ii) (*a*) If the obligation is listed on a national securities exchange registered with the Securities and Exchange Commission, it must be purchased through such an exchange or in an over-the-counter transaction at a price not greater than the price of the obligation prevailing on such an exchange at the time of the purchase by the employee trust.

(*b*) For purposes of section 503(e), the price of the obligation prevailing at the time of the purchase means the price which accurately reflects the market value of the obligation. In the case of an obligation purchased through a national securities exchange which is registered with the Securities and Exchange Commission, the price paid for the obligation will be considered the prevailing price of the obligation. In the case of an obligation purchased in an over-the-counter transaction, the prevailing price may be the price at which the last sale of the obligation was affected on such national securities exchange immediately before the employee trust's purchase of such obligation on the same day or may be the mean between the highest and lowest prices at which sales were effected on such exchange on the same day or on the immediately preceding day or on the last day during which there were sales of such obligation or may be a price determined by any other method which accurately reflects the market value of the obligation.

(iii) (*a*) If the obligation is not listed on a national securities exchange which is registered with the Securities and Exchange Commission, it must be purchased in an over-the-counter transaction at a price not greater than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer.

(*b*) For purposes of section 503(e) the offering price for the obligation at the time of the purchase means the price which accurately reflects the market value of the obligation. The offering price may be the price at which the last sale of the obligation to a person independent of the issuer was effected immediately before the employee trust's purchase of such obligation on the same day or may be the mean between the highest and lowest prices at which sales to persons independent of the issuer were effected on the same day or on the immediately preceding day or on the last day during which there were sales of such obligation or may be a price determinated by any other method which accurately reflects the market value of the obligation. The offering price for an obligation must be a valid price for the amount of the obligations which the trust is purchasing. For example, if an employees' trust described in section 503(a)(1)(B) purchases 1,000 bonds of the employer corporation at the offering price established by current prices for a lot of 10 such bonds, such offering price may not be a valid price for 1,000 bonds and the purchase may therefore not meet the requirements of this subdivision. For a purchase of an obligation to qualify under this subdivision, there must be sufficient current prices quoted by persons independent of the issuer to establish accurately the current value of the obligation. Thus, if there are no current prices quoted by persons independent of the issuer, an over-the-counter transaction will not qualify under this subparagraph even though the obligation was purchased in an arm's length transaction from a person independent of the issuer.

(iv) For purposes of this section, an over-the-counter transaction is one not executed on a national securities exchange which is registered with the Securities and Exchange Commission. An over-the-counter transaction may be made through a dealer or an exchange which is not such a national securities exchange or may be made directly from the seller to the purchaser.

(3) *From an underwriter.* An obligation may be purchased from an underwriter if it is purchased at a price not greater than:

(i) The public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, or

(ii) The price at which a substantial portion of the issue including such obligation is acquired by persons independent of the issuer,

whichever is the lesser price. For purposes of this subparagraph, a portion of the issue will be considered substantial if the purchasers of such portion by persons independent of the issuer are sufficient to establish that fair market value of the obligations included in such issue. In determining whether the purchases are sufficient to establish the fair market value, all the surrounding facts and circumstances will be considered, including the number of independent purchasers, the aggregate amount purchased by each such independent purchaser, and the number of transactions. In the case of a large issue, purchases of a small percentage of the outstanding obligations may be considered purchases of a substantial portion of the issue; whereas, in the case of a small issue, purchases of a larger percentage of the outstanding obligations will ordinarily be required. The requirement in paragraph (b)(3)(ii) of this section contemplates purchase of the obligations by persons independent of the issuer contemporaneously with the purchase by the employee trust. If a substantial portion has been purchased at different prices, the price of the portion may be based on the average of such prices, and if several substantial portions have been sold to persons independent of the issuer, the price of any of the substantial portions may be used for purposes of this subparagraph.

(4) *From the issuer.* An obligation may be purchased directly from the issuer at a price not greater than the price paid currently for a substantial portion of the same issue by persons independent of the issuer. This requirement contemplates purchase of a substantial portion of the same issue by persons independent of the issuer contemporaneously with the purchase by the employee trust. For purposes of this subparagraph, a portion of the issue will be considered substantial if the purchases of such portion by persons independent of the issuer are sufficient to establish the fair market value of the obligations included in such issue. In determining whether the purchases are sufficient to establish the fair market value, all the surrounding facts and circumstances will be considered, including the number of independent purchasers, the aggregate amount purchased by each such independent purchaser, and the number of transactions. In the case of a large issue, purchases of a small percentage of the outstanding obligations may be considered purchases of a substantial portion of the issue; whereas, in the case of a small issue, purchases of a larger percentage of the outstanding

obligations will ordinarily be required. The price paid for a substantial portion of the issue may be determined in the manner provided in paragraph (b)(3) of this section.

(c) *Limitations on holdings of obligations.* (1) Immediately following acquisition of the obligation by the employee trust:

(i) Not more than 25 percent of the aggregate amount of the obligations issued in such issue and outstanding immediately after acquisition by the trust may be held by the trust, and

(ii) At least 50 percent of such aggregate amount must be held by persons independent of the issuer.

(2) (i) For purposes of paragraph (c)(1) of this section, an obligation is not considered as outstanding if it is held by the issuer. For example, if an obligation which has been issued and outstanding is repurchased and held by the issuer, without cancellation or retirement, such an obligation is not considered outstanding.

(ii) For purposes of paragraph (c)(1) of this section, the amounts of the obligations held by the trust and by persons independent of the issuer shall be computed on the basis of the face amount of the obligations.

(d) *Limitation on amount invested in obligations.* (1) (i) Immediately following acquisition of the obligation, not more than 25 percent of the assets of the employee trust may be invested in all obligations of all persons described in section 503(b). For purposes of determining the amount of the trust's assets which are invested in obligations of persons described in section 503(b) immediately following acquisition of the obligation, those obligations shall be valued as follows:

(*a*) Those obligations included in the acquisition in respect of which the percentage test in the first sentence of this subdivision is being applied shall be valued at their adjusted basis, as provided in section 1011, relating to adjusted basis for determining gain or loss; and

(*b*) All other obligations of persons described in section 503(b) which were part of the trust's assets immediately before the acquisition of the obligations described in (d)(1)(i)(*a*) of this section shall be valued at their fair market value on the day that the obligations described in (d)(1)(i)(*a*) of this section were acquired. For purposes of determining the total amount of the assets of the trust (including obligations of persons described in section 503(b)), there shall be used the fair market value of those assets on the day the obligation is acquired.

(ii) The application of the rules in paragraph (d)(1)(i) of this section may be illustrated by the following example:

Example. On February 1, 1960, an exempt employees' trust described in section 401(a) purchases unsecured debentures issued by the employer corporation for $1,000. At the time of this purchase, such debentures have a fair market value of $1,200. Immediately after the purchase of such unsecured debentures, the assets of the trust consist of the following:

	Cost	Fair market value on Feb. 1, 1960
(a) Assets other than obligations of persons described in sec. 503(b)	$5,000	$7,800
(b) Obligations of persons described in sec. 503(b) acquired before Feb. 1, 1960	500	1,000
(c) Unsecured debentures of employer purchased on Feb. 1, 1960	1,000	1,200

Immediately following acquisition of the unsecured debentures by the trust, the percent of the assets of the trust that are invested in all obligations of all persons described in section 503(b) is computed as follows:

(1) Obligations of persons described in section 503(b) acquired before Feb. 1, 1960 (valued at fair market value)	$1,000
(2) Unsecured debentures of employer purchased on Feb. 1, 1960 (valued at cost)	$1,000
(3) Total amount of trust's assets invested in obligations of persons described in section 503(b) ((1) plus (2))	$2,000
(4) Assets of the trust other than obligations of persons described in section 503(b) (valued at fair market value on Feb. 1, 1960)	$7,800
(5) Obligations of persons described in section 503(b) acquired before Feb. 1, 1960 (valued at fair market value on Feb. 1, 1960)	$1,000
(6) Unsecured debentures of employer purchased on Feb. 1, 1960 (valued at fair market value on Feb. 1, 1960)	$1,200
(7) Total assets of the trust valued at fair market value on Feb. 1, 1960 (sum of (4), (5), and (6))	$10,000
(8) Percent of assets of the trust invested in all obligations of all persons described in section 503(b) immediately following purchase of unsecured debentures on Feb. 1, 1960 (3) ÷ (7), that is, $2,000 ÷ $10,000)	20%

(2) In determining for purposes of subparagraph (1) of this paragraph the amount invested in obligations of persons described in section 503(b), there shall be included amounts invested in any obligations issued by any such person, irrespective of whether the obligation is secured, and irrespective of whether the obligation meets the conditions of section 503(e) or section 503(f). Obligations of persons described in section 503(b) other than the issuer of the obligation to which section 503(e) applies are also included within the 25 percent limitation. For example, if on February 19, 1959, an exempt employees' trust described in section 401(a) purchases unsecured debentures issued by the employer corporation in a transaction effected on the New York Stock Exchange, and if immediately after the purchase 10 percent of the trust's assets is invested in such debentures and 20 percent of its assets is invested in a loan made with adequate security on January 12, 1959, to the wholly-owned subsidiary of the employer corporation, then the purchase of the employer's debentures will not qualify under section 503(e) since 30 percent of the trust's assets are then invested in obligations of persons described in section 503(b).

(e) *Change of terms of an obligation.* A change in terms of an obligation is considered as the acquisition of a new obligation. If such new obligation is not adequately secured, the requirements of section 503(e) must be met at the time the terms of the obligation are changed for such section to be applicable to such new loan.

§ 1.503(e)–3 Effective dates.

(a) Section 503(e) and §§ 1.503(e)–1 and 1.503(e)–3 are effective in the case of an employees' trust described in section 401(a) for taxable years ending after March 15, 1956. Thus, if during a taxable year ending before March 16, 1956, an employees' trust made a loan which meets the requirements of section 503(e), such loan will not be treated as made without the receipt of adequate security and will not cause the loss of exemption for taxable years ending after March 15, 1956, although such loan was not considered adequately secured when made. (However, section 503 does not apply to organizations described in section 401(a) not referred to in section 4975(g)(2) or (3) for transactions occurring after December 31, 1974.)

(b)(1) In the case of obligations acquired by an employees' trust described in section 401(a) before September 2, 1958, which were held on that date, the requirements described in paragraphs (c) and (d) of § 1.503(e)–2 which were not satisfied immediately following the acquisition shall be treated as satisfied at that time if those requirements would have been satisfied had the obligations been acquired on September 2, 1958. For example, on January 3, 1955, an employees' trust described in section 401(a) purchased through the New York Stock Exchange unsecured debentures issued by the employer corporation. Under section 503(e) the acquisition of such debentures by the trust will not be treated for taxable years ending after March 15, 1956, as a loan made without the receipt of adequate security if the debentures were held by the employees' trust on September 2, 1958, and if the requirements of paragraphs (c) and (d) of § 1.503(e)–2 which were not met on January 3, 1955, were met on September 2, 1958, as if that date were the date of acquisition.

(2) In the case of obligations acquired before September 2, 1958, which were not held by the employees' trust described in section 401(a) on that date, only the requirements described in paragraph (b) of § 1.503(e)–2 must be satisfied for section 503(e) to be applicable to such ac-

quisition. For example, if on December 5, 1956, an employees' trust lent money to the employer corporation by purchasing a debenture issued by the employer and if the trust sold the debenture on August 1, 1958, such loan would not be treated as made without the receipt of adequate security if the requirement described in paragraph (b) of § 1.503(e)-2 was met on December 5, 1956.

(c) Section 503(e) and §§ 1.503(e)-1 and 1.503(e)-2 are effective in the case of trusts described in section 501(c)(17) with respect to loans made, renewed, or, in the case of demand loans, continued after December 31, 1959, and in the case of trusts described in section 501(c)(18) with respect to loans made, renewed or, in the case of demand loans, continued after December 31, 1969.

(d) See paragraph (b)(2) of § 1.503(b)-1 for effective dates for the application of the definition of adequate security.

§ 1.503(e)-4 Disallowance of charitable deductions for certain gifts made before January 1, 1970.

Paragraphs (a), (b), and (c) of this section shall apply only to gifts or contributions made before January 1, 1970, to an organization described in section 501(c)(3). For rules relating to the denial of deductions with respect to gifts or contributions made after December 31, 1969, see § 1.503(c)-1(d).

(a) No gift or contribution which would otherwise be allowable as a charitable or other deductions under section 170, 642(c), or 545(b)(2) shall be allowed as a deduction if made to an organization described in section 501(c)(3) which at the time the gift or contribution is made is not exempt under section 501(a) by reason of the provisions of section 503.

(b) If an organization which is described in section 501(c)(3) is not exempt because it engaged in a prohibited transaction involving a substantial part of its income or corpus with the purpose of diverting its income or corpus from its exempt purposes, and if the organization receives a gift or contribution during, or prior to, its taxable year in which such prohibited transaction occurred, then a deduction by the donor with respect to the gift or contribution shall not be disallowed under section 503(b) unless the donor (or any member of his family if the donor is an individual) is a party to such prohibited transaction. For the purpose of the preceding sentence "family" is defined in section 267(c)(4) and includes brothers and sisters, whether by whole or half blood, spouse, ancestors, and lineal descendants. See the regulations under section 267(c).

(c) The application of § 1.503(e)-4 may be illustrated by the following example:

Example. In 1954, Corporation M, which files its income tax returns on the calendar year basis, creates a foundation purportedly for charitable purposes and deducts from its gross income for that year the amount of the gift to the foundation. Corporation M makes additional gifts to this foundation in 1955, 1956, and 1957, and takes charitable deductions for such years. B, an individual, also contributes to the foundation in 1955, 1956, and 1957, and takes charitable deductions for such years. In 1955, the foundation commences purposely to divert its corpus to the benefit of Corporation M, and a substantial amount of such corpus is so diverted by the close of the taxable year 1956. For 1955 and subsequent taxable years, the exemption allowed the foundation as an organization described in section 501(c)(3) is denied by reason of the provisions of section 503(a). Both Corporation M and individual B would be disallowed any deduction for the contributions made during 1957 to the foundation. Moreover, the charitable deductions taken by Corporation M for contributions to the foundation in the years 1955 and 1956 would also be disallowed since Corporation M was a party to the prohibited transactions. If the facts and surrounding circumstances indicate that the contribution in 1954 by Corporation M was for the purpose of the prohibited transaction, then the charitable deduction for the year 1954 shall also be disallowed with respect to Corporation M, since the prohibited transaction would then have commenced with the making of such contribution and the exemption allowed the foundation would then be denied for 1954 by reason of the provisions of § 1.503(e)-4. B's deductions for his contributions for the years 1955 and 1956 will not be disallowed since he was not a party to the prohibited transaction.

§ 1.503(f) Statutory provisions; requirements for exemption; loan with respect to which employers are prohibited from pledging assets.

Sec. 503. *Requirements for exemption.* * * *

(f) *Loans with respect to which employers are prohibited from pledging certain assets.* Subsection (b)(1) shall not apply to a loan made by a trust described in section 401(a) to the employer (or to a renewal of such a loan or, if the loan is repayable upon demand, to a continuation of such a loan) if the loan bears a reasonable rate of interest, and if (in the case of a making or renewal)—

(1) The employer is prohibited (at the time of such making or renewal by any law of the United States or regulation thereunder from directly or indirectly pledging, as security for such a loan, a particular class or classes of his assets the value of which (at such time) represents more than one-half of the value of all his assets;

(2) The making or renewal, as the case may be, is approved in writing as an investment which is consistent with the exempt purposes of the trust by a trustee who is independent of the employer, and no other such trustee had previously refused to give such written approval; and

(3) Immediately following the making or renewal, as the case may be, the aggregate amount loaned by the trust to the employer, without the receipt of adequate security, does not exceed 25 percent of the value of all the assets of the trust. For purposes of paragraph (2), the term "trustee" means, with respect to any trust for which there is more than one trustee who is independent of the employer, a majority of such independent trustees. For purposes of paragraph (3), the determination as to whether any amount loaned by the trust to the employer is loaned without the receipt of adequate security shall be made without regard to subsection (e).

[Sec. 503(f) as added by sec. 30(b), Technical Amendments Act 1958 (72 Stat. 1630); amended by sec. 101(j)(12) and (14), Tax Reform Act 1969 (83 Stat. 527)]

§ 1.503(f)-1 Loans by employers who are prohibited from pledging assets.

(a) *In general.* (1) Section 503(f) provides that section 503(b)(1) shall not apply to a loan made to the employer by an employees' trust described in section 401(a) if the loan bears a reasonable rate of interest and certain conditions are met. Section 503(f) also applies to the renewal of loans to the employer and, in the case of demand loans, to the continuation of such loans.

(2) The provisions of section 503(f) do not limit the effect of section 401(a) and § 1.401-2, relating to use or diversion of corpus or income of an employees' trust, or the effect of any of the provisions of section 503 other than section 503(b)(1). Consequently, although a loan made by an employees' trust described in section 503(a)(1)(B) meets all the requirements of section 503(f) and therefore is not treated as a loan made without the receipt of adequate security, an employees' trust making such a loan will lose its exempt status if the loan is not considered as made for the exclusive benefit of the employees or their beneficiaries. Similarly, a loan which meets the requirements of section 503(f) will constitute a prohibited transaction within the meaning of section 503(b)(6) if it results in a substantial diversion of the trust's income or corpus to a person described in section 503(b).

(b) *Conditions.* (1) Section 503(f) applies to a loan only if, with respect to the making or renewal of the loan, the conditions described in paragraphs (b)(2), (3), and (4) of this section are met. For purpose of this paragraph, the mere continuance of a demand loan is not considered as the making or renewal of such a loan.

(2) The employer must be prohibited (at the time of the making or renewal of the loan) by any law of the United States or regulations thereunder from directly or indirectly pledging, as security for such a loan, a particular class or classes of his assets the value of which (at such time) represents more than one-half of the value of all his assets. If a loan is made or renewed when the employer is prohibited by a law of the United States (or the regulations thereunder) from pledging a class of his assets, the qualification of such a loan under section 503(f) will not be affected by a subsequent change in such law or regulations permitting the employer to pledge such assets, unless such loan is renewed after such change. See section 8(a) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78h(a)), which prohibits certain persons from pledging a class of assets as security for loans, and 12 CFR 220.5(a) (credit by brokers, dealers, and members of national securities exchanges).

(3) The making or renewal, as the case may be, must be approved in writing as an investment which is consistent with the exempt purposes of the trust by a trustee who is independent of the employer, and such written approval must

not have been previously refused by any other such trustee. A trustee is independent of the employer, for purposes of this subparagraph, if he is entirely free of influence or control by the employer. For example, if the employer is a partnership, then a partner in such partnership, or a member of a partner's family would not be considered independent of the employer. Similarly, an employee of the employer would not be considered independent of the employer. For purposes of this subparagraph, the term "trustee" means, with respect to any trust for which there are two trustees who are independent of the employer, both of such trustees and, with respect to any trust for which there are more than two such independent trustees, a majority of the trustees independent of the employer.

(4) (i) Immediately following the making or renewal, as the case may be, the aggregate amount lent by the trust to the employer, without the receipt of adequate security, must not exceed 25 percent of the value of all the assets of the trust.

(ii) For purposes of paragraph (b)(4)(i) of this section, the determination as to whether any amount lent by the trust to the employer is a loan made without the receipt of adequate security shall be made without regard to section 503(e). Thus, if an employees' trust makes a loan on January 2, 1959, to the employer without adequate security (but which loan is not considered as made without adequate security under section 503(e)), and if immediately after making such loan 10 percent of the value of all its assets is invested in such loan, then the trust may on that day invest not more than an additional 15 percent of its assets in a loan which would be considered made without adequate security if it were not for the provisions of section 503(f).

(iii) For purposes of paragraph (b)(4)(i) of this section, in determining the value of all the assets of the trust, there shall be used the fair market value of those assets on the day of the making or renewal.

(c) *Reasonable rate of interest.* Section 503(f) only applies if, in addition to meeting the conditions described in paragraph (b) of this section, the loan bears a reasonable rate of interest when it is made, renewed, or, in the case of demand loans, during the period of its existence.

(d) *Change of terms of loan.* A change in the terms of a loan (including a reduction in the security for a loan) is considered as the making of a new loan. If such a new loan is not adequately secured, the requirements of section 503(f) must be met at the time the terms of the loan are changed for such section to be applicable to such new loan.

(e) *Effective date.* (1) This section and section 503(f) are effective for taxable years ending after September 2, 1958, but only with respect to periods after such date. Thus, if a loan was made on or before September 2, 1958, without the receipt of adequate security and if, when such loan was made, it met all of the requirements of section 503(f) and this section, then the loan is not subject to section 503(b)(1) after September 2, 1958, and would not constitute a prohibited transaction after that date because of a lack of adequate security.

(2) See paragraph (b)(2) of § 1.503(b)–1 for the effective dates for application of the definition of adequate security.

§ 1.504 [Repealed]

11. Section 1.504 is repealed.

12. Paragraph (e) of § 1.504–1 is amended and paragraphs (g) and (h) are added to § 1.504–1. The amended and added provisions read as follows:

§ 1.504–1 Denial of exemption.

* * * * *

(e) An organization that has lost its exemption by reason of the provisions of section 504 may, in order to reestablish its exemption, file a claim for exemption with the district director. Form 1023, the exemption application, shall be used for this purpose in accordance with the provisions of § 1.501(a)–1.

* * * * *

(g) In the case of an organization described in section 501(c)(3) denied exemption under section 501(a) solely by reason of the provisions of section 504, such organization will not cease to be described in section 501(c)(3) for purposes of Part II of subchapter F, chapter 1 and for purposes of the application of chapter 42 taxes.

(h) Section 504 shall result in a loss of exemption to any organization only as a result of a transaction occurring prior to January 1, 1970.

13. Section 1.663(a) is amended by revising section 663(a)(2) and by adding a historical note. The amended and added provisions read as follows:

§ 1.663(a) Statutory provisions; estates and complex trusts; special rules applicable to sections 661 and 662; exclusions.

Sec. 663. *Special rules applicable to section 661 and 662.* (a) *Exclusions.* * * *

(2) *Charitable, etc. distributions.* Any amount paid or permanently set aside or otherwise qualifying for the deduction provided in section 642(c) (computed without regard to sections 508(d), 681, and 4948(c)(4)).

* * * * *

[Sec. 663 as amended by sec. 101(j)(17), Tax Reform Act 1969 (83 Stat. 528).]

14. The last sentence of § 1.663(a)–2 is amended to read as follows:

§ 1.663(a)–2 Charitable, etc., distributions.

* * * For purposes of this section, the deduction provided in section 642(c) is computed without regard to the provisions of section 508(d), section 681, or section 4948(c)(4) (concerning unrelated business income and private foundations).

15. Section 1.681(a) is revised to read as follows:

§ 1.681(a) Statutory provision; limitation on charitable deduction.

Sec. 681. *Limitation on charitable deduction*—(a) *Trade or business income.* In computing the deduction allowable under section 642(c) to a trust, no amount otherwise allowable under section 642(c) as a deduction shall be allowed as a deduction with respect to income of the taxable year which is allocable to its unrelated business income for such year. For purposes of the preceding sentence, the term "unrelated business income" means an amount equal to the amount which, if such trust were exempt from tax under section 501(a) by reason of section 501(c)(3), would be computed as its unrelated business taxable income under section 512 (relating to income derived from certain business activities and from certain property acquired with borrowed funds).

[Sec. 681(a) as amended by sec. 121(d)(2), Tax Reform Act 1969 (83 Stat. 547).]

16. The first sentence of § 1.681(a)–1 is amended to read as follows:

§ 1.681(a)–1 Limitation on charitable contributions deductions of trusts; scope of section 681.

Under section 681, the unlimited charitable contributions deduction otherwise allowable to a trust under section 642(c) is, in general, subject to percentage limitations, corresponding to those applicable to contributions by an individual under section 170(b)(1)(A) and (B), under the following circumstances;

(a) To the extent that the deduction is allocable to "unrelated business income";

(b) For taxable years beginning before January 1, 1970, if the trust has engaged in a prohibited transaction;

(c) For taxable years beginning before January 1, 1970, if income is accumulated for a charitable purpose and the accumulation is (1) unreasonable, (2) substantially diverted to a noncharitable purpose, or (3) invested against the interests of the charitable beneficiaries.

* * * * *

17. Sections 1.681(b) through § 1.681(d)–1 are deleted and the following is inserted in lieu thereof:

§ 1.681(b) Statutory provisions; cross reference.

Sec. 681. *Limitation on charitable deduction.* * * *

(b) *Cross reference.* For disallowance of certain charitable, etc., deductions otherwise allowable under section 642(c), see sections 508(d) and 4948(c)(4).

[Sec. 681(b) as amended by sec. 101(j)(19), Tax Reform Act 1969 (83 Stat. 528).]

§ 1.681(b)–1 Cross reference.

For disallowance of certain charitable, etc., deductions otherwise allowable under section 642(c), see sections 508(d) and 4948(c)(4). See also 26 CFR §§ 1.681(b)–1 and 1.681(c)–1 (rev. as of Apr. 1, 1974) for provisions applying before January 1, 1970.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

18. Section 20.2039 is amended by revising section 2039(c)(3) and by revising

the historical note. The amended provisions read as follows:

§ 20.2039 Statutory provision; annuities.

Sec. 2039. *Annuities.* * * *

(c) *Exemption of annuities under certain trusts and plans.* * * *

(3) A retirement annuity contract purchased for an employee by an employer which is an organization referred to in section 170(b)(1)(A)(ii) or (vi), or which is a religious organization (other that a trust), and which is exempt from tax under section 501(a); or

* * * * *

[Sec. 2039 as amended by sec. 23(e), 67(a), Technical Amendments Act 1958 (72 Stat. 1622, 1658); sec. 7(1), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 830); sec. 2(a) Act of Mar. 8, 1966 (Public Law 89-365, 80 Stat. 33); sec. 101(j)(23), Tax Reform Act 1969 (83 Stat. 528).]

19. Paragraph (b)(3) and example (5) of paragraph (b)(4) of § 20.2039-2 are amended to read as follows:

§ 20.2039-2 Annuities under "qualified plans" and section 403(b) annuity contracts.

* * * * *

(b) *Plans and annuity contracts to which section 2039(c) applies.* * * *

(3) In the case of a decedent dying after December 31, 1957, a retirement annuity contract purchased for an employee by an employer which, for its taxable year in which the purchase occurred, is an organization referred to in section 170(b)(1)(A)(ii) or (vi) or which is a religious organization (other than a trust) and is exempt from tax under 501(a); or

(4) * * *

Example (5). An employer purchased a retirement annuity contract for an employee which was to provide the employee, upon his retirement at age 60, with an annuity for life and which was to provide his wife, upon the employee's death after retirement, with a similar annuity for life. The employer, for its taxable year in which the annuity contract was purchased, was an organization referred to in section 170(b)(1)(A)(ii), and was exempt from tax under section 501(a). The entire amount of the purchase price of the annuity contract was excluded from the employee's gross income under section 403(b). No part of the value of the survivor annuity payable after the employee's death is includible in the decedent's gross estate by reason of the provisions of section 2039(c).

20. Section 20.2106 is amended by revising section 2106(a)(2)(A)(ii) and (iii), (a)(2)(E), and (a)(3) and the historical note to read as follows:

§ 20.2106 Statutory provisions; taxable estate.

Sec. 2106. *Taxable estate*—(a) *Definition of taxable estate.* * * *

* * * * *

(2) *Transfers for public, charitable, and religious uses*—(A) *In general.*

(ii) To or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office; or

(iii) To a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contribution or gifts are to be used within the United States by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting to influence legislation, and such trustee or trustees, or such fraternal society, order, or association, does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

* * * * *

(E) *Disallowance of deductions in certain cases.* The provisions of section 2055(c) shall be applied in the determination of the amount allowable as a deduction under this paragraph.

* * * * *

(3) *Exemption.*—

(A) *General rule.* An exemption of $30,000.

(B) *Residents of possessions of the United States.* In the case of a decedent who is considered to be a "nonresident not a citizen of the United States" under the provisions of section 2209, the exemption shall be the greater of (i) $30,000, or (ii) that proportion of the exemption authorized by section 2052 which the value of that part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

* * * * *

[Sec. 2106 as amended by sec. 30(d), Technical Amendments Act 1958 (72 Stat. 1631); sec. 4 (c), Act of Sept. 14, 1960 (Pub. Law 86-779, 74 Stat. 1000); sec. 108(e), Foreign Investors Tax Act 1966 (80 Stat. 1572); secs. 201(d)(2)(B) and (4), Tax Reform Act 1969 (83 Stat. 561).]

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 34, 1954

21. Section 25.2517 is amended by revising section 2517(a)(3) and by revising the historical note. The amended provisions read as follows:

§ 25.2517 Statutory provision; certain annuities under qualified plans.

Sec. 2517. *Certain annuities under qualified plans.* (a) *In general.* * * *

(3) A retirement annuity contract purchased for an employee by an employer which is an organization referred to in section 170(b)(1)(A)(ii) or (vi), or which is a religious organization (other than a trust), and which is exempt from tax under section 501(a); or

* * * * *

[Sec. 2517 as added by sec. 68 and as amended by sec. 23(f), Technical Amendments Act 1958 (72 Stat. 1659); sec. 7(j), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 830); sec. 2(b), Act of Mar. 8, 1966 (Public Law 89-365, 80 Stat. 33); sec. 101(j)(24), Tax Reform Act 1969 (83 Stat. 528).]

22. Paragraph (b)(1)(iii) and Example (3) of paragraph (c)(1) of § 25.-2517-1 are amended to read as follows:

§ 25.2517-1 Employees' annuities.

* * * * *

(b) *Annuities or other payments to which section 2517 applies.* * * *

(1) * * *

(iii) A retirement annuity contract purchased for an employee by an employer which is an organization referred to in section 170(b)(1)(A)(ii) or (vi) or which is a religious organization (other than a trust) and is exempt from tax under section 501(a); or

* * * * *

(c) *Amount excludible from gift.* (1) * * *

Example (3). An employer purchased a retirement annuity contract for an employee which was to provide the employee, upon his retirement at age 60, with an annuity for life and which contained a provision for designating a surviving beneficiary. Assume that the employee made an irrevocable election whereby he would receive a lesser annuity, and after his death, annuity payments would be continued to his wife. At the time of making the election (January 20, 1971), the employer was an organization referred to in section 170(b)(1)(A)(vi) and exempt from tax under section 501(a). As of the date of election the total contributions toward the cost of the annuity, all by the employer, amounted to $25,000. Of this amount $5,000 was includible in the employee's income under the requirements of section 403(b) and is, therefore, considered as the employee's contributions for the purpose of applying section 2517(b).

[FR Doc.76-23890 Filed 8-13-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 600-4]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCE

Delegation of Authority to the U.S. Virgin Islands

Pursuant to the delegation of authority for the standards of performance for new stationary sources (NSPS) to the U.S. Virgin Islands on June 30, 1976, EPA is today amending 40 CFR 60.4, Address, to reflect this delegation. A Notice announcing this delegation is published at page 34685 of today's FEDERAL REGISTER. The amended § 60.4, which adds the address of the U.S. Virgin Islands, Department of Conservation and Cultural Affairs, to which reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens

are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on June 30, 1976, and it serves no purpose to delay the technical change of this addition of the U.S. Virgin Islands address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of Section 111 of the Clean Air Act, as amended.

(42 U.S.C. 1857c–6)

Dated: August 4, 1976.

GERALD M. HANSLER,
Regional Administrator,
Region II.

1. In § 60.4 paragraph (b) is amended by revising subparagraph (CCC) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(BBB) * * *

(CCC)—U.S. Virgin Islands: U.S. Virgin Islands Department of Conservation and Cultural Affairs, P.O. Box 578, Charlotte Amalie, St. Thomas, U.S. Virgin Islands 00801.

[FR Doc.76–23898 Filed 8–13–76;8:45 am]

[FRL 600–5]

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to the U.S. Virgin Islands

Pursuant to the delegation of authority for national emission standards for hazardous air pollutants (NESHAPS) to the U.S. Virgin Islands on June 30, 1976, EPA is today amending 40 CFR 61.04, Address, to reflect this delegation. A Notice announcing this delegation is published at page 34685 of today's FEDERAL REGISTER. The amended § 61.04, which adds the address of the U.S. Virgin Islands Department of Conservation and Cultural Affairs, to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on June 30, 1976, and it serves no purpose to delay the technical change of this addition of the U.S. Virgin Islands address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of Section 112 of the Clean Air Act, as amended.

(42 U.S.C. 1857c–7)

Dated: August 4, 1976.

GERALD M. HANSLER,
Regional Administrator,
Region II.

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 61.04 paragraph (b) is amended by revising subparagraph (CCC) to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(BBB) * * *

(CCC)—U.S. Virgin Islands: U.S. Virgin Islands Department of Conservation and Cultural Affairs, P.O. Box 578, Charlotte Amalie, St. Thomas, U.S. Virgin Islands 00801.

[FR Doc.76–23899 Filed 8–13–76;8:45 am]

[Editorial Note: The following document was published at 41 FR 33265, August 9, 1976. However, the amendatory material was published in the wrong format. The document is reprinted below, without substantive change, to show the correct format.]

[FRL 597–8; PP3F1391/R109]

PART 180—TOLERANCES AND EXEMPTION FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

S-[2-(Ethylsulfinyl)Ethyl]0,0-Dimethyl Phosphorothioate

On July 20, 1973, notice was given 38 FR 19541 that Chemagro Agricultural Division of Mobay Chemical Corp. (formerly Division of Baychem Corp.), PO Box 4913, Kansas City MO 64120, had filed a petition (PP 3F1391) with the Environmental Protection Agency (EPA). This petition proposed that 40 CFR 180.330 be amended by establishing a tolerance for combined residues of the insecticide S-[2-(ethylsulfinyl)-ethyl] 0,0-dimethyl phosphorothioate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodities tomatoes at 1 part per million (ppm), onions (bulb) at 0.05 ppm and filberts at 0.01 ppm.

Chemagro subsequently amended the petition by increasing the proposed tolerance level on filberts to 0.05 ppm, revising the commodity "onions (bulb)" to read "onions (dry bulb)" and by withdrawing the proposed tolerance for residues on tomatoes.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. There is no reasonable expectation of residues in eggs, meat, milk or poultry from the proposed uses and 40 CFR 180.6(a)(3) applies. It is concluded therefore that 40 CFR 180.330 should be amended as proposed. The tolerances established by such amendment will protect the public health.

Any person adversely affected by this regulation may, on or before September 8, 1976, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. 1019, East Tower, 401 M St., SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearin will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on August 9, 1976, 40 CFR 180.330 is amended as set forth below.

Dated: August 4, 1976.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)))

Section 180.330 is amended by alphabetically inserting the following commodities and corresponding tolerance levels in the list of raw agricultural commodities of the regulation.

§ 180.330 S-[2-(ethylsulfinyl)ethyl 0,0-dimethyl phosphorothioate; tolerances for residues.

Commodity:	*Parts per million*
* * * * *	
Filberts	0.05
* * * * *	
Onions, dry bulb	0.05
* * * * *	

[FR Doc.76–23153 Filed 8–6–76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

[FPMR Amdt. D–54]

PART 101–20—MANAGEMENT OF BUILDINGS AND GROUNDS

Transfer of Responsibility for Change of Hours of Duty in Metropolitan Washington

This amendment reflects the transfer of responsibility for approving the change of duty hours for Federal agencies in Metropolitan Washington. Also, responsibility for coordinating the proposed change of duty hours with local government transportation systems is transferred from the requesting agency to the General Services Administration.

Subpart 101–20.1—Building Operations, Maintenance, Protection, and Alterations

Sections 101–20.113(b), (c)(1), (c)(3) and (d) are revised to read as follows:

§ 101–20.113 Staggering hours of duty in Metropolitan Washington.

* * * * *

(b) *Responsibility.* Except as otherwise provided, any agency considering a schedule of hours of duty differing from, or in addition to, its schedule of hours of duty heretofore approved, shall obtain the approval of the GSA Regional Administrator, Region 3, before the proposed schedule is placed in effect. The Regional Administrator, in approving proposals to change hours of duty, will be guided by the overall policy of maintaining a system of staggered hours of duty in Metropolitan Washington.

(c) *Requirements.* (1) The requesting agency shall submit a written request to the General Services Administration (3A), Washington, D.C. 20407, which will include the proposed hours of duty, the number of employees affected, and a detailed justification for such action.

* * * * *

(3) In addition, the GSA Regional Administrator, Region 3, will coordinate the proposal with appropriate agencies of the District of Columbia, Virginia, and Maryland and with the public transportation systems, including the Washington Metropolitan Area Transit Authority, to ensure that the proposed change, if adopted, would not cause additional congestion, impossible transportation demands, or otherwise disrupt normal traffic flow patterns to or from the particular area in which the agency is located.

(d) *Exceptions.* A proposed change in the schedule of hours of duty may be placed in effect by a Federal agency without approval of the GSA Regional Administrator, Region 3, in the following instances:

(1) When neither the current nor the proposed hours of duty begin or end within either of the periods 7–9:30 a.m. or 3:30–6 p.m.; or

(2) when the proposed change in the schedule of hours of duty affects fewer than 50 employees unless the agency plans to apply the change to additional employees, bringing the total to 50 or more within a 3-month period.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Effective date. This regulation is effective on August 16, 1976.

NOTE.—It is hereby certified that the impact does not meet the inflation impact criteria for major rules or regulations.

Dated: August 3, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76-23774 Filed 8-13-76;8:45 am]

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E-190]

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

Procurement Sources and Programs

This amendment provides policy and procedural changes governing procurement from or through GSA supply sources and exceptions to mandatory use of Federal Supply Schedule contracts.

The table of contents for Part 101–26 is amended to delete §§ 101–26.4902–1718 and 101–26.4902–6317, and to include the following revised entries:

Sec.

101–26.407	Procurement of security equipment by Government fixed-price prime contractors and subcontractors.
101–26.407–3	Procedure for ordering security equipment.
101–26.507	Security equipment.
101–26.507–3	Purchase of security equipment from Federal Supply Schedule.

Subpart 101–26.2—Federal Requisitioning System

Section 101–26.202 is revised to read as follows:

§ 101–26.202 Applicability.

This subpart is applicable to all civil agencies requisitioning any item from GSA and, when specifically authorized, items requisitioned from DOD supply sources.

Subpart 101–26.4—Purchase of Items From Federal Supply Schedule Contracts

1. Section 101–26.401–4 is amended as follows:

§ 101–26.401–4 Exceptions to mandatory use.

* * * * *

(b) *Small requirements.* A dollar or quantitative minimum has been stipulated for most Federal Supply Schedules. Agencies are not obligated to order and contractors are not obligated to accept orders below the stipulated dollar and quantitative minimums. However, such orders may be placed by agencies, subject to acceptance by the contractor. Whenever the schedule states that the contractor will accept orders below the stipulated dollar or quantitative minimum dollar limitations above which cept such orders. The Ordering Instructions section of the applicable Federal Supply Schedule shall reflect this information.

(c) *Maximum order limitations.* (1) Federal Supply Schedules stipulate maximum dollar limitations above which agencies may not submit orders and contractors may not accept orders.

(2) Unless specified otherwise in the schedules, agencies required to use Federal Supply Schedules, including the Department of Defense (DOD) where the requirement falls with DOD–GSA Interagency Purchase Assignments, shall forward to the GSA support region MIL STRIP/FEDSTRIP requisitions for items included in the schedule which exceed the schedule's applicable maximum order limitations. Non-mandatory users of Federal Supply Schedules, including authorized non-appropriated funded activities and other activities for which GSA is authorized by law to procure, may, at their option, forward MIL STRIP/FEDSTRIP requisitions to the appropriate GSA support region.

(3) In accordance with § 101–26.106, agencies should consolidate their requirements to take advantage of price savings available through separate procurement of quantities exceeding the maximum order limitations. Agencies periodically consolidating requirements for one or more items included in a schedule at an agency headquarters office (national, regional, State, bureau, etc.) shall forward such requisitions to the GSA regional office serving the agency headquarters if the total requirement exceeds the maximum order limitation, unless specified otherwise in the schedule.

* * * * *

2. Section 101–26.407 is retitled as follows:

§ 101–26.407 Procurement of security equipment by Government fixed-price prime contractors and subcontractors.

3. Section 101–26.407–1 is revised to read as follows:

§ 101–26.407–1 General.

(a) Based on recommendations of the Interdepartmental Committee on Internal Security, it has been determined essential that security equipment be made available for purchase from GSA procurement sources by all Government contractors and subcontractors (at any tier) who are required to maintain custody of security classified records and information under any type of contract or subcontract.

(b) In accordance with Section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481), the Administrator of General Services has determined that the purchase of security equipment from GSA procurement sources by Government prime contractors and their subcontractors for the protection of security classified information represents procurement for the "use of executive agencies" under the statute.

4. Section 101–26.407–2 is revised to read as follows:

§ 101–26.407–2 Applicability.

The provisions of this § 101–26.407 apply only to the purchase of security equipment under a GSA procurement program by fixed-price prime contractors and lower tier subcontractors under any type of contract. These provisions do not apply to the purchase of security equipment by cost-type prime contractors; these purchases are subject to the provisions of Subpart 1–5.9.

5. Section 101–26.407–3 is retitled and amended to read as follows:

§ 101–26.407–3 Procedure for ordering security equipment.

(a) Cognizant security offices will arrange to notify prime contractors and subcontractors requiring security equipment for the protection of security classified information that, subject to the conditions described in this § 101–26.407–3 and in accordance with procedures included in Federal Supply Schedule, FSC Group 71, Part XI, Sections A and B, they may purchase such equipment under the applicable GSA procurement program as provided in § 101–26.507.

* * * * *

6. Section 101–26.408–2 is revised to read as follows:

§ 101–26.408–2 Procurement at lowest price.

Each purchase of more than $500 per line item made from a multiple-award schedule by agencies required to use these schedules shall be made at the lowest delivered price available under the schedule unless the agency fully justifies the purchase of a higher priced item. Purchases costing $500 or less per line item should also be made at the lowest delivered price under the schedule; however, justification for the purchase of higher priced items is not required. Agencies not

required to use schedules, but which choose to do so, are apprised of the advisability of fully justifying purchases costing more than $500 per line item when the items are not the lowest priced available on the schedule.

Subpart 101–26.5—GSA Procurement Programs

1. Section 101–26.501 is amended as follows:

§ 101–26.501 Purchase of new motor vehicles.

* * * * *

(b) Requisitions submitted to GSA for new passenger vehicles, other than type I standard passenger vehicles, shall contain a certification by the agency head or his designee that the larger vehicle requisitioned is for law enforcement or otherwise essential to the agency's mission. The certification may be placed on the requisition or on an appropriate attachment thereto. Agency passenger vehicle requisitions for other than type I vehicles omitting such certifications shall be satisfied with the appropriate type I vehicles provided at the discretion of GSA. Agencies requiring other than standard sedans and station wagons shall justify the need for these vehicle requirements and retain the justification in their files.

(c) Light trucks shall be requisitioned in accordance with the provisions of this § 101–26.501 and Federal Standard Nos. 292 (Tables I through VIII) and 307 (Tables I through XI), as applicable. The agency head or his designee shall certify on the requisition or on an appropriate attachment thereto that each light truck requisitioned represents the minimum capacity/performance vehicle which will satisfy the requirements based on overall safety, economy, and efficiency.

* * * * *

2. Section 101–26.501–3 is amended as follows:

§ 101–26.501–3 Submission of requirements.

Requirements for all motor vehicles shall be submitted on GSA Form 1781, Motor Vehicle Requisition—Delivery Order—Invoice, or DD Form 448, Military Interdepartmental Purchase Request (MIPR), to the General Services Administration (FY), Washington, DC 20406, and shall contain required FEDSTRIP/MILSTRIP data for mechanized processing. The Department of Defense shall ensure that MILSTRIP data are entered on DD Form 448.

* * * * *

(c) GSA Form 1781, Motor Vehicle Requisition—Delivery Order—Invoice (illustrated at § 101–26.4902–1781) has been specifically designed for agency use to expedite ordering of all vehicles. GSA Form 1781 is also used by GSA as a purchase order, as a supporting document to billing statements, and by the consignee as a receiving report. When agencies use the GSA Form 1781, they are requested to use it as a single-line-item requisition for non-standard as well as standard-type vehicles. When ordering standard vehicles, the appropriate item number for passenger vehicles equipped to meet specific operational needs may be selected from the applicable table in Federal Standard No. 122; additional systems and equipment may be added by inserting in the "Standard Options" portion of block 9 of the form the appropriate code for the selected items from the table in the standard. If a vehicle equipped as listed in Federal Standard No. 122 includes items which are not required, the item number of the standard vehicle representing the minimum wheelbase required should be selected. All additional systems or equipment required should be identified by inserting in the appropriate portion of block 9 of GSA Form 1781 the applicable codes from the table in the standard listing the additional systems or equipment. When ordering standard vehicles or options, the instructions on the reverse of GSA Form 1781 shall be followed. Submission of GSA Form 1781, properly completed, will satisfy the requirements regarding the submission of requisitions as set forth in paragraph (a) of this section.

(d) Each requisition shall indicate the appropriation/fund code to be charged and must be signed by an officer authorized to obligate cited funds.

(e) Separate requisition shall be submitted for each vehicle category and consignee.

3. Section 101–26.501–6 is revised to read as follows:

§ 101–26.501–6 Forms used in connection with delivery of vehicles.

(a) *GSA Form 1398, GSA Purchased Vehicle.* This form is used by the contractor to indicate that preshipment inspection and servicing of each vehicle has been performed. The contractor is required to complete GSA Form 1398 (illustrated at § 101–26.4902–1398) and affix it, preferably, to the lock face or door frame of the right front door after the final inspection. The form should be left in place during the warranty period to permit prompt identification of vehicles requiring dealer repairs pursuant to the warranty.

(b) *Standard Form 368, Quality Deficiency Report.* GSA is constantly striving to improve customer service and the quality of motor vehicles for which it contracts. To inform contractors of the deficiencies noted during the life of the vehicles, Standard Form 368 shall be prepared by the consignee and sent to GSA describing details of vehicle deficiency and action taken for correction. This form replaces GSA Form 1718, Unsatisfactory Equipment Report, for reporting deficiencies and repetitive failures of motor vehicles. Agencies are urged to report all deficiencies to GSA irrespective of satisfactory corrective action taken by the manufacturer's authorized dealer. If the dealer refuses to take corrective action on any vehicle within its warranty period, the report shall so state and include an explanation of the circumstances. Standard Form 368 shall also be used to report all noncompliance with specifications or other requirements of the purchase order.

4. Section 101–26.501–8(a) is revised to read as follows:

§ 101–26.501–8 Notification of vehicle defects.

* * * * *

(a) It is to the Government advantage for agencies to promptly act on motor vehicle defect notices, thus avoiding the possibility of accidents and loss of life which could result from failure to act on such notices. Timely receipt of, and action on, defect notices can also result in avoidance of costly repairs and nonavailability of vehicles due to these repairs. On newly procured vehicles the manufacturers will send "Motor Vehicle Defect Notices" to the original consignee at the consignee's mailing address shown on the vehicle delivery order. However, agency heads shall notify manufacturers of the exact address to which "Motor Vehicle Defect Notices" are to be sent when vehicles are disposed of or transferred. Notification shall be made on all 1971 or later model vehicles. In the interest of uniformity, agencies shall use the following format for either purpose. All identification information shall be annotated on the format as requested.

To: (Vehicle Manufacturer) [1]

FORMAT

Information on the motor vehicles listed is submitted to assist you in complying with section 113 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1402).

Complete the following as appropriate: This notice covers (No. of vehicles) disposed of and/or (No. of vehicles) transferred vehicles. Transferred—Fill in the information below on "a," "b," "c," and "d." Disposed—Manufacturer will discontinue the address location for these vehicles. Identification of the disposed vehicles must be reported below in "a," "c," and "d."

a. Address of original owner of vehicle:

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b. Address to which motor vehicle defect notices are to be sent:

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c. Complete manufacturer's vehicle identification:

Year	Model	Serial No.
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d. Contractual identification:

GSA Contract No.	Item No.
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(This information can be obtained from the GSA Form 1398, GSA Purchased Vehicle, which is located on the lock face or door frame of the right front door.)

American Motors Corp., Fleet Sales Department, 14250 Plymouth Road, Detroit, MI 48232.

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[1] Addresses of manufacturers.

AM General Corporation, Logistics Division, 701 West Chippewa Avenue, South Bend, IN 46623.
Ford Customer Service Division, Field Recall Section, General Offices, Park Lane Towers West, 1 Park Lane Boulevard, Dearborn, MI 48126.
Director of Services, FWD Corporation, 105 East 12th Street, Clintonville, WI 54929.
International Harvester Co., Suite 900, 1707 L Street NW., Washington, DC 20036.
Field Service and Engineering, Chrysler Motors Corp., Government Sales Department, Post Office Box 716, Detroit, MI 48231.
Chevrolet Motor Division, Chevrolet Service Department, Argonaut A Building, 485 West Milwaukee Avenue, Detroit, MI 48202.
Director, Product Reliability, Diamond Reo Truck Division, White Motor Corp., 1330 South Washington Avenue, Lansing, MI 48920.
General Parts and Service Manager, GMC Truck and Coach Division, General Motors Corp., 660 South Boulevard, East, Pontiac, MI 48053.
Mack Trucks, Inc., Service Operations, Post Office Box 1000, Somerville, NJ 08876.
Supervisor, Vehicle Service and Safety Programs, White Trucks, Division of White Motor Corp., Post Office Box 5757, Cleveland, OH 44101.

* * * * *

5. Section 101–26.502–1 is amended as follows:

§ 101–26.502–1 Submission of purchase authorities.

(a) Executive agencies shall submit requests to GSA to fill requirements, for land use in the United States, of water coolers (dispensers) of the types covered in § 101–26.502–2. The requests shall be submitted to the General Services Administration (9FF), 525 Market Street, San Francisco, CA 94105, in FEDSTRIP/MILSTRIP format using routing identifier code GSØ.

* * * * *

(c) Requisitions received for water coolers (dispensers) which are stocked by GSA shall be supplied by issue from stock unless direct delivery would be more advantageous to the Government, price and other factors considered.

6. Section 101–26.503–1 is revised to read as follows:

§ 101–26.503–1 General.

To achieve the benefits and economies to be derived from consolidation of requirements, a program for procurement of refrigerators, freezers, ranges, washers, dryers, water heaters, and garbage disposal units is operated through the GSA regional offices in Fort Worth, TX, and San Francisco, CA. Based on estimated requirements, GSA issues indefinite quantity contracts covering standardized types of such appliances identified in Federal or military specifications. Also included are certain types of referigerators and freezers not covered by a Federal specification or standard. (Federal specifications and standards as used in this section mean the latest edition and include any interim specification or standard.)

7. Section 101–26.503–2 is amended as follows:

§ 101–26.503–2 Submission of requirements.

* * * * *

(b) Requirements for water heaters and garbage disposal units shall be submitted to the General Services Administration (7FF), 819 Taylor Street, Fort Worth, TX 76102, in FEDSTRIP/MILSTRIP format using routing identifier code GFØ and for refrigerators, freezers, ranges, washers, and dryers to the General Services Administration (9FF), 525 Market Street, San Francisco, CA 94105, in FEDSTRIP/MILSTRIP format using routing identifier code GSØ. Requisitions for appliances not identified by national stock number as shown in the applicable Federal standard shall be complete as to type, size, description, electrical current characteristics (a.c. or d.c., phase, voltage, and cycles), and other pertinent information. If the item is available from an existing contract, the GSA regional office will procure the appliance from the contractor for direct delivery to the consignee. If the item is not available from an existing contract, GSA will either arrange for procurement of the item or inform the submitting agency of other appropriate action to be taken. Agencies should allow sufficient leadtime (see § 101–26.102–3) in establishing required delivery dates to permit orderly procurement by GSA.

* * * * *

(d) When repetitive need for appliances of a different quality or description from those covered by this § 101–26.503 exists, procurement may be made without recourse to GSA. However, agencies shall notify GSA of these requirements for consideration to include such items in the GSA appliance program. Notices concerning procurement of repetitive requirements shall be submitted to the General Services Administration (FPG), Washington, DC 20406.

8. Section 101–26.505–3 is revised to read as follows:

§ 101–26.505–3 Requests to procure similar items from sources other than GSA supply sources.

When an agency required to obtain items of office and household furniture and furnishings from GSA stock or Federal Supply Schedule contracts determines that items available from these sources will not serve the required functional end use, requests to procure similar items from other than GSA sources shall be submitted for consideration in accordance with § 101–26.100–2.

9. Section 101–26.507 is retitled and revised to read as follows:

§ 101–26.507 Security equipment.

Procurement of security equipment for executive agencies shall be accomplished in accordance with the provisions of this § 101–26.507. Government contractors and subcontractors eligible to purchase security equipment (see §§ 1–5.902 and 101–26.407) and other Federal agencies may participate in this program.

10. Section 101–26.507–1 is revised to read as follows:

§ 101–26.507–1 Submission of requirements.

Requirements for security equipment covered by the latest edition of Federal Specifications AA–F–357, AA–F–358, AA–F–363, AA–S–1518, and AA–D–600, and Interim Federal Specifications AA–F–00364 and AA–C–001697 shall be submitted in FEDSTRIP/MILSTRIP format using routing identified code GWØ to the General Services Administration (3FF), Region 3, Washington, DC 20407. GSA will consolidate the requirements quarterly for procurement on a definite quantity basis.

11. Section 101–26.507–2 is revised to read as follows:

§ 101–26.507–2 Procurement time schedule.

Planned requirements for security equipment will be consolidated by GSA on January 31, April 30, July 31, and October 31 of each year. The consolidation of requirements will serve as a basis for executing definite quantity contracts. To ensure inclusion in the invitation for bids, requirements shall be submitted on or before January 1, April 1, July 1, or October 1 as appropriate. Requirements received after any of these dates normally will be carried over to the subsequent consolidation date. Approximately 180 calendar days following the consolidation dates should be allowed for initial delivery. Requisitions shall include a required delivery date which reflects anticipated receipt under the time schedule.

12. Section 101–26.507–3 is retitled and revised to read as follows:

§ 101–26.507–3 Purchase of security equipment from Federal Supply Schedule.

To ensure that a readily available source exists to meet unforeseen demands for security equipment, indefinite quantity Federal Supply Schedule contracts will remain in effect to satisfy urgent requirements which are not appropriate for consolidated procurement and do not exceed the maximum order limitations. Items of security equipment are listed in Federal Supply Schedule, FSC Group 71, Part XI, Sections A and B, for agencies to order direct from the contractor. Additionally, these sources will be available for purchase within the specified maximum order limitation by Government contractors and subcontractors at any tier) meeting the requirements of §§ 1–5.902 and 101–26.407, as applicable.

13. Section 101–26.507–4 is revised to as follows:

§ 101–26.507–4 Quantities in excess of the maximum order limitation.

Quantities exceeding the maximum order limitation on Federal Supply Schedules will also be consolidated and procured by GSA pursuant to § 101–

26.507–2. Where quantities are required to be delivered before the time frames established for the quarterly consolidated procurement, the requisition must indicate the earlier required delivery. As necessary, separate procurement action will be taken by GSA to satisfy the requirements.

14. Section 101–26.508–1 is revised to read as follows:

§ 101–26.508–1 Requirements available from Federal Supply Schedule contracts.

Federal Supply Schedules, FSC Group 74, Part XI, and FSC Group 58, Part V, section C, respectively, include contracts for Government requirements of those types of EDP tape and instrumentation tape (wide and intermediate band) which are most widely used. Federal agencies located within the 48 contiguous United States, Washington, D.C., and Hawaii (applicable to EDP tape only for Hawaii) shall procure their requirements for these tapes in accordance with the provisions of the current schedules and this § 101–26.508–1. Requirements not exceeding the maximum order limitations of the Federal Supply Schedules and ordered direct by activities located outside the above-stated geographical areas shall, to the extent possible, be consolidated and submitted in FEDSTRIP/MILSTRIP format for EDP tape to the General Services Administration (3FF), Region 3, Washington, D.C. 20407, using routing identifier code GWØ and for instrumentation tape to the General Services Administration (9FF), 525 Market Street, San Francisco, CA 94105, using routing identifier code GSØ.

15. Section 101–26.508–2 is amended as follows:

§ 101–26.508–2 Requirements not available from Federal Supply Schedule contracts.

(a) Requirements for types of EDP tape and instrumentation tape (wide and intermediate band) covered by Federal Supply Schedule contracts which exceed the maximum order limitations of the schedule shall be forwarded to the applicable GSA activity prescribed in § 101–26.508–1 for purchase action.

(b) Requirements for all types of EDP tape and instrumentation tape (wide and intermediate band) not covered by Federal Supply Schedule contracts shall be submitted to GSA for purchase action if the dollar value of the requirements exceeds, or is estimated to exceed, $2,500 for EDP tape and $5,000 for instrumentation tape. However, regardless of the amount involved (including requirements estimated to be less than the dollar limitations referenced above), purchase action shall not be taken by GSA or an agency unless a waiver of the requirement for using items of tape available from Federal Supply Schedule contracts has been furnished in accordance with § 101–26.401–3. Requests for waivers shall be submitted to the Commissioner, Federal Supply Service, General Services Administration, Washington, DC 20406. The requests shall fully describe the type of tape required and state the reasons Federal Supply Schedule items will not adequately serve the agency's needs. GSA will notify the requesting agency in writing of the action taken on the requests. To reduce leadtime, requisitions may be submitted in FEDSTRIP/MILSTRIP format with the requests for waiver. Requisitions for which a waiver has first been obtained shall be submitted with a copy of the waiver to the appropriate activity prescribed in § 101–26.508–1. GSA will either arrange for procurement of the requirements or authorize the requesting agency to procure them.

* * * * *

16. Section 101–26.509–1 is revised to read as follows:

§ 101–26.509–1 Requirements available from Federal Supply Schedule contracts.

Federal Supply Schedule, FSC Group 75, Part VIII, includes contracts for Government requirements of tabulating cards applicable to electrical and mechanical contact tabulating machines, including aperture cards and copy cards. Federal agencies shall procure their requirements for these cards in accordance with the provisions of the current schedule. Requirements not exceeding the maximum order limitation of the Federal Supply Schedule, but ordered direct by activities located outside the geographical delivery areas specified in the schedule, shall be ordered by submission of requisitions to the General Services Administration (2FF), 26 Federal Plaza, New York, NY 10007, in FEDSTRIP/MILSTRIP format using routing identifier code GNØ.

17. Section 101–26.509–2 is amended as follows:

§ 101–26.509–2 Requirements not available from Federal Supply Schedule contracts.

(a) Requirements for tabulating machine cards covered by Federal Supply Schedule contracts which exceed the maximum order limitation of the schedule shall be forwarded in FEDSTRIP/MILSTRIP format using routing identifier code GNØ, to the General Services Administration (2FF), 26 Federal Plaza, New York, NY 10007, for purchase action.

(b) Requirements for tabulating machine cards not covered by Federal Supply Schedule contracts shall be submitted to GSA for purchase action if the dollar value of the requirements exceeds or is estimated to exceed $2,500. However, regardless of the amount involved (including requirements estimated to be $2,500 or less) purchase action shall not be taken by GSA or an agency unless a waiver of the requirement for the use of tabulating cards available from Federal Supply Schedule contracts has been furnished in accordance with § 101–26.401–3. Requests for waivers shall be submitted to the Commissioner, Federal Supply Service, General Services Administration, Washington, DC 20406. The requests shall fully describe the items required and state the reasons the tabulating machine cards covered by the Federal Supply Schedule contracts will not adequately serve the end-use purpose. GSA will notify the requesting agency in writing of the action taken on the waiver request. To reduce leadtime, requisitions may be submitted in FEDSTRIP/MILSTRIP format with the requests for waiver. Requisition for requirements for which a waiver has first been obtained shall be submitted with a copy of the waiver to the appropriate GSA activity prescribed in § 101–26.509–1. GSA will either arrange for procurement of the requirements or authorize the requesting agency to procure them.

* * * * *

Subpart 101–26.49—Illustrations of Forms

1. Section 101–26.4901(b) is revised to read as follows:

§ 101–26.4901 Standard forms.

* * * * *

(b) The Standard forms illustrated in this § 101–26.4901 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting agency.

2. Section 101–26.4902(b) is revised to read as follows:

§ 101–26.4902 GSA forms.

* * * * *

(b) Agency field offices may obtain the GSA forms illustrated in this § 101–26.4902 by submitting their requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRO), Washington, DC 20405.

§§ 101–26.4902–1718 and 101–26.4902–6317 [Deleted]

3. Sections 101–26.4902–1718 and 101–26.4902–6317 are deleted.

4. Section 101–26.4902–1781 is revised to illustrate the March 1976 edition of GSA Form 1781, Motor Vehicle Requisition—Delivery Order—Invoice.

§ 101–26.4902–1781 GSA Form 1781, Motor Vehicle Requisition—Delivery Order—Invoice.

NOTE.—The form illustrated in § 101–26.4902–1781 is filed as part of the original document and does not appear in the FEDERAL REGISTER.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Effective date: This regulation is effective on August 16, 1976.

NOTE.—It is hereby certified that the impact does not meet the inflation impact criteria for major rules or regulations.

Dated: August 3, 1976.

JACK ECKERD,
Administrator of General Services.

[FR Doc.76–23775 Filed 8–13–76;8:45 am]

[Federal Property Management Regs.; Temporary Reg. E-47]

PART 101-32—GOVERNMENT-WIDE AUTOMATED DATA MANAGEMENT SERVICES

Teleprocessing Services Program

1. *Purpose.* This regulation notifies agencies of the establishment of the Teleprocessing Services Program (TSP), describes the program, and prescribes procedures by which Federal agencies utilize the program to acquire teleprocessing services from the private sector.

2. *Effective date.* This regulation is effective August 16, 1976.

3. *Expiration date.* This regulation expires January 31, 1977, unless sooner revised or superseded.

4. *Scope of TSP.* The TSP shall be the mandatory method by which Federal agencies acquire teleprocessing services from the private sector. Services covered by the TSP include full service (interactive and remote batch), interactive, and remote batch processing. The TSP also provides for the acquisition of training, documentation, software packages, and analyst/programer support incidental to the acquisition and use of teleprocessing services. Facilities management services, teleprocessing systems dedicated to an agency's particular application, arrangements where title to ADP equipment is vested at any time in the Federal Government, or ADP equipment that is 100 percent reimbursed by the Government under a cost-type arrangement are not covered under this program. At this time, local batch services are not included.

5. *Procedures for acquiring teleprocessing services*—a. *Initiation of requests.* Agencies requiring teleprocessing service shall define their requirements and submit a GSA Form 2068, Request for ADP Service, to the Agency Services Coordination Division (ASCD), Automated Data and Telecommunications Service, of the appropriate GSA regional office, or to the ADP sharing exchange serving the agency facility. The requirements shall be met by Government resources if they are available. If not, agencies will be granted a delegation of procurement authority to use the TSP, in the form of an approved GSA Form 2068, or agencies will be advised that GSA will perform the procurement as discussed in paragraph 5d. If agencies cannot satisfy their requirements for teleprocessing services from Government resources or through the TSP, they shall submit requests for waivers from the program to the appropriate GSA regional ASCD with a detailed explanation for the request. GSA approval of the request for the waiver is required before agencies initiate action to procure services from non-TSP sources. GSA's decision on the request for the waiver will be provided to the agencies within 30 workdays of receipt of the request by GSA.

b. *Use of TSP.* The TSP offers two methods for acquiring teleprocessing services:

(1) *Multiple award schedule contracts.* (a) GSA will establish multiple award schedule contracts under which agencies may place orders for teleprocessing services. These contracts provide discounts based upon each vendor's Government-wide volume.

(b) Selection of a source of services from among the multiple award schedule contracts will be based on an economic evaluation to determine which vendor meets the requirement at the lowest system life cost. The system life cost includes all quantitative costs, including the price of teleprocessing services plus incidental support services from the vendor during the planned period of the application life, together with conversion and communications costs, if applicable. While the schedule contracts have annual terms and incremental discount rates, user system life cost estimates will be based upon rates and discounts known as being achieved at the time of evaluation. Agencies should use benchmarks in estimating costs instead of depending on pricelists only. Benchmarks are mandatory for large requirements. Specifically, at least three technically capable firms shall be benchmarked if the system life cost exceeds $500,000 or the annual cost exceeds $200,000. If the annual cost exceeds $400,000 or the systems life cost exceeds $1 million, all technically capable firms shall be benchmarked. Guidelines for source selection entitiled "User Source Selection Considerations" are available from GSA regional ASCD and will be made available to agencies granted delegations to use the TSP.

(2) *Basic agreements.* GSA provides a BA defining terms and conditions for obtaining teleprocessing services from commercial firms. Agencies may employ the BA-type competition for any particular teleprocessing services requirement in lieu of ordering from the schedule contracts. Such an action may occur based on a belief that lower costs would result from a fully open competition for the requirement or if the terms and conditions or technical capabilities of the schedule contracts do not meet user requirements.

c. *Noncompetitive acquisitions.* Noncompetitive or sole source orders under TSP are those that can be met by only one vendor through the use of the multiple award schedule contract with that vendor. Orders for such procurements shall be based on a sole source justification rather than on an economic evaluation. If the selected vendor does not have a multiple award schedule contract, a waiver from the program must be obtained from GSA before agencies acquire the sole source services.

d. *Procurement by GSA.* GSA may withhold delegation of authority for the acquisition of teleprocessing services for the BA procurements under the TSP. A decision to procure or delegate will be made at the time the GSA Form 2068 is submitted. If GSA conducts the procurement, the division of responsibility between the requesting agency and GSA will be similar to that used in the procurement of ADP equipment or related items as stated in FPMR 101-32.405.

6. *Procedures for renewal of existing contracts.* a. The TSP provides the means for meeting all of the Government's teleprocessing requirements at the expiration of existing contractual arrangements or when new requirements are identified and services are needed. Agencies with existing contractual sources of teleprocessing services may continue to acquire such services until the end of the agency contract unless an economic analysis indicates that it is in the best interest of the Government to use the TSP sources of supply. While existing contractual arrangements do not have to be terminated upon implementation of the TSP, a basic objective of the program is to recompete, through multiple award schedule contracts or the BA, requirements at the expiration of existing contracts. Toward this end, requests to exercise opinions to renew existing contracts shall be submitted to GSA on GSA Form 2068 for approval and must contain a management and technical plan setting forth the means by which recompetition is to be accomplished. The plan will include a provision for quarterly progress reports to GSA showing achievements toward recompetition. GSA Form 2068A, Quarterly Report of ADP Service Provided to Another Agency or Obtained From a Commercial Source, shall be used for this purpose. This report has been reviewed in accordance with FPMR 101-11.11 and assigned Interagency Reports Control Number 1106-GSA-QU.

b. Agencies who are unable to recompete for a requirement at the expiration of an existing contract, and who plan to exercise a renewal, must submit a request to do so to the appropriate GSA regional ASCD for review at least 60 workdays before the expiration of the contract. The request shall be submitted on a GSA Form 2068 and must include a copy of the management and technical plan for recompetition. Instructions for preparation of these plans are available from the appropriate GSA regional ASCD.

7. *Preorder reviews.* Agencies must submit a request to GSA to place an order against a particular multiple award schedule contract if any of the following thresholds are exceeded:

	Basis for order	
	Economic evaluation	Sole source justification
Annual cost	$200,000	$40,000
System life cost	500,000	100,000

Requests shall include either a copy of the economic analysis or a copy of the sole source justification upon which the proposed order is based. Requests based on a sole source justification also shall include a management and technical plan illustrating how recompetition will be accomplished within a 2-year maximum period from the date that the teleprocessing service is initiated. Agencies shall submit requests to the appropriate GSA regional ASCD and shall not place

an order until approval is grated by GSA. The preorder review of user selection procedures is intended to ensure a complete evaluation and competitive selection of teleprocessing services.

8. *Postorder reviews.* Within 20 workdays after placing an order against a multiple award schedule contract, agencies shall submit to the appropriate GSA regional ASCD a copy of the order and a copy of the economic evaluation or sole source justification upon which the order is based if any of the following thresholds are exceeded:

	Basis for order	
	Economic evaluation	Sole Source justification
Annual cost	$20,000	$10,000
System life cost	50,000	25,000

The postorder review is intended to identify problem areas and unique agency methods for selecting teleprocessing firms in an attempt to improve evaluation and selection procedures.

9. *Interim procedures.* The TSP shall become the mandatory method by which agencies meet their commercial teleprocessing requirements when a sufficiently large number of multiple award schedule contracts are awarded. Agencies shall attempt to defer teleprocessing procurements until this occurs. If an agency determines that delay is not feasible, the following procurement methods listed in order of preference shall be employed:

a. *Use the basic agreement for a competitive procurement.* A procurement of this type will be considered as having been made under the TSP, and the later transition in accordance with paragraph 6 of this regulation shall not be required. For these reasons this method of procurement is the most advantageous for the Government agencies requiring teleprocessing services at this time.

b. *Conduct a competitive procurement without incorporating the basic agreement.* Agencies may elect to conduct a competitive procurement of services without using the BA. However, such procurements will be considered as having been made outside the TSP, and recompetition in accordance with paragraph 6 will be required.

c. *Place a sole source order against a multiple award schedule contract.* Agencies with valid sole source requirements shall meet them by placing an order against the multiple award schedule contract of the selected vendor, if one exists. Such a procurement will be considered to have been made under the TSP. The processing procedures for noncompetitive acquisitions shall be followed. (See paragraphs 5c, 7, and 8.)

d. *Make a sole source procurement from a non-multiple award schedule contractor.* This is the least attractive procurement method and is to be used only in the case of an unusual situation. Such procurements shall not be considered as having been made under the TSP and shall require recompetition within 2 years. The provisions of paragraph 6 concerning procedures for recompetition shall apply.

10. *Effect on other issuances.* This regulation supplements requirements expressed in FPMR 101-32.2 and cancels GSA Bulletin FPMR F-72.

11. *Comments.* Comments may be submitted to the General Services Administration (CPSB), Washington, DC 20405, on or before October 15, 1976.

12. *Availability of GSA Forms 2068 and 2068A.* Agency field offices shall submit all requirements for these forms to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRO), Washington, DC 20405.

13. *Assistance.* Further information on the TSP may be obtained from the appropriate GSA regional ADP sharing exchanges. (See FPMR 101-32.4800 for addresses.)

JACK ECKERD,
Administrator of General Services.

AUGUST 3, 1976.

[FR Doc.76-23773 Filed 8-13-76;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 35—HUMAN USES OF BYPRODUCT MATERIAL GROUP LICENSING FOR CERTAIN MEDICAL USES

Notice is hereby given of the amendment of the Nuclear Regulatory Commission's Regulation "Human Uses of Byproduct Material," 10 CFR Part 35.

Section 35.100 of 10 CFR Part 35 lists groups of medical uses of radioisotopes that have similar requirements for user training and experience, facilities and equipment, and radiation safety procedures.

The notice of proposed rulemaking that was published in the FEDERAL REGISTER on January 21, 1974, (39 FR 2384) stated that the groups of licensed uses would be amended from time to time to add new radiopharmaceuticals, sources, devices, and uses as they are developed. The Food and Drug Administration (FDA) has approved a "New Drug Application" for iodine-125 as fibrinogen for the detection and monitoring of developing deep vein thrombosis and these procedures are hereby added to Group II.

Because this amendment relates solely to procedural matters, the Commission has found that good cause exists for omitting notice of proposed rulemaking, and pubilc procedure thereon, as unnecessary. Since the amendment relieves licensees from restrictions under regulations currently in effect, it may become effective without the customary 30-day notice.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 35 is published as a document subject to codification.

1. Section 35.100, Paragraph (b)(25) is amended by changing the period at the end of the paragraph to a semicolon and a new paragraph (b)(26) is added to read as follows:

§ 35.100 Schedule A—Groups of medical uses of byproduct material.

* * * * *

(b) *Group II.* Use of prepared radiopharmaceuticals for diagnostic studies involving imaging and tumor localizations.

* * * * *

(26) Iodine-125 as fibrinogen for detection and monitoring of developing deep vein thrombosis.

Effective date: This amendment becomes effective on August 16, 1976.

(Sec. 81, 161, Pub. Law 83-703, 68 Stat. 935, 948 (42 U.S.C. 2111, 2201); Sec. 201, Pub. Law 93-438, 88 Stat. 1243 (42 U.S.C. 5841).)

Dated at Bethesda, Md., this 4th day of August 1976.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.76-23970 Filed 8-13-76;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 JUSTICE

[41 CFR Chapter 128]

RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES

Notice of Proposed Rulemaking

The Department of Justice proposes to revise its regulations governing relocation assistance and land acquisition policies under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. This departmental order proposes regulations to replace the proposed regulations published in the FEDERAL REGISTER on October 26, 1973, (38 FR 29612). It incorporates changes in the guidelines for agency implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (General Services Administration Federal Management Circular 74-8) published on October 4, 1974, and Supplement 1 thereto, published on July 3, 1975.

Interested persons are invited to submit written views on the proposed revised regulations to my attention at the Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530, on or before August 31, 1976.

Pursuant to the authority vested in me by 28 CFR 0.75(j), it is proposed that Part 52 of Chapter I of Title 28, Code of Federal Regulations, be transferred to Chapter 128, Part 18 of Title 41, Code of Federal Regulations, and revised as set forth below.

Dated: July 20, 1976.

GLEN E. POMMERENING,
Assistant Attorney General for Administration.

CHAPTER 128—DEPARTMENT OF JUSTICE

PART 128-18—ACQUISITION OF REAL PROPERTY

Subpart 128-18.50—Uniform Relocation Assistance and Real Property Acquisitions Policies

Sec.

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§ 128-18.5001 General provisions.

§ 128-18.5001-1 Purpose.

(a) The purpose of these regulations is to revise the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (42 U.S.C. 4601 et seq.), to ensure fair and equitable treatment of persons displaced by Federal and federally assisted programs and to safeguard against abuse of any of the underlying purposes, provisions, and policies of the Act.

(b) These regulations apply with respect to the acquisition of all real property for, and the relocation of all persons displaced, by Federal programs and projects undertaken by only those State agencies which receive Federal financial assistance for all or part of the cost.

§ 128-18.5001-2 Definitions.

(a) "Act" as used in this part means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(b) "Bureau" means any of the following organizational units of the Department:

(1) Bureau of Prisons;

(2) Law Enforcement Assistance Administration;

(3) Immigration & Naturalization Service.

(c) "Bureau head" means the head of any bureau listed in paragraph (b) of this section, or his designee.

(d) "Initiation of negotiations" means the date the bureau makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase real property.

(e) "Dwelling" means the place of permanent or customary and usual abode of a person. It includes a single family building; a one-family unit in a multi-family building; a unit of a condominium, or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under state law, or cannot be moved without substantial damage or unreasonable cost. The term "dwelling" does not include seasonal or part-time dwelling units, such as beach houses, mountain or other vacation cabins.

(f) "State agency" means the National Capital Housing Authority, the

District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or a political subdivision of a State or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

(g) "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any annual payment or capital loan to the District of Columbia.

(h) "Person" means any individual, partnership, corporation, or association.

(i) "Displaced person" means a person who moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by any bureau of the Department of Justice or with Federal financial assistance; and solely for the purposes of sections 202(a) and (b) and 205 of the Act, as a result of the acquisition of or as a result of the written order of the acquiring bureau to vacate other real property, on which such person conducts a business or farm operation, for such program or project. In order to qualify as a displaced person, a person must have moved as a result of a receipt of a written notice to vacate, or the subject real property must in fact have been acquired and the person must have moved as a result of its acquisition (except in those instances covered by sections 217 and 219 of the Act).

(j) "Business" means any lawful activity, excepting a farm operation, conducted primarily:

(1) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) For the sale of services to the public;

(3) Solely for the purpose of section 202(a) of the Act for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(k) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materials to the operator's support.

(l) "Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(m) A "bona fide mortgage" is one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations.

(n) "Owner" means a person who holds fee title, a life estate, a 99-year lease, or has an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estates or interests, or who is possessed of such other proprietary interest in the property acquired, as in the judgment of the head of the Bureau, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interests by device, bequest inheritance or operation of law, the tenure of ownership, not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

(o) "Financial means": For the purpose of determining financial means of families and individuals in accordance with section 205(c)(3) of the Act, a financial means test (ability to pay) must be made to satisfy the requirement set forth in § 128–18.5005–40. In order to meet a financial means test a determination should be made as to the displaced person's ability to afford the replacement dwelling. In making this determination the average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes and other reasonable recurring related expenses) which the displaced person will be required to pay, in general, should not exceed 25 percent of the monthly gross income or the present ratio of housing payment to the income of the displaced family or individual, including supplemental payments made by public agencies.

(p) "Displacing agency" means a bureau in the case of a direct Federal project or a State agency in the case of a project receiving Federal financial assistance.

(q) "Family" means two or more individuals who are related by blood, adoption, marriage or legal guardianship who live together as a family unit, or upon determination by the head of the bureau, other persons who live together as a family unit.

§ 128–18.5001–3 Time limit on applying for benefits.

Applications for benefits under the Act must be made within 18 months from the date on which the displaced person moves from the real property acquired or to be acquired, or the date on which the bureau or State agency makes final payment of all costs of that real property, whichever is later. The bureau head may extend this period upon a proper showing of good cause.

§ 128–18.5001–4 Public information.

The head of each bureau shall make available to the public full information concerning the bureau's reloction programs and shall insure that persons to be displaced are fully informed, at the earliest possible time, of such matters as available relocation payments and assistance, the specific plans and procedures for assuring that suitable replacement housing will be available for homeowners and tenants in advance of displacement, the eligibility requirements and procedures for obtaining such payments and assistance, and the right of administrative review by the head of the Bureau.

§ 128–18.5002 Assurances of adequate replacement housing prior to displacement.

§ 128–18.5002–10 Scope of section.

The provisons set forth in this subsection are to guide bureaus and State agencies in implementing section 205(c)(3) and 206(b) of the Act.

§ 128–18.5002–11 Determination.

Bureaus may not proceed with any phase of a project or authorize a State agency to proceed with any phase of a project which will cause the displacement of any person until it has determined, or received satisfactory assurances from the State agency that, within a reasonable period of time prior to displacement, there will be available on a basis consistent with the requirements of Title VIII of the Civil Rights Act of 1968, in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as described in § 128–18.5002–14, equal in number to the number of, and available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment.

§ 128–18.5002–12 Support.

The determination or assurances under § 128–18.5002–11 shall be based on a current survey and analysis of available replacement housing by the displacing agency. Surveys to determine availability of replacement housing shall be undertaken during the planning phase for each area wherein provisions of the Act may be applicable. Such surveys and analysis must take into account the competing demands on available housing. These surveys shall include sufficient data to provide assurances that replacement dwellings are available and meet requirements of the Act and criteria described herein. These surveys shall list housing currently available. Information needed to develop and maintain the survey may be secured from the Veterans Administion, Federal Housing Administration, Department of Housing and Urban Development, and Real Estate Associations.

§ 128–18.5002–13 Waiver.

In accordance with section 205(c)(3) of the Act, the bureau head may waive the assurances required under § 128–18.5002–11, but only on the basis of emergency or other extraordinary situations where immediate possession of real property is of crucial importance. Each waiver of assurance of replacement housing shall be supported by appropriate

findings and a determination of the necessity for the waiver. Determinations so made shall be included in the annual report required by § 128–18.5009–80.

§ 128–18.5002–14 Decent, safe, and sanitary housing.

A decent, safe, and sanitary dwelling is one which is found to be in sound, clean and weather-tight condition, and which meets local housing codes. The bureau head shall determine if a dwelling unit is decent, safe, and sanitary based on the following criteria. Adjustments may only be made in the cases of unusual circumstances or unique geographical areas.

(a) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink, a cooking stove, or connections for same, a separate complete bathroom, hot and cold running water in both the bathroom and the kitchen, and adequate and safe wiring system for lighting and other electrical services, and heating as required by climatic conditions and local codes.

(b) *Non-housekeeping unit.* A non-housekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. If local codes do not include requirements relating to space and sanitary facilities, standards shall be subject to the approval of the head of the bureau causing the displacement.

(c) *Occupancy standards.* Occupancy standards for replacement housing shall comply with bureau approved occupancy requirements or shall comply with local codes.

§ 128–18.5002–15 Absence or inadequacy of local standards.

In those instances where there is no local housing code or a local housing code does not contain certain minimum standards or the standards are inadequate, the bureau head shall establish the standards.

§ 128–18.5002–16 Housing provided as a last resort.

When it is determined that adequate replacement housing is not available and cannot otherwise be made available, the head of the bureau may take action or approve action by a State agency to develop replacement housing. Bureaus taking or approving such action for replacement housing will be guided by the criteria and procedures issued by the Secretary of Housing and Urban Development (24 CFR Part 43, Subpart A) in accordance with the provision concerning section 206(a) of the Act in the President's memorandum of January 4, 1971. A State agency taking such action shall comply with the requirements and procedures of the bureau which provides the Federal financial assistance.

§ 128–18.5002–17 Loans for planning and preliminary expenses.

Federal agencies will be guided by the criteria and procedures developed by the Secretary of Housing and Development (24 CFR Part 43, Subpart B) when providing loans to eligible borrowers for planning and other preliminary expenses authorized under Section 215. A State agency providing such loans shall comply with the requirements and procedures of the bureau which provides the Federal financial assistance in accordance with the President's memorandum of January 4, 1971.

§ 128–18.5003 Moving and related expenses.

§ 128–18.5003–20 Eligibility.

(a) Any displaced person (including one who conducts a business or farm operation), is eligible to receive payment for moving expenses. A person who lives on his own business or farm property may be eligible for both moving and related expenses as a dwelling occupant in addition to being eligible for payments with respect to displacement.

(b) Any person who moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property in whole or part, or as a result of a written notice of the acquiring bureau or State agency to vacate real property, or solely for the purpose of Section 202 (a) and (b) of the Act, as a result of the acquisition of, or a written notice of the acquiring bureau or State agency to vacate, other real property on which such person conducts a farm or business, is eligible to receive a payment for moving expenses.

§ 128–18.5003–21 Actual reasonable expenses in moving.

(a) *Allowable expenses.*

(1) Transportation of individuals, families, and personal property from the acquired site, to the replacement site, not to exceed a distance of 50 miles, except where the bureau head determines that relocation beyond the 50 mile area is justified.

(2) Packing, unpacking, crating, and uncrating of personal property.

(3) Advertising for packing, crating and transportation when the bureau head determines that it is necessary.

(4) Storage of personal property for a period generally not to exceed 12 months when the bureau head determines that storage is necessary in connection with relocation.

(5) Insurance premiums covering loss and damage of personal property while in storage or transit.

(6) Removal and reinstallation, and reestablishment, including such modifications as deemed necessary by the bureau head, and reconnection of utilities for, machinery, equipment, appliances, and other items, not acquired as real property. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personal and that the displacing bureau is released from any payment for the property.

(7) Property lost, stolen, or damaged, (not caused by the fault or neglect of the displaced person, his agent or employees) in the process of moving, where insurance to cover such loss or damage is not available.

(8) Such other reasonable expenses as determined to be allowable by the bureau head.

(b) *Limitations.*

(1) When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially, unless the bureau head determines a greater amount is justified.

(2) When an item of personal property which is used in connection with any business or farm operation is not moved but sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost, minus the proceeds received from the sale, or the estimated cost of moving, whichever is less.

(3) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the judgment of the bureau head, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the case of moving junk yards, stockpiled sand, gravel, minerals, metals, and similar type items of personal property.

(4) If the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to or in excess of the in-place value of the display, consideration should be given to acquiring such display or displays as a part of the real property, unless such acquisition is prohibited by State law.

§ 128–18.5003–22 Nonallowable moving expenses and losses.

(a) Additional expenses incurred because of living in a new location.

(b) Cost of moving structures, or other improvements in which the displaced person reserved ownership, except as otherwise provided by law.

(c) Improvements to the replacement site, except when required by law.

(d) Interest on loans to cover moving expenses.

(e) Loss of goodwill.

(f) Loss of profits.

(g) Loss of trained employees.

(h) Personal injury.

(i) Cost of preparing the application for moving and related expenses.

(j) Payment for search cost in connection with locating a replacement dwelling.

(k) Such other items as the bureau head determines should be excluded.

§ 128–18.5003–23 Expenses in searching for replacement business or farm.

(a) To be allowed:

(1) Actual travel costs.

(2) Extra costs for meals and lodging.

(3) Time spent in searching at the rate

of the displaced person's salary or earnings, but not to exceed $10.00 per hour.

(4) In the discretion of the bureau head, necessary broker, real estate or other professional fees to locate a replacement business or farm operation.

(b) *Limitation.*

The total amount which a displaced person may be paid for searching expenses may not exceed $500, unless the bureau head determines that a greater amount is justified based on the circumstances involved.

§ 128–18.5003–24 Actual direct losses by business or farm operation.

When the displaced person does not move personal property, he shall be required to make a bona fide effort to sell it, and should be reimbursed for the reasonable costs incurred.

(a) When the business or farm operation is discontinued, the displaced person is entitled to the difference between the fair market value of the personal property for continued use at its location prior to displacement and the sale proceeds, or the estimated cost of moving 50 miles, whichever is less.

(b) When the personal property is abandoned, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement, or the estimated cost of moving 50 miles, whichever is less.

(c) The cost of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

§ 128–18.5004 Payments in lieu of moving and related expenses.

§ 128–18.5004–30 Scope of section.

The provisions set forth in this subsection are to guide bureaus in implementing section 202 (b) and (c) of the Act.

§ 128–18.5004–31 Dwellings — schedules.

(a) Section 202(b) provides that at the option of the displaced person, he may receive a moving expense allowance not to exceed $300, based on schedules established by the bureau head, and a dislocation allowance of $200. Moving allowance schedules maintained by the respective State highway departments shall be the basis for the bureau's schedule. These schedules shall provide for adequacy of reimbursement in every locality.

(b) Where there are no highway department schedules, the head of the bureau undertaking or providing Federal financial assistance to a project causing displacement in such areas shall cooperate in the development of a single moving expense schedule for the use of all displacing agencies.

(c) A displaced person who elects to receive a payment based on a schedule shall be paid under the schedule used in the jurisdiction in which displacement occurs regardless of where he relocates.

§ 128–18.5004–32 Business.

(a) *Eligibility.* A person displaced from his business as defined in section 101(7) (A), (B), and (C) of the Act, is eligible under section 202(c) of the Act to receive a fixed payment in lieu of moving and related expenses. Care must be exercised in each instance, however, to assure that such payments are made only in connection with a bona fide business, as defined in § 128–18.5001–2(j).

(b) A payment in lieu of actual reasonable moving expenses may be made under section 202(c) to the displaced owner of a business only if the local agency determines that, during the two taxable years prior to displacement, or during such other period as the head of the Federal agency determines to be more equitable, the business:

(1) Had average annual gross receipts of at least $2,000 in value; or

(2) Had average annual net earnings of at least $1,000 in value; or

(3) Contributed at least 33⅓ percent of the average gross annual income of the owner(s), including income from all sources, such as welfare.

If the application of the above criteria obviously creates an inequity in a given case, the head of the bureau may approve the use of other criteria as determined appropriate.

(c) Those businesses described in section 101(7)(d) of the Act are not eligible under section 202(c) for a payment in lieu of moving and related expenses.

(d) Where a displaced person is displaced from his place of business, no payment shall be made under section 202(c) of the Act until the head of the displacing bureau determines that the business is not part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business, and that the business cannot be relocated without a substantial loss of existing patronage. The determination of loss of existing patronage shall be made by the displacing bureau only after consideration of all pertinent circumstances, including but not limited to, the following factors:

(1) The type of business conducted by the displaced concern; or

(2) The nature of the clientele of the displaced concern; or

(3) The relative importance of the present and proposed location to the displaced business and the availability of a suitable replacement location for the displaced person.

§ 128–18.5004–33 Farms.

Where a displaced person is displaced from only a part of his farm operation the fixed payment provided by section 202(c) of the Act shall be made only if the displacing bureau determines that the farm met the definition of a farm operation prior to the acquisition and that the property remaining after the acquisition can no longer meet the definition of a farm operation.

(a) *Eligibility.* A payment in lieu of actual reasonable moving expenses may be made to the displaced owner of a farm operation according to the criteria established for displaced owners of businesses (See 128–18.5044 32(b)). Such a payment may be made to the displaced operator of a farm operation only if the acquiring agency determines that the farm operator has discontinued his entire farm operation at the present location or has relocated the entire farm operation.

(b) *Partial taking.* In the case of a partial taking, the operator will be considered to have been displaced from a farm operation if:

(1) The part taken met the definition of a farm operation prior to the taking; or

(2) The taking caused the operator to be displaced from the farm operation on the remaining land; or

(3) The taking caused such a substantial change in the nature of the existing farm operation as to constitute a displacement.

If the use of the above criteria obviously creates an inequity in a given case, the head of the bureau may approve the use of other criteria as determined appropriate.

§ 128–18.5004–34 Nonprofit organizations.

Where a nonprofit organization is displaced, no payment shall be made under section 202(c) of the Act until after the head of the bureau determines:

(a) That the nonprofit organization cannot be relocated without a substantial loss of its existing patronage. The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community, or clientele served or affected by the activities of the nonprofit organization.

(b) That the nonprofit organization is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

§ 128–18.5004–35 Net earnings.

The term "average annual net earnings" as used in section 202(c) of the Act means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for a project, or during such other period as the head of the displacing bureau determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. If a business or farm operation has not net earnings, or has suffered losses during the period used to compute "average annual net earnings," it may nevertheless receive the $2,500 minimum payment authorized by section 202(c) of the Act.

§ 128–18.5004–36 Amount of business fixed payment.

The fixed payment to a person displaced from a farm operation or from his place of business, including nonprofit organizations, shall be in an amount

equal to the average annual net earnings of the business or farm operation except that such payment shall not be less than $2,500 nor more than $10,000.

§ 128–18.5005 Replacement housing payments for homeowners.

§ 128–18.5005–40 Scope of section.

The provisions set forth in this subsection are to guide bureaus in implementing section 203(a) of the Act.

§ 128–18.5005–41 Eligibility.

(a) A displaced owner-occupant is eligible for a replacement housing payment authorized by section 203(a) of the Act, not to exceed $15,000, if he meets both of the following requirements:

(1) Actually owned and occupied the acquired dwelling from which displaced for not less than 180 days prior to the initiation of negotiations for the property, or owned and occupied the property, covered or qualified under section 217 of the Act for not less than 180 days prior to displacement.

(2) Purchases and occupies a replacement dwelling, which is decent, safe, and sanitary, not later than the end of the 1-year period beginning on the date on which he receives from the displacing bureau the final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(b) A displaced owner-occupant of a dwelling who is determined to be ineligible under this subsection may be eligible for a replacement housing payment under Section 128–18.5006 of these regulations.

§ 128–18.5005–42 Comparable replacement dwelling.

For the purposes of rendering relocation assistance by making referrals for replacement housing and for computation of the replacement housing payment, a comparable replacement dwelling is one which is decent, safe, and sanitary and is:

(a) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing.

(b) Adequate in size to meet the needs of the displaced family or individual. However, at the option of the displaced person, a replacement dwelling may exceed his needs when the replacement dwelling has the same number of rooms or the equivalent square footage as the dwelling from which he was displaced.

(c) Open to all persons regardless of race, color, religion, sex, or national origins, consistent with the requirement of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968.

(d) Located in an area not generally less desirable than the one in which the acquired dwelling is located, with respect to:

(1) Neighborhood conditions, including but not limited to municipal services and other environmental factors;

(2) Public utilities; and

(3) Public and commercial facilities.

(e) Reasonably accessible to the displaced person's place of employment or potential place of employment.

(f) Within the finanical means of the displaced family or individual.

(g) Available on the market to the displaced person.

If housing meeting the requirements of this section is not available on the market, the bureau head may, upon a proper finding of the need therefor, consider available housing exceeding these basic criteria.

§ 128–18.5005–43 Computation of replacement housing payment.

The replacement housing payment of not more than $15,000 comprises the following:

(a) *Differential payment for replacement housing.* The bureau head may determine the amount which, if any, when added to the acquisition cost of the dwelling acquired by the displacing bureau, is necessary to purchase a comparable replacement dwelling by either establishing a schedule or by using a comparative method. The relocatee is bound to the method selected for use by the displacing bureau.

(1) *Schedule method.* The bureau head may establish a schedule of reasonable acquisition costs for comparable replacement dwellings of the various types of dwellings to be acquired and available on the private market. The schedule shall be based on a current market analysis sufficient to support determinations of the amount for each type of dwelling to be acquired. When more than one Federal agency is causing displacement in a community or an area, the head of the bureau concerned shall coordinate the establishment of the schedule for replacement housing payments with such other agencies.

(2) *Comparative method.* Bureaus may determine the price of a comparable replacement dwelling by selecting a dwelling or dwellings that are most representative of the dwelling unit acquired, are available to the displaced person, and meet the definition of a comparable replacement dwelling. A single dwelling shall be used when additional comparable dwellings are not available.

(3) *Alternate method.* The bureau head may develop criteria for computing replacement housing payments when neither the schedule nor the comparative method is feasible. An alternate method proposed by a State agency is subject to prior concurrence of the bureau head.

(4) *Limitations.* The amount established as the differential payment for the replacement housing sets the upper limit of this payment.

(i) If the displaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the above, the comparable replacement housing payment shall be reduced to that amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(ii) If the displaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment shall be made.

(b) *Interest payment.* The bureau head shall determine the amount, if any, necessary to compensate a displaced person for any increased interest cost, including amounts paid by the purchaser. Such amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage, i.e., one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations. The following shall be considered in computing the interest payment:

(1) The payment shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the bona fide mortgage on the acquired dwelling, at a time of acquisition over the remaining term of the mortgage on the acquired dwelling, reduced to discounted present value.

(2) The discount rate shall be the prevailing interest rate paid on savings deposits by the commercial banks in the general area in which the replacement dwelling is located.

(3) All bona fide mortgages on the dwelling acquired by the displacing agency will be used to compute the increased interest cost portion of the replacement housing payment.

(4) The computation of the payment for increased interest costs will be based on the actual term of the new mortgage or the remaining term of the old mortgage, whichever is the lesser, and the computation will be based on the actual amount of the new mortgage or the amount of the old mortgage, whichever is the lesser.

(i) Seller's points are not to be included in the interest computation.

(ii) The actual interest rate of the new mortgage will be used in the computation.

(iii) Purchaser's points and/or loan origination fees will be added to the computed interest payment.

(5) However, the interest payment shall be based on the present value of the reasonable cost of the interest differential, including points paid by the purchaser, on the amount of the unpaid debt on the acquired dwelling for its remaining term.

(6) See Appendix 1, Format for Computation of Interest Payment.

(c) *Incidental expenses.*

(1) The bureau head shall determine the amount, if any, necessary to reimburse a displaced person for actual costs incurred by him incident to the purchase of the replacement dwelling (but not including prepaid expenses) such as:

(i) Legal, closing, and related costs including title search, preparation of conveyance instruments, notary fees, surveys, preparation of plats, and charges incident to recordation;

(ii) Lenders', FHA, or VA, appraisal fees;

(iii) FHA application fee;

(iv) Certification of structural soundness when required by lender, FHA, or VA;

(v) Credit report;

(vi) Title policies or abstracts of title;

(vii) Escrow agent's fee; and

(viii) State revenue stamps or sale or transfer taxes.

(2) No fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title 1, Public Law 90-321, and Regulation "Z" (12 CFR Part 226) issued pursuant thereto by the Board of Governors of the Federal Reserve System.

(d) *Case going through condemnation.* No property owner should be deprived of the earliest possible payment of the replacement housing amounts to which he is rightfully due. The following procedure shall be used on cases involving condemnation:

(1) An advance replacement housing payment can be computed and paid to a property owner if the determination of the acquisition price will be delayed pending the outcome of condemnation proceedings. The agency may make a provisional replacement housing payment to the displaced homeowner based on the agency's maximum offer for the property, providing the homeowner enters into an agreement with the agency that:

(i) Upon final determination of the condemnation proceedings, the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the actual price paid or the amount determined necessary to acquire a comparable, decent, safe, and sanitary dwelling; and

(ii) If the amount awarded in the condemnation proceedings as the fair market value of the property acquired plus the amount of the recomputed replacement housing payment exceeds the price paid for, or the acquiring agency's determined cost of a comparable dwelling, he will refund to the acquiring agency, an amount equal to the amount of the excess. However, in no event shall he be required to refund more than the amount of the replacement housing payment advanced.

(2) If the property owner does not agree to such adjustment, the replacement housing payment shall be deferred until the case is finally adjudicated and computed on the basis of the final determination, using the award as the acquisition price.

§ 128–18.5005–44 Mortgage insurance.

The head of any Federal agency administering Federal mortgage insurance programs may, upon application by a mortgagee, insure any mortgage (including advances during construction) on a comparable replacement dwelling executed by a displaced person assisted under this section, if the mortgage is eligible for insurance under any Federal law administered by the agency notwithstanding any requirements under the law relating to age, physical condition, or other personal characteristics of eligible mortgagors and may make commitments for the insurance of the mortgage prior to the date of execution of the mortgage.

§ 128–18.5006 Replacement housing payments for tenants and certain others.

§ 128–18.5006–50 Scope of section.

The provisions set forth in this subsection are to guide bureaus in implementing section 204 of the Act.

REQUIRED INFORMATION

1. Outstanding balance of mortgage on acquired dwelling	$_____
2. Outstanding balance of mortgage on replacement dwelling	$_____
3. Lesser of Line 1 or Line 2	$_____
4. Number of months remaining until last payment is due for mortgage on acquired dwelling	_____
5. Number of months remaining until last payment is due for mortgage on replacement dwelling	_____
6. Lesser of Line 4 or Line 5	_____
7. Annual interest rate of mortgage on acquired dwelling	_____%
8. Annual interest rate of mortgage on replacement dwelling (or, if it is lower, the prevailing annual interest rate currently charged by mortgage lending institutions in the general area in which the replacement dwelling is located)	_____%
9. Prevailing annual interest rate paid on standard passbook savings accounts by commercial banks	_____%
10. If applicable, any debt service costs on the loan on the replacement dwelling, such as points paid by the purchaser which are not reimbursable as an incidental expense	$_____

DEVELOPMENT OF MONTHLY PAYMENT FIGURES

A. Monthly payment required to amortize a loan of $_____ (Line 3) in _____ (Line 6) months at an annual interest rate of _____% (Line 7)	$_____
B. Monthly payment required to amortize a loan of $_____ (Line 3) in _____ (Line 6) months at an annual interest rate of _____% (Line 8)	$_____
C. Monthly payment required to amortize a loan of $_____ (Line 3) in _____ (Line 6) months at an annual interest rate of _____% (Line 9)	$_____

CALCULATION OF INTEREST PAYMENT

Step 1 Subtract A from B:	
Monthly payment based on rate for replacement dwelling (B)	$_____
Monthly payment based on rate for acquired dwelling (A)	−$_____
Result (difference)	$_____
Step 2 Divide result (difference) of Step 1 by C (carry to 6 decimal places):	
Result (difference) from Step 1	$_____
Monthly payment based on savings rate (C)	÷$_____
Result (quotient)	$_____
Step 3 Multiply outstanding balance of mortgage on acquired dwelling by result (Quotient) of Step 2:	
Outstanding Balance (from Line 3)	$_____
Result (quotient) of Step 2	×$_____
Result (product)	$_____
Step 4 Add to result (product) of Step 3 any debt service costs on the loan on the replacement dwelling:	
Result (product) of Step 3, first mortgage	$_____
*Result (product) of Step 3, second mortgage	$_____
*Sum or difference, as applicable	$_____
Add debt service costs on loan on replacement dwelling (Line 10)	$_____
Amount of interest payment	$_____

*If there is more than one outstanding mortgage on an acquired dwelling, the discounted value of each mortgage must be determined. To do this, a separate computation is made to each mortgage through Step 3. A consolidated Step 4 is then completed.

§ 128–18.5006–51 Eligibility.

(a) A displaced tenant or owner-occupant of a dwelling for less than 180 days is eligible for a replacement housing payment not to exceed $4,000, as authorized by section 204 of the Act, if he meets both of the following requirements.

(1) Actually occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of the property or actually occupied the property covered or qualified under section 217 of the Act for not less than 90 days prior to displacement. Tenants and other persons occupying the property shall be advised when negotiations for the property are initiated with the owner thereof.

(2) Is not eligible to receive a payment under section 203 of the Act.

(b) An owner-occupant of a dwelling for not less than 180 days prior to the initiation of negotiations is eligible for a replacement housing payment as a ten-

ant, as authorized by section 204 of the Act when he rents a decent, safe, and sanitary replacement dwelling not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency final payment for all costs for the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

§ 128–18.5006–52 Computation of replacement housing payment for displaced tenants.

A displaced tenant is eligible for a rental replacement housing payment; or, if he purchases replacement housing within 1 year from displacement, he is eligible for a downpayment including expenses incidental to closing not to exceed $4,000.

(a) *Rental replacement housing payment.* The bureau head shall determine the amount necessary to rent a comparable replacement dwelling by either establishing a schedule or by using a comparative method.

(1) *Schedule method.* A rental schedule may be established for renting comparable replacement dwellings as described in § 128–18.5005–42 and which are available on the private market for the various types of dwellings to be acquired. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years (the average monthly cost from the schedule) and substracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations if such rent was reasonable. The bureau head may prescribe circumstances which may dictate the use of economic rather than actual rent paid by the displaced tenant. For purposes of the regulations in this part, "economic rent" is defined as the amount of rent the displaced tenant would have had to pay for a comparable dwelling unit in an area similar to the neighborhood in which the dwelling unit to be acquired is located. The schedule shall be based on a current analysis of the market to determine an amount for each type of dwelling required. When more than one Federal agency is causing the displacement in a community or an area the bureau shall cooperate with the respective agencies in choosing the method for computing the replacement housing payment and shall use uniform schedules of average rental housing in the community or area.

(2) *Comparative method.* The average month's rent may be determined by selecting one or more dwellings most representative of the dwelling unit acquired, which is available to the displaced person and meets the definition of a comparable replacement dwelling as described in § 128–18.5005–42. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations, if such rent was reasonable. The bureau head may prescribe circumstances which may dictate the use of economic rather than actual rent paid by the displaced tenant.

(3) *Exceptions.* The bureau head may establish the average month's rent paid by the displaced person by using more than 3 months, if he deems it advisable. If rent is being paid to the displacing agency, economic rent shall be paid in determining the amount of the payment to which the displaced tenant is entitled.

(4) *Alternate to paragraph (a) (1) and (2) of this section. When neither* method is feasible, the head of the bureau shall develop criteria for computing the payment.

(5) *Limitation.* The amount of the rental replacement housing payment shall be computed by subtracting the economic rent of the acquired dwelling from the lesser of:

(i) The amount of rent actually paid for the replacement dwelling; or

(ii) The amount determined by the displacing agency as necessary to rent a comparable replacement dwelling.

(6) *Disbursement of rental replacement housing payment.* The head of the Federal agency shall develop procedures to implement section 204 to provide, within the $4,000 and four-year limitations of that section, a rental replacement housing payment that will enable the displacee to rent comparable, decent, safe, and sanitary housing. The amount of the rental payment under section 204 (1) shall be determined and paid in a lump sum, except it shall be paid in installments if the displaced person so requests.

(b) *Purchases—replacement housing payment.* If the tenant elects to purchase instead of renting, the payment shall be computed by determining the amount necessary to enable him to make a down payment and to cover incidental expenses on the purchase of replacement housing, as follows:

(1) The amount of the down payment shall be the lesser of:

(i) The amount that would be required as a downpayment for financing a conventional loan on a comparable dwelling; or

(ii) The amount required as a downpayment for financing a conventional loan on the replacement dwelling actually purchased.

The amount determined shall be added to the amount required to be paid by the purchaser as points and/or origination or loan services fee if such fees are normal to real estate transactions in the area on the comparable dwelling or the replacement dwelling, whichever is the lesser.

(2) Incidental expenses of closing the transaction are those as described in § 128–18.5005–43(c).

(3) The maximum payment may not exceed $4,000 except that if more than $2,000 is required, the tenant must match any amount in excess of $2,000 by an equal amount in making the downpayment.

(4) The full amount of the replacement housing payment must be applied to the purchase price and incidental costs shown on the closing statement.

§ 128–18.5006–53 Computation of replacement housing payments for certain others.

(a) A displaced owner-occupant who does not qualify for a replacement housing payment under subsection E of this section because of the 180-day occupancy requirements and who elects to rent is eligible for a rental replacement housing payment not to exceed $4,000. The payment shall be computed in the same manner as shown in § 128–18.5006–52(a) except that the present rental rate for the acquired dwelling shall be economic rent as determined by market data.

(b) A displaced owner-occupant who does not qualify for a replacement housing payment under subsection E of this section because of the 180-day occupancy requirement and elects to purchase a replacement dwelling is eligible for a replacement housing downpayment and closing costs not to exceed $4,000. The payment shall be computed in the same manner as shown in § 128–18.5006–52(b).

§ 128–18.5007 Relocation assistance advisory services.

§ 128–18.5007–60 Relocation assistance advisory program.

(a) The bureau shall provide a relocation assistance advisory program including such measures, facilities, or services as may be necessary or appropriate to perform all of the tasks detailed in section 205(c) of the Act for persons displaced as a result of a program or project undertaken by the bureau.

(b) If the bureau head determines that any person, occupying property immediately adjacent to the real property acquired, is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under section 205(c) of the Act.

(c) The State agency shall provide the advisory program when bureau assisted projects are involved.

§ 128–18.5007–61 Coordination of planned relocation activities.

(a) *Federal coordination.* When two or more Federal agencies contemplate displacement activities in a given community or area, the heads of the respective bureaus responsible for the planned activities shall require that appropriate channels of communication be established between the agencies for the purpose of planning relocation activities and coordinating available housing resources. The bureau involved shall consult with the appropriate Housing and Urban Development Regional/Area Office within the jurisdictional area concerning the availability of housing. Appendix 2, HUD Field Office Jurisdictions, is a directory of regional offices, which will be maintained on a current basis by the Department of Housing and Urban Development. Subsequent updated directories will be furnished to bureaus

upon request. The bureaus causing the displacement shall designate at least one representative who will meet perodically with the representatives of other agencies to review the impact of their respective programs on the community or area.

(b) *Local coordination.* To further insure maximum coordination of relocation activities in a given community or area, each Federal agency's regulations shall require that the displacing bureau consult appropriate local officials before approving any proposed project in the community, consistent with the requirements of the procedures promulgated by the Office of Management and Budget Circular A–95 (Revised). That circular provides a central point for identifying local officials.

APPENDIX 2

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FIELD OFFICE JURISDICTIONS

OCTOBER 15, 1973

REGION I

Regional Administrator
James J. Barry
Rm 800, John F. Kennedy Federal Building
Boston, Massachusetts 02203
Tel. (617) 223-4066

AREA OFFICES

CONNECTICUT, HARTFORD 06103
999 Asylum Avenue
Tel. (203) 244-3638
AREA DIRECTOR Lawrence L. Thompson

MASSACHUSETTS, BOSTON 02114
Bulfinch Building
15 New Chardon Street
Tel. (617) 223-4111
AREA DIRECTOR M. Daniel Richardson, Jr.

NEW HAMPSHIRE, MANCHESTER 03101
Davison Building
1230 Elm Street
Tel. (603) 669-7681
AREA DIRECTOR - Creeley S. Buchanan

INSURING OFFICES

MAINE, BANGOR 04401
Federal Building and Post Office
202 Harlow Street
Post Office Box 1357
FTS Tel. (207) 942-8271
Commercial Number: 942-8271
DIRECTOR - Wayne M. Johnson

RHODE ISLAND, PROVIDENCE 02903
330 Post Office Annex
Tel. (401) 528-4351
DIRECTOR - Charles J. McCabe

VERMONT, BURLINGTON 05401
Federal Building
Elmwood Avenue
Post Office Box 989
FTS Tel. (802) 862-6274
Commercial Number: 862-6501
DIRECTOR - Leslie E. Snow

REGION II

Regional Administrator
S. William Green
26 Federal Plaza, Room 3541
New York, New York 10007
Tel. (212) 264-8068

AREA OFFICES

NEW JERSEY, CAMDEN 08103
The Parkade Building
519 Federal Street
FTS Tel. (609) 963-2301
Commercial Number: 963-2541
AREA DIRECTOR - Philip G. Sadler

NEW JERSEY, NEWARK 07102
Gateway 1 Building
Raymond Plaza
Tel. (201) 645-3010
AREA DIRECTOR - James P. Sweeney

NEW YORK, BUFFALO 14202
Grant Building
560 Main Street
Tel. (716) 842-3510
AREA DIRECTOR - Frank D. Cerabone

NEW YORK, NEW YORK 10007
120 Church Street
Tel. (212) 264-2870
AREA DIRECTOR -
Joseph D. Monticciolo (Acting)

COMMONWEALTH AREA OFFICE

PUERTO RICO, SAN JUAN 00936
255 Ponce de Leon Avenue
Hato Rey, Puerto Rico
Mailing Address:
G Post Office Box 3869
San Juan, Puerto Rico
FTS Tel. (Dial 202-967-1221 ask operator for 6220201; from Washington, D.C. - dial Code 106 - ask operator for 622-0201)
Commercial Number: 809-765-0404
AREA ADMINISTRATOR
Jose E. Febres Silva (Acting)

INSURING OFFICES

NEW YORK, ALBANY 12206
Westgate North
30 Russell Road
Tel. (518) 472-3567
DIRECTOR - Robert J. Wolf (Acting)

NEW YORK, HEMPSTEAD 11550
175 Fulton Avenue
Tel. (516) 485-5000
DIRECTOR - Michael Lean (Acting)

REGION III

Regional Administrator
Theodore R. Robb
Curtis Building
6th and Walnut Streets
Philadelphia, Pennsylvania 19106
Tel. (215) 597-2560

AREA OFFICES

DISTRICT OF COLUMBIA, WASHINGTON 20009
Universal North Building
1875 Connecticut Ave. N.W.
Tel. (202) 382-4855
AREA DIRECTOR - Harry W. Steller (Acting)

MARYLAND, BALTIMORE 21201
Two Hopkins Plaza
Mercantile Bank and Trust Building
Tel. (301) 962-2121
AREA DIRECTOR - Allen T. Clapp

PENNSYLVANIA, PHILADELPHIA 19106
Curtis Building
625 Walnut Street
Tel. (215) 597-2665
AREA DIRECTOR - Joseph A. LaSala (Acting)

PENNSYLVANIA, PITTSBURGH 15212
Two Allegheny Center
Tel. (412) 644-2802
AREA DIRECTOR - Charles J. Liebérth

VIRGINIA, RICHMOND 23219
701 East Franklin Street
Tel. (804) 782-2721
AREA DIRECTOR - Carroll A. Mason

INSURING OFFICES

DELAWARE, WILMINGTON 19801
Farmers Bank Building, 14th Floor
919 Market Street
FTS Tel. (302) 571-6330
DIRECTOR - Henry McC. Winchester, Jr.

WEST VIRGINIA, CHARLESTON 25330
New Federal Building
500 Quarrier Street
Post Office Box 2948
FTS Tel. (304) 343-1321
Commercial Number: 343-6181
DIRECTOR - H. William Rogers

SPECIAL RECOVERY OFFICE

SCRANTON, PENNSYLVANIA 18503
Lackawanna County Building
Spruce and Adams Avenue
Tel. 717-344-7393
DIRECTOR - James D. Corbin

HUD Field Office Jurisdictions
(Part 1 of 4)

APPENDIX 2

REGION IV

Regional Administrator
E. Lamar Seals
Peachtree-Seventh Building
50 Seventh Street, N.E.
Atlanta, Georgia 30323
Tel. (404) 526-5585

AREA OFFICES

ALABAMA, BIRMINGHAM 35233
Daniel Building
15 South 20th Street
Tel. (205) 325-3264
AREA DIRECTOR - Jon Will Pitts

FLORIDA, JACKSONVILLE 32204
Peninsular Plaza
661 Riverside Avenue
Tel. (904) 791-2626
AREA DIRECTOR - Forrest W. Howell

GEORGIA, ATLANTA 30303
Peachtree Center Building
230 Peachtree Street, N.W.
Tel. (404) 526-4576
AREA DIRECTOR -
William A. Hartman, Jr. (Acting)

KENTUCKY, LOUISVILLE 40201
Children's Hospital Foundation Bldg.
601 South Floyd Street
Post Office Box 1044
Tel. (502) 582-5251
AREA DIRECTOR - Virgil G. Kinnaird

MISSISSIPPI, JACKSON 39213
101-C Third Floor Jackson Mall
300 Woodrow Wilson Avenue, W.
FTS Tel. (601) 948-2267
Commercial Number: 366-2634
AREA DIRECTOR - James S. Roland

NORTH CAROLINA, GREENSBORO 27408
2309 West Cone Boulevard
Northwest Plaza
FTS Tel. (919) 275-9361
Commercial Number: 275-9111
AREA DIRECTOR - Richard B. Barnwell

SOUTH CAROLINA, COLUMBIA 29202
1801 Main Street
Jefferson Square
Tel. (803) 765-5591
AREA DIRECTOR - Clifton G. Brown

TENNESSEE, KNOXVILLE 37919
One Northshore Building
1111 Northshore Drive
FTS Tel. (615) 524-4561
Commercial Number: 584-8527
AREA DIRECTOR - Carroll G. Oakes

INSURING OFFICES

FLORIDA, CORAL GABLES 33134
3001 Ponce de Leon Boulevard
FTS Tel. (305) 350-6221
Commercial Number: 445-2561
DIRECTOR - Louis T. Baine (Acting)

FLORIDA, TAMPA 33609
4224-28 Henderson Boulevard
Post Office Box 18165
Tel. (813) 228-2501
DIRECTOR - K. Wayne Swiger

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ILLINOIS, SPRINGFIELD 62704
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MICHIGAN, GRAND RAPIDS 49506
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DIRECTOR - Alfred Raven

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Tel. (713) 226-4335
DIRECTOR - William A. Painter

TEXAS, LUBBOCK 79408
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1205 Texas Avenue
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Commercial Number: 747-3711
DIRECTOR - Don D. Earney

HUD Field Office
Jurisdictions
(Part 2 of 4)

REGION VII

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AREA OFFICES

KANSAS, KANSAS CITY 66101
Two Gateway Center
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Tel. (816) 374-4355
AREA DIRECTOR - William R. Southerland

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210 North 12th Street
Tel. (314) 622-4760
AREA DIRECTOR - Elmo O. Turner

NEBRASKA, OMAHA 68106
Univac Building
7100 West Center Road
Tel. (402) 221-9301
AREA DIRECTOR - Guy J. Birch

INSURING OFFICES

IOWA, DES MOINES 50309
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Room 259 Federal Building
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DIRECTOR - Jim Haff (Acting)

REGION VIII

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INSURING OFFICES

COLORADO, DENVER 80202
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DIRECTOR - L.C. Romney

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Commercial Number: 265-5550
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HUD Field Office Jurisdictions
(Part 3 of 4)

REGION IX

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Tel. (916) 449-3471
DIRECTOR - Richard D. Chamberlain

CALIFORNIA, SAN DIEGO 92112
110 West C Street
Post Office Box 2648
Tel. (714) 293-5310
DIRECTOR - Albert E. Johnson

CALIFORNIA, SANTA ANA 92701
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FTS Tel. (213) 836-2451
Commercial Number: (714) 836-2451
DIRECTOR - Robert L. Simpson

HAWAII, HONOLULU 96813
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AREA DIRECTOR - Russell H. Dawson

WASHINGTON, SEATTLE 98101
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1321 Second Avenue
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FTS Tel. (208) 342-2232
Commercial Number: 342-2711
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WASHINGTON, SPOKANE 99201
West 920 Riverside Avenue
Tel. (509) 456-4571
DIRECTOR - E. Daryl Mabee

HUD Field Office Jurisdictions
(Part 4 of 4)

§ 128–18.5007–62 Contracting for relocation services.

(a) *Contracting with central relocation agency.* The head of a bureau contemplating the initiation of displacement activities shall consider contracting with the central relocation agency in a community or area for carrying out its relocation activities and shall require specific performance standards for these services. The appropriate Housing and Urban Development Regional/Area Office shall provide information and assistance, on request from other Federal agencies, concerning these services.

(b) *Contracting with others.* When a centralized agency relocation agency is not available in the community or area, or if in the judgment of the bureau head the centralized agency does not have the capacity to provide the necessary services, within the time required by the bureau's program, the bureau head may contract with another public agency or a private contractor who can provide the necessary relocation services.

§ 128–18.5007–63 General contacts.

(a) *Veterans Administration (VA).* The Veterans Administration maintains a housing counseling service and a displaced person priority program for providing VA-owned housing to displaced persons. These services may be made available to persons displaced by Federal and federally assisted programs and the local VA Loan Guarantee Office should be contacted.

(b) *Small Business Administration.* The Small Business Administration provides technical and loan counseling services for small businesses. A displaced businessman should be advised of these services.

(c) *Department of Agriculture.* The Department of Agriculture provides many services through its direct action farmer assistance programs, activities in rural nonfarm communities, and also urban communities of under 10,000 population. Coordination with the Farmer's Home Administration, Department of Agriculture, is recommended when a farm operation is displaced.

(d) *Local governmental organizations.* Local governmental organizations and agencies may have rent supplement, public housing, or related relocation assistance programs which may be utilized to provide housing for the occupants displaced from a project. Local programs should be utilized where they exist.

Local nongovernmental associations may also be used in helping a displaced person. Local real estate boards, apartment owners associations, home builders associations, and other organizations may provide information and services that will help obtain comparable replacement housing for displaced persons and suitable replacement sites for displaced businesses. Also, many States have veterans' organizations which offer services to veterans. The availability of such State organizations should be ascertained and used.

§ 128–18.5008 Federally assisted programs.

§ 128–18.5008–70 Assurances.

(a) *Information.* The State agency shall provide the bureau with a statement assuring the bureau that the affected persons will be adequately informed of the benefits, policies, and procedures described in this part.

(b) *Inability to provide assurances.* The bureau shall not approve or authorize any action by a State agency which will result in the displacement of any person or the acquisition of any real property except in accordance with the following requirements:

(1) A State agency has provided satisfactory assurances as required by sections 210 and 305; or

(2) A State agency's assurances are accompanied by a statement in which it identifies any of the assurances required by section 305 which it is unable to provide, in whole or in part, under its laws. The statement should be supported by an opinion of the chief legal officer of the State agency or other appropriate legal officer. Federal agencies administering federally assisted programs may adopt procedures setting forth the conditions under which projects will be approved when State agencies cannot fully comply with section 305. In all cases there must be full compliance with all assurances required by section 210.

(c) *Compliance with sections 301 and 302.* A State agency, as part of the assurances required by section 305, shall provide a statement indicating the extent to which it can comply with the provisions of sections 301 and 302. If the State agency indicates that it is unable to comply fully with any of these policies, its statement shall be supported by an opinion of the chief legal officer of the State agency or other appropriate legal officer. State agencies should comply with sections 301 and 302 if, under State law, compliance is legally possible.

(d) *Monitoring assurances.* Bureau heads shall take continuing action to insure that State agencies are acting in accordance with the assurances they have provided.

§ 128–18.5008–71 Administration of relocation assistance programs.

(a) *Approval.* A State agency electing to contract for services pursuant to section 212 shall enter into a written contract consistent with the regulations of the bureau administering the project or program causing the displacement. The bureau head shall take affirmative action to assure that the contract is so administered as to provide uniform and effective relocation for all displaced persons, consistent with these regulations.

(b) *Contract for services by State agencies.* Contracts shall include, as a minimum, the following provisions:

(1) That payments and assistance shall be provided in accordance with these regulations as implemented by bureau procedures;

(2) That records required by bureau regulations shall be retained for a period of at least 3 years and shall be available for inspection by representatives of the bureau involved and the General Accounting Office;

(3) Clauses required by regulations implementing Title VI of the Civil Rights Act of 1964 (Public Law 88–353); and

(4) Any other provision approved by the bureau head administering the federally assisted program or project.

§ 128–18.5009 Annual report.

§ 128–18.5009–80 Preparation.

Each bureau shall prepare and submit an annual report on a fiscal year basis to the Assistant Attorney General for Administration on its activities with respect to the programs and policies established or authorized by the Act. This report shall consist of narrative comments and supporting statistical data and such information as may be required by the Assistant Attorney General for Administration. Bureaus shall furnish data separately for each Federal program and each federally assisted program, and a summary for the whole bureau. The data shall be provided by completing GSA Form 2997, Annual Report on Relocation and Real Property Acquisition Activities. Bureaus may obtain their initial supply of GSA Form 2997, "Annual Report on Relocation and Real Property Acquisition Activities," from General Services Administration (3FNDD), Union and Franklin Streets Annex, Building 11, Alexandria, Virginia 22314. Field offices should submit all future requirements to their Washington headquarters office.

§ 128–18.5009–81 Waiver of assurance of replacement housing.

The narrative portion of the report shall describe any situations or circumstances which required a waiver of assurance of replacement housing pursuant to subsection 205(c)(3) of the Act. For any waivers reported, submit the bureau's findings and the determination supporting waiver of the requirements of the subsection.

§ 128–18.5009–82 Submission to General Services Administration.

Each bureau shall submit seven copies of its annual report to the Assistant Attorney General for Administration by December 15 of each year in order to enable the Department to submit its complete report to the Administrator of the General Services Administration not later than December 30, of each year.

§ 128–18.5009–83 Maintenance of racial and ethnic data.

The elimination of the requirement to report racial and ethnic data in no way relieves the bureaus or their grantees of responsibility for maintaining racial and ethnic data on relocatees to the extent required by Title VI of the Civil Rights Act of 1964, other applicable Federal law, and Executive Order 11512. Form DJ–245, Table 1, Part II, may be used for this purpose.

§ 128–18.5010 Uniform real property acquisition policy.

§ 128–18.5010–90 Scope of section.

The provisions set forth in this subsection are to guide bureaus and State agencies in implementing Title III of the Act.

§ 128–18.5010–91 Acquisition procedures.

(a) *Just compensation.* Before initiation of negotiations for the acquisition of real property, the bureau head, or the head of the State agency with the concurrence of the bureau head, shall establish an amount which he believes to be just compensation therefor. In no event shall such amount be less than the bureau's approved appraisal of the fair market value of the property.

(b) *Initiation of negotiations.*

(1) *Statement to be furnished to the owner.* When negotiations for the acquisition of real property are initiated, the owner shall be provided with a written statement concerning the proposed acquisition. This statement shall include, as a minimum, the following:

(i) Identification of the real property and the estate or interest therein to be acquired, including the buildings, structures, and other improvements on the land as well as the fixtures considered to be a part of the real property; and

(ii) The amount of the estimated just compensation for the property to be acquired, as determined by the acquiring bureau or agency, and a statement of the basis therefor. In the case of a partial taking, damages, if any, to the remaining real property shall be separately stated.

(2) *Offer to purchase.* The bureau head shall make a prompt offer to purchase the property for the amount contained in the statement.

§ 128–18.5010–92 Appraisal standards.

For the purpose of promoting uniformity under section 301(3) of the Act, the head of each State agency acquiring real property shall, with the concurrence of the bureau head establish standards for appraisals used in real property acquisition, criteria for determining the qualifications of appraisers, and a system of review by qualified appraisers consistent with the current issue of the Uniform Appraisal Standards for Federal Land Acquisition published by the Interagency Land Acquisition Conference.

§ 128–18.5010–93 Notice to move.

Section 301(5) provides that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling or to move his business or farm operation without at least 90 days written notice from the head of the displacing agency of the date by which such move is required. This subsection applies only in those instances where actual displacement of persons, businesses, or farm operations occur.

§ 128–18.5010–94 Federally assisted programs.

The bureau head shall require that State agencies reimburse owners for necessary expenses as specified in sections 303 and 304 of the Act. The bureau head shall also require that all State agencies comply with the provisions of sections 301 and 302 of the Act if compliance is legally possible under State law.

§ 128–18.5010–95 Exclusion of payments for relocation costs and related items.

For real property acquisitions under Federal Law, contracts or options to purchase real property shall not incorporate provisions for making payments for relocation costs and related items in Title II of the Act. Appraisers shall not give consideration to or include in their real property appraisals any allowances for the benefits provided by Title II. In the event of condemnation with a declaration of taking, the estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under Title II of the Act.

§ 128–18.5011 Administrative review.

§ 128–18.5011–111 Scope of section.

The provisions set forth in this subsection are to guide bureaus and State agencies in providing administrative review of decisions made with respect to duties and responsibilities established under the Act.

§ 128–18.5011–112 Review procedure.

(a) Any person aggrieved by determination as to eligibility for a payment authorized by the Act, or the amount of a payment, may apply in writing for review by the bureau head, in the case of a direct Federal program or project. The bureau head shall:

(1) Give prompt consideration of all requests for administrative review; and

(2) Give prompt written notice to the claimant of any determination made in connection with his application for review, and include a full explanation concerning any amount claimed which has been disallowed; and

(3) Provide for prompt payment of any amounts which are determined to be due the claimant.

(b) In the case of a State program or project receiving Federal financial assistance, the bureau head shall require the State agency to provide for administrative review by the head of the State agency, which review shall be subject to the same requirements as set forth in paragraph (a) of this section.

[FR Doc.76–23789 Filed 8–13–76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 926]

TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Proposed Expenses, Rate of Assessment, and Carryover of Unexpended Funds

This notice invites written comments relative to the proposed Industry Committee expenses of $122,262 and an assessment rate of six cents ($0.06) per No. 38L grape lug of Tokay grapes, grown in San Joaquin County, California, to support committee activities during the 1976–77 season under Marketing Order No. 926. It is also proposed that unexpended assessment income from 1975–76 be added to the funds carried over as a committee reserve.

Consideration is being given to the following proposals submitted by the Industry Committee established under the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), as the agency to administer the provisions thereof. The agreement and order regulate the handling of fresh Tokay grapes grown in San Joaquin County, California, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposals are as follows:

(a) That expenses which are reasonable and likely to be incurred by the Industry Committee, during the period April 1, 1976, through March 31, 1977, will amount to $122,262.

(b) That there be fixed, at six cents ($0.06) per No. 38L grape lug (as specified in § 1387.11 of the Regulations of the California Department of Food and Agriculture) or equivalent quantity of Tokay grapes, the rate of assessment payable by each handler in accordance with § 926.46 of the marketing agreement and order.

(c) That unexpended assessment funds in excess of expenses incurred during the season ended March 31, 1976, and prior years be carried over as a reserve in accordance with § 926.47.

Terms used in the marketing agreement and this part shall, when used herein, have the same meaning as is given to the respective term in the marketing agreement and this part.

All persons who desire to submit written data, views, or agruments in connection with the proposals should file them, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112–A, Washington, D.C. 20250, not later than September 1, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: August 11, 1976.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.76–23848 Filed 8–13–76;8:45 am]

[7 CFR Part 981]

ALMONDS GROWN IN CALIFORNIA

Expenses of the Board and Rate of Assessment for the 1976–77 Crop Year

Notice is given of proposed expenses of the Almond Board of California and rate of assessment for the 1976–77 crop year. The proposal is pursuant to §§ 981.80 and

981.81 of the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981; 41 FR 26852, 27827). The amended marketing agreement and order regulate the handling of almonds grown in California, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposal is based on unanimous recommendation of the Almond Board of California. Proposed expenses of the Board for the 1976–77 marketing year, beginning July 1, 1976, total $5,684,300. The proposed rate of assessment is 2.15 cents per pound of almonds (kernel weight basis).

All persons who desire to submit written data, views, or arguments on this proposal should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, to be received no later than August 31, 1976. All written submissions made pursuant to this notice will be made available during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

§ 981.326 Expenses of the Board and rate of assessment for the 1976–77 crop year.

(a) *Expenses.* Expenses in the amount of $5,684,300 are reasonable and likely to be incurred by the Board during the crop year beginning July 1, 1976, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said crop year, payable by each handler in accordance with § 981.81, less any amount credited pursuant to § 981.41 but not to exceed 2 cents per pound of almonds (kernel weight basis), is fixed at 2.15 cents per pound of almonds (kernel weight basis).

Dated: August 11, 1976.

FLOYD F. HEDLUND,
Director,
Fruit and Vegetable Division.

[FR Doc.76-23821 Filed 8-13-76;8:45 am]

[7 CFR Part 991]

HOPS OF DOMESTIC PRODUCTION

Proposed Expenses of the Hop Administrative Committee and Rate of Assessment for the 1976–77 Marketing Year

Notice is given of proposed expenses of the Hop Administrative Committee, and rate of assessment, for the 1976–77 marketing year. The proposal is pursuant to §§ 991.55 and 991.56 of Order No. 991, as amended (7 CFR Part 991). The amended marketing order regulates the handling of hops of domestic production, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposal is based on the unanimous recommendation of the Hop Administrative Committee. Proposed expenses of the Committee for the 1976–77 marketing year, beginning August 1, 1976, total $183,582. The proposed rate of assessment is 0.3 cent per pound of salable hops handled by each handler during the 1976–77 marketing year.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, to be received not later than September 10, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27 (b)).

The proposal is as follows:

§ 991.311 Expenses of the Hop Administrative Committee and rate of assessment for the 1976–77 marketing year.

(a) *Expenses.* Expenses in the amount of $183,582 are reasonable and likely to be incurred by the Hop Administrative Committee during the marketing year beginning August 1, 1976, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said marketing year, payable by each handler in accordance with § 991.56, is fixed at 0.3 cent per pound of salable hops.

Dated: August 11, 1976.

FLOYD F. HEDLUNG,
Director,
Fruit and Vegetable Division.

[FR Doc.76-23847 Filed 8-13-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Consumer Affairs and Regulatory Functions

[24 CFR Part 1710]

[Docket No. R-76-412]

LAND SALES REGISTRATION

Statement of Record and Property Report

Notice is hereby given that the Secretary of Housing and Urban Development proposes to review the Regulations setting forth the requirements for the Statement of Record and Property Report.

The Interstate Land Sales Full Disclosure Act is intended to prevent fraud and misrepresentation in the sale of vacant lots in subdivisions marketed using means of transportation or communication in interstate commerce or with the use of the mails. This objective is achieved by the use of a printed disclosure document called a Property Report which is based on a detailed registration document called a Statement of Record.

These documents are required to be filed and reviewed by the Office of Interstate Land Sales Registration (OILSR). The Property Report must be delivered to all prospective purchasers before they sign a contract or agreement to buy.

Developers attempting to comply with the registration requirements of the Act rely on the format and detailed instructions contained in the regulations implementing the Act found at 24 CFR 1701 et seq.

The Office of Interstate Land Sales Registration is conducting a review to determine whether and how the regulations can be revised to achieve overall simplification without sacrificing any of the public benefits intended by the statute. Some of the questions the Office hopes to address are:

Can the existing exemption provisions be changed or better exemption provisions substituted which relieve developers from the registration requirements when registration seems unnecessary in the public interest or for the protection of land purchasers?

Can the Statement of Record be simplified by reducing duplication, eliminating superfluous documentation and simplifying language and cross-references, and how?

How can the Property Report be made more comprehensible to the average recipient?

Are the environmental disclosure requirements in the current regulations adequate?

What are the costs and benefits of the program generally and the costs and benefits of particular requirements of the program that you may be concerned with?

How helpful are the current financial statement requirements to a lot purchaser? Would some other approach be more helpful?

Is it appropriate for OILSR to accept State subdivision reports as meeting the Federal registration requirements, despite the loss of uniformity?

What changes could be made to the advertising guidelines to further their purpose of standardizing fair land promotion practices?

Constructive comments are sought on these and any other issues interested persons care to raise. The OILSR regulations can be found in Title 24 of the Code of Federal Regulations, Part 1700 et seq.

As a parallel project, the Department plans to seek input directly from the land buying public by use of a questionnaire in order to evaluate the current property report as a consumer tool. Developers registered with OILSR and using a Federal property report, are invited to participate in this effort as well by making available to the Department lists of people who were provided property reports during the last 90–120 days. These lists shall not be deemed to be "written comments" as described below. Interested parties should contact the Office of Interstate Land Sales Registration at 451 7th Street, S.W., Washington, D.C., 20410 or call (202) 755–8182 if they wish additional details.

The Department contemplates publishing the results of this review during the Fall of 1976 as proposed rulemaking

incorporating those suggestions considered beneficial.

Interested persons may participate in this rulemaking by submitting written data, views, or arguments to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C., 20410. Each person submitting a comment should include his name and address and refer to the document by the docket number indicated in the heading and give reasons for any recommendations. Comments received by September 15, 1976 will be considered before action is taken resulting in proposed revisions to current rules. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk at the address listed above.

(Sec. 7(d)), Department of Housing and Urban Development Act, 79 Stat. 670 (42 U.S.C. 3535(d)). 1419, 82 Stat. 598 (15 U.S.C. 1718); Secretary's delegation of authority published at 41 FR 19365).

Issued at Washington, D.C., August 4, 1976.

CONSTANCE B. NEWMAN,
Assistant Secretary for Consumer Affairs and Regulatory Functions.

[FR Doc.76-23851 Filed 8-13-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGD 74-191]

LAHAINA, ISLAND OF MAUI, HAWAII

Proposed Special Anchorage Area

The Coast Guard is considering amending the anchorage regulations by establishing a Special Anchorage Area off Lahaina, Island of Maui, Hawaii. The anchorage is needed to provide for the safety of pleasure craft anchoring in this vicinity. The anchorage has been requested by the State of Hawaii Department of Transportation. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments concerning the proposal to the Commander, Fourteenth Coast Guard District, 577 Ala Moana, Honolulu, Hawaii 96813. Each person submitting comments should include his name and address and organization, if any, identify the notice number (CGD 74-191), and give reasons for any recommended change in the proposal. Copies of all written comments will be available for examination by interested persons at the office of the Commander, Fourteenth Coast Guard District.

The Commander, Fourteenth Coast Guard District will forward all comments received before October 1, 1976, and his recommendation to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, who will evaluate all communications received and take final action on the proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that a new section 110.128a be added to Part 110 of Title 33 of the Code of Federal Regulations to read as follows:

§ 110.128a Lahaina, Island of Maui, Hawaii.

The water area of the Pacific Ocean, west of Lahaina, Hawaii enclosed by a line beginning at latitude 20°52'39" N., longitude 156°41'11" W.; thence to latitude 20°52'40" N., longitude 156°41'09" W.; thence to latitude 20°52'32" N., longitude 156°41'03" W., thence to latitude 20°52'31" N., longitude 156°41'04" W.; thence to the point of beginning.

(Sec. 1, 30 Stat. 98, as amended, sec. 6(g)(1)(B), 80 Stat. 937; 33 U.S.C. 180, 49 U.S.C. 1655(g)(1)(B), 49 CFR 1.46(c)(2).)

Dated: August 11, 1976.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.76-23839 Filed 8-13-76;8:45 am]

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 76-WE-14-AD]

MCDONNELL DOUGLAS DC-9 SERIES AIRPLANES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to McDonnell Douglas DC-9, Series 10 and Series 30 airplanes. Two operators have found fatigue cracks in the lower center of the emergency exist doorjamb in the aft pressure bulkhead on airplanes without the aft ventral stair. In one case, the crack had severed the doorjamb and continued down through the bulkhead web for a total of 17 inches. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require inspections, rework, and repair of the aft pressure bulkhead on McDonnell Douglas DC-9, Series 10 and Series 30 airplanes without ventral stairs.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the airworthiness docket number and be submitted in duplicate to the Federal Aviation Administration, Regional Counsel, AWE-7, Attention: Airworthiness Rules Docket, P.O. Box 92007, World Way Postal Center, Los Angeles, CA 90009. All communications received by September 15, 1976 will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available both before and after the closing date for comments in the Airworthiness Rules Docket for examination by interested persons.

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

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

MCDONNELL, DOUGLAS. Applies to McDonnell Douglas Model DC-9, Series 10 and Series 30 airplanes, certificated in all categories, which are not equipped with the aft ventral stairway.

Compliance required as indicated.

To detect possible fatigue cracks and prevent failure of the aft pressure bulkhead, accomplish the following:

(a) Within 500 landings after the effective date of this AD for aircraft having in excess of 30,000 landings, or within 800 landings after the effective date of this AD for aircraft having between 15,000 and 30,000 landings, unless already accomplished, perform a visual inspection for cracks in the aft pressure bulkhead emergency exit doorjamb and bulkhead skin in accordance with McDonnell Douglas TWX DC-9-COM-01 dated January 10, 1976, or Figure 1 of McDonnell Douglas DC-9 Service Bulletin 53-127 dated May 25, 1976 or later FAA-approved revision.

(b) If no cracks are found during the inspection required by paragraph (a):

(1) At intervals not to exceed 1000 landings since the last inspection, and until the modification of paragraph (b)(3) is accomplished, repeat the visual inspections required by paragraph (a); or

(2) Within the next 1000 landings after completing the inspection, and thereafter at intervals not to exceed 4000 landings until the modification of paragraph (b)(3) is accomplished, perform an X-ray inspection for cracks in accordance with Figure 1 of Service Bulletin 53-127 dated May 25 1976, or later FAA-approved revisions, or an equivalent inspection procedure approved by the Chief, Aircraft Engineering Division, FAA Western Region; or

(3) Within the next 1000 landings after a visual inspection or 4000 landings after an X-ray inspection, accomplish the modification shown for Condition 1 on Figure 2 of McDonnell Douglas DC-9 Service Bulletin 53-127 dated May 25, 1976 or later FAA-approved revision, or in accordance with an equivalent rework approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(c) If cracks are found during the initial inspection required by paragraph (a) or the repetitive inspections required by paragraph (b) that are limited to the emergency exit doorjamb, repair before further flight as shown for Condition 2 in Service Bulletin 53-127 dated May 25, 1976 or later FAA-approved revision, or an equivalent repair approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) If cracks are found during the initial inspection required by paragraph (a) or the repetitive inspections required by paragraph (b) that extend through the emergency exit doorjamb and into the pressure bulkhead skin, repair before further flight as shown for Condition 3 in Service Bulletin 53-127 dated May 25 1976 or later FAA-approved revision, or an equivalent repair approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(e) The repetitive inspections required by paragraphs (b)(1) or (b)(2) may be discontinued provided a repair or a modification per paragraph (b)(3), (c), or (d) is accomplished.

(f) The airplane may be flown unpressurized in accordance with FAR 21.197 to a base where the crack repair can be performed.

(g) For the purpose of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hours time in service by the operator's fleet average time from takeoff to landing for the DC-9 airplane.

Issued in Los Angeles, California, on August 5, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76-23611 Filed 8-13-76;8:45 am]

[14 CFR Part 71]

[Airpace Docket No. 76-EA-51]

VOR FEDERAL AIRWAYS

Proposed Extension

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would: (1) extend V-170 from Modena, Pa., via New Castle, Del., and the INT of New Castle 222° and Andrews, Md., 060° radials, to the INT of Andrews 060° and Baltimore, Md., 165° radials; (2) extend V-312 from Woodstown, N.J., via the INT of Woodstown 230° and Andrews, Md., 060° radials to the INT of Andrews 060° and Baltimore, Md., 165° radials.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before September 15, 1976, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be change in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-230, 800 Independence Avenue, S.W., Washington, D.C. 20591.

The proposed amendment would:

(1) Extend V-170 from Modena, Pa., via New Castle, Del., and the INT of New Castle 222° T (231° M) and Andrews, Md., 060° T (067° M) radials; to the INT of Andrews 060° T (067° M) and Baltimore, Md. 165° T (173° M) radials;

(2) Extend V-312 from Woodstown, N.J., via the INT of Woodstown 230° T (240° M) and Andrews, Md., 060° T (067° M) radials to the INT of the Andrews 060° T (067° M) and Baltimore, Md., 165° T (173° M) radials.

The proposed routes would help to expedite the Andrews Air Force Base departures to the north and reduce communication requirements.

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

Issued in Washington, D.C., on August 6, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-23609 Filed 8-13-76;8:45 am]

[14 CFR Parts 71 and 73]

[Airspace Docket No. 75-WA-21]

ALTERATION OF RESTRICTED AREAS

Extension of Comment Period

On March 5, 1976, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (41 FR 9558) stating the Federal Aviation Administration (FAA) was considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would alter, redefine and designate certain restricted areas in the vicinity of Tonopah, Nev. In accordance with the terms of the notice, the time for public comment was to expire on June 2, 1976.

Because of a subsequent corrective reprint in the FEDERAL REGISTER (41 FR 10448) it is felt that the airspace users in the affected areas were not given ample opportunity to comment on the proposal prior to the comment period closing date. For this reason, the comment period is hereby extended to October 1, 1976. All comments received before this date will be considered before final rule making is taken on the proposal.

Issued in Washington, D.C., on August 6, 1976.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-23610 Filed 8-13-76;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 300]

[Docket 29626; PDR-41]

RULES OF CONDUCT IN BOARD PROCEEDINGS

Proposed Rulemaking

This notice proposes to adopt as a permanent final rule the revision of 14 CFR Part 300, *Rules of Conduct in Board Proceedings*, issued today as an interim regulation (*See FR Doc. 76-23840*).

By PR-154, published in this issue of the FEDERAL REGISTER, the Board has issued a revision of Part 300 on an interim basis. A detailed discussion of the provisions of the regulation is contained in the preamble of that notice. Because Part 300 affects the rights of persons dealing with the Board, and public comment will be valuable in deciding on the final content of the rule, it is presented by this notice as a proposal on which the public is invited to comment. The Board's experience under the interim regulation will also be relevant to its decision on a final rule.

This revision of 14 CFR Part 300 is proposed under the authority of section 204 of the Federal Aviation Act of 1958, 72 Stat. 731, 49 U.S.C. 1324.

Interested persons may participate in the proposed rulemaking through submission of twenty (20) copies of written data, views, or arguments addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before December 29, 1976, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be avaibale for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., upon receipt.

Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding may do so through submission of comments in letter form to the Docket Section at the above address, without the necessity of filing additional copies.

By the Civil Aeronautics Board:

Dated: August 10, 1976.

PHYLLIS T. KAYLOR,
Secretary.

Sec.

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300.14 Temporary disqualification of former Board Members and employees in matters formerly under their official responsibility.
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300.20 Violations.

AUTHORITY: Sec. 204, of the Federal Aviation Act of 1958, as amended, 72 Stat. 731, 49 U.S.C. 1324.

§ 300.0 Applicability.

The rules of conduct set forth in this part shall govern the conduct of parties and their representatives, and the relationships between the members of the Board, Board employees, and all other persons in all Board matters, except as otherwise provided in this or any other Board regulation. For purposes of this part, the terms "Board employee(s)" shall refer to all persons employed by the Board, including Board Members, personal staff of Members, regular employees, special Government employees, consultants or experts under contract with the Board, and administrative law judges.

§ 300.1 Judicial standards of practice.

The Board is a quasi-judicial agency and as such certain of its functions are similar to those of a court, and parties to cases before the Board and those who represent such parties are expected—in fact and in appearance—to conduct themselves with honor and dignity as they would before a court. By the same token, the Members of the Board and Board employees who may be making recommendations to the Board Members or advising them are expected to conduct themselves with the same fidelity to appropriate standards of propriety that characterize a court and its staff. The standing and effectiveness of the Board are in direct relation to the observance by the Board, Board employees, and the parties and attorneys appearing before the Board of the highest standards of judicial and professional ethics. The rules of conduct set forth in this part are to be interpreted in light of those standards.

§ 300.2 Prohibited communications.

(a) This section applies to all matters initiated by an application, petition, motion, request, complaint, or other document to which a response by any person is authorized by statute or by Board regulation or order, except that this section shall not apply to responses to communications initiated by Board Members or employees made for the purpose of obtaining additional data or clarification of filed data in the following:

(1) Nonhearing rulemaking matters;

(2) Tariff filings, whether or not a complaint is filed, unless and until the Board orders the tariff investigated (with or without suspension).

(3) Contested nonhearing matters to be decided within 30 days following receipt of the document initiating such matter;

(4) Uncontested nonhearing matters other than nonhearing rulemaking matters; and

(5) Any matter (not involving a hearing where an employee presides at the reception of evidence) where in the Board's opinion emergency conditions exist and the rule prohibiting communications prevents the Board from obtaining needed information in a timely manner and the Board directs Board employees to obtain such information.

For purposes of this part, a matter is uncontested up to the time an identifiable and detailed written opposition to the initiating document is filed or received, whether or not such opposition technically complies with the Board's Rules of Practice. Nonhearing matters (including nonhearing rulemaking matters) are those matters which (i) are not required by statute to be determined after notice and hearing, and (ii) as to which the Board has not issued an order giving interested persons the opportunity to participate by submission of written data, views, or argument, in writing or orally, with or without provision for a hearing at which an employee presides at the reception of evidence.

(b) In a matter subject to this section, from the time of the filing of the initial document, the filing or receipt of an identifiable and detailed written opposition, or issuance of a relevant Board order, as the case may be, a written or oral communication by any person not affiliated with the Board as a Board employee on any substantive or procedural issue in a matter to any Member of the Board or Board employee, other than in compliance with the Board's rules of practice, shall be deemed a private communication on the merits and as such is hereby prohibited unless otherwise provided for by law or published rule.

(c) The prohibition of paragraph (b) of this section shall not be deemed to apply to informal complaints filed with the Board, or to information provided in the course of an investigation to determine whether a complaint shall be docketed, or to the usual informal communications between counsel, including discussions to effectuate a stipulation or other communications which are deemed proper in proceedings in the Federal courts, or to communications (other than those on substantive aspects of contested cases to be decided after notice and hearing) from other U.S. Government agencies (not parties or participants in a proceeding) relating to the conduct of the foreign affairs or the national defense of the United States, or to communications (other than those on substantive aspects of contested cases to be decided after notice and hearing) from foreign governments, or to settlement discussions or mediation efforts between parties and the Board's employees, or to communications in the course of formal negotiations or consultations with one or more foreign governments on international aviation matters. That prohibition shall also not apply to information provided at the request of Board employees who are preparing a hearing case as advocates (witnesses, counsel or their supervisors), in a matter in which § 300.3 prohibits private communications on the merits by those employees to persons, or the staff of persons, hearing the case. Either oral or written communications which make inquiry as to the status of a proceeding or request expeditious treatment of a pending matter without discussing issues are not considered private communications on the merits and are permitted. However, requests for expedition by a party or other person are to be made by motion in accordance with the Rules of Practice, particularly Rules 14 and 18.

(d) Oral and written communications prohibited by this section shall not be considered as part of the record for decision of the matter.

(e) Any prohibited communication in writing shall be made public by placing it in the correspondence or other appropriate file of the matter, which shall be available for inspection and copying during business hours in the Board's Docket Section or other apporpriate office. Any prohibited oral communication shall be briefly summarized by the person receiving it, one copy of the summary being placed in the correspondence or other appropriate public file of the matter and another copy being mailed to the communicator. This requirement with respect to oral *ex parte* statements shall be limited to matters of significance expressed to members of the Board or Board employees making recommendations to or advising the Board on the case under consideration or exercising delegated functions on behalf of the Board with respect thereto. A statement shall be deemed to be of "significance" if it is likely in fact or appearance to affect the outcome of a case.

§ 300.2a Prohibited influence and solicitation.

(a) It is improper that there be any effort by any person interested in the case to sway the judgment of the Board by attempting to bring pressure or influence to bear upon any Member of the Board or Board employee, or that any person, directly or indirectly, give statements to the communications media by paid advertisements or otherwise to influence the Board's judgment in the matter.

(b) It is improper that any person solicit communications to members of the Board or Board employees other than proper communications permitted under the Board's rules of practice. Anybody soliciting the support of another person shall call such person's attention to appropriate provisions of the rules of practice, including Rules 14 and 15.

§ 300.3 Separation of functions.

It is improper that there be any private communication on the merits of any substantive or procedural issue in a case of adjudication, or any factually related adjudicatory case, which is to be

decided after notice and hearing, to members of the Board or to Board employees making recommendations to or advising the Board on the matter, or to the administrative law judge in the case, by any members of the Board's staff who participate in the hearing of such case as witnesses or as counsel, or by supervisors exercising review of their positions.

§ 300.4 Permitted communications.

(a) This paragraph applies to those communications excluded from the prohibition of § 300.2 by paragraph (a) thereof. Private communications on the merits in such matters are permissible. However, unless the Board orders otherwise all such communications, written or oral, are to be made public. All written communications concerning a matter are to be placed in an appropriate public file. Further, a brief written summary of any oral statement will be placed in the appropriate public file, except that only Members are required to make such written summary of oral communications in uncontested nonhearing matters excluded from § 300.2 by clause 3 of paragraph (a) thereof. This practice will only be followed with respect to statements deemed to be of significance by the recipient and only when transmitted to Board Members or Board employees making recommendations to or advising Board Members on the matter under consideration, or exercising delegated functions on behalf of the Board. A statement shall be deemed to be of "significance" if it is likely in fact or appearance to affect the outcome of the matter.

(b) This paragraph applies to those communications, oral or written, other than those from other U.S. Government agencies relating to the conduct of the foreign affairs or the national defense of the United States, or from foreign governments, making inquiry as to the status of a proceeding or requesting expeditious treatment of a pending matter without discussing the merits, which are excluded from the prohibitions of § 300.2 by paragraph (c) thereof. Board Members shall either refer such oral inquiries to the Office of the Managing Director or, if they respond, shall make an explanatory record of such communication and place it in the public file of the pending matter. All Board employees shall cause written inquiries, unless filed in accordance with the Rules of Practice, to be placed in the public file of the matter.

(c) When a private communication takes place within six months prior to the issuance of a notice of proposed rulemaking (or issuance of an advance notice) and the communication was considered as one of the reasons for issuance of the notice, a brief written summary of the communication shall either be set forth in the preamble to the notice or placed in the appropriate public file upon issuance of the notice.

(d) Board employees shall report to the Managing Director, in writing, any request for information or access to records concerning proceedings where such information or records have not been made publicly available at the time of such request. For purposes of this requirement, "proceedings" shall be defined as all matters initiated by an application, petition, motion, request, complaint, or other document to which a response by any person is authorized by statute or by Board regulation or order. This requirement shall not apply to requests for information as to the status of a proceeding or requests for access to records made pursuant to the provisions of Part 310 of this chapter.

§ 300.5 Conciseness of presentation.

Persons practicing before the Board should endeavor to present their cases in concise form avoiding cumulative and repetitious evidence, since the members of the Board participating in a case which is to be decided after notice and hearing must familiarize themselves with the evidence in the record and with the arguments made on behalf of the parties orally and in written briefs, and must base their decision on the record. The same considerations are applicable to any other matters before the Board in which the public participates and should be recognized to the fullest extent possible.

§ 300.6 Attorney-client relationship.

Persons practicing or appearing before the Board should become cognizant of and have due regard for the standards of professional conduct applicable to the lawyer-client relationship and to the relationship between a lawyer and a judicial tribunal.

(a) The nontechnical nature of the Board's procedure calls for special adherence, by practitioners, to scrupulous standards of fairness, candor, and consideration for the rights of others in the pleadings filed, evidence submitted, conduct of hearing, and briefs and arguments made. In appearing for a client, the practitioner thereby vouches on his honor that in his opinion the client's cause is one proper for determination, and in presenting pleadings and offering evidence he represents that the same are not offered for unwarranted delay and that in his opinion the content thereof is not misleading. Nor should he indulge in offensive personalities, unseemly wrangling, or intemperate accusations or characterizations.

(b) A practitioner, moreover, should advise his client to ovserve the law according to his conscientious belief as to its permissible meaning and should use his best efforts to restrain his client from improprieties in dealing with members of the Board or Board employees. If a client persists in such improprieties, the practictioner should terminate his representation of the client in the matter.

§ 300.7 Contacts with other governmental agencies.

The Board or any administrative law judge may, for good cause shown and in appropriate cases with respect to, and in the course of, any proceeding, require any party to such proceeding to report any contract by such party, its agents, or persons authorized to act on its behalf, with any federal, state, territorial or local governmental legislative or executive body or agency or any other domestic or foreign governmental authority, person or body made at any time with a view toward obtaining the support of such body, person, or agency for such party or opposition to another party in such proceeding. The reports of such contacts shall be made at such periods and in such detail as ordered by the Board or the administrative law judge and shall be made public in the proceeding.

§ 300.8 Gifts and unusual hospitality and other conduct affecting Board employees.

(a) No person, otherwise than as provided by law for the proper discharge of official duty, shall directly or indirectly give, offer, or promise anything of value to any Board member or Board employee for or because of any official act performed or to be performed by such Board Member or Board employee (18 U.S.C. 201).

(b) It is improper for persons interested in the business of the Board to provide unusual hospitality, gifts, entertainment, or favors to any Board member or Board employee.

(c) Persons interested in the business of the Board should familiarize themselves with Part 370 of the Board's Special Regulations—Employee Responsibilities and Conduct (14 CFR Part 370), in order that they shall not encourage or cause any violation of the provisions of Part 370 by any Board Member or Board employee.

§ 300.9 Permanent disqualification of Board members and employees in matters in which they personally participated before joining the Board.

Any Board member or any Board employee shall permanently disqualify himself from participation in every matter before the Board in which he previously personally and substantially participated for an interested person or entity, including other agencies of the United States Government, before joining the Board, and from disclosing any confidential facts learned in such prior employment or representation. Such disqualification and prohibition against disclosure shall be applicable also if a person closely related to the Board Member or Board employee as partner, associate, employer, or the like, personally and substantially participated in a matter before the Board prior to the Member's or employee's employment by the Board and the circumstances were such that the Board member's or employee's subsequent participation in the matter as a Board member or employee could fairly be said to create the appearance that his participation would be affected by his prior relationship. Notwithstanding the foregoing, apart from a Member, the disqualification of any Board employee, including any member of a Board member's personal staff or a special Government employee, whose prior personal

and substantial participation in a Board proceeding or whose relationship to one who so participated occurred on behalf of another agency of the United States Government shall only be applicable with respect to issues on which the prior governmental employer took a position in the proceeding unless participation could fairly be said to create the appearance that his participation would be affected by his prior relationship.

§ 300.10 Temporary disqualification of Board members and employees in matters in which they had official responsibility before joining the Board.

Any Board member and any Board employee shall temporarily disqualify himself from participation in any matter before the Board if he represented, was associated with or was employed by an interested person or entity including other agencies of the United States Government before joining the Board, and, although he did not personally and substantially participate in the matter, the matter was within his "official responsibility," as that term is defined in § 300.14 except that the action referred to therein shall be private action as well as "Government" action. He shall also be prohibited from disclosing any confidential facts learned through his prior representation or association. Such disqualification and prohibition against disclosure shall be applicable also if a person closely related to the Board employee as partner, associate, employer, or the like, who, while not personally and substantially participating in the matter, had it within his "official responsibility" as that term is defined in § 300.14, and modified above, and the circumstances are such that the Board employee's subsequent participation in the matter as a Board employee could fairly be said to create the appearance that his participation would be affected by his prior relationship. Notwithstanding the foregoing, apart from a Board Member, the disqualification of any Board employee whose prior "official responsibility" or relationship to one with such responsibility occurred on behalf of another agency of the United States Government shall only be applicable with respect to issues on which the prior governmental employer took a position in the proceeding. The temporary disqualification shall run for a period of one year from the date of the termination of the representation, association, or employment with the interested person or entity.

§ 300.11 Disqualification of Government officers and employees.

No officer or employee of the Federal Government, other than a "special government employee" as defined in 18 U.S.C. 202, shall represent anyone, otherwise than in the proper discharge of his official duties, in any Board proceeding or matter in which the United States is a party or has a direct and substantial interest. (18 U.S.C. 205.)

§ 300.12 Practice of special Government employees permitted.

A special Government employee, who qualifies as such under the provisions of 18 U.S.C. 202(a), may participate in Board proceedings only to the extent and in the manner specified in 18 U.S.C. 205.

§ 300.13 Permanent disqualification of former Board members and employees in matters in which they personally participated.

No formed Board Member or Board employee shall act as agent or attorney before the Board for anyone other than the United States in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise as a Board Member or employee. (18 U.S.C. 207(a).)

§ 300.14 Temporary disqualification of former Board members and employees in matters formerly under their official responsibility.

Within one year after termination of employment with the Board, no former Board member or Board employee shall appear personally before the Board on behalf of any person other than the United States in any Board proceeding or matter in which the United States is a party or has a direct and substantial interest and which was under his official responsibility at any time within one year preceding termination of such responsibility. The term "official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action (18 U.S.C. 202(b), 207(b)).

§ 300.15 Opinions or rulings by the General Counsel.

(a) The Board's General Counsel is authorized to render opinions or rulings to employees of the Board and to the public on the application of the provisions of this part. Such opinions and rulings, and the reasons therefor, shall be transmitted to the Board and shall be available to the public in the Public Reference Room after any appeal to or review by the Board has been completed or after the time for review has expired. Identifying details shall normally be stricken from copies available to the public unless the public interest requires disclosure of such details. Absent review by the Board, any opinion or ruling of the General Counsel is not binding on the Board or any future General Counsel.

(b) If any person is disqualified from a particular proceeding under the provisions of §§ 300.9, 300.10, 300.13, 300.14, and 300.17 by a ruling of the General Counsel, or by such person's own action, such disqualification shall be memorialized in a writing filed in the appropriate file of the matter by the General Counsel or such person.

(c) The Board may review any opinion or ruling of the General Counsel at its discretion within 25 days from the issuance of such opinion or ruling. Any person affected by an opinion or ruling may file an appeal to the Board within ten days after issuance of such opinion or ruling. Decisions of the Board on review or appeal shall be available to the public. Identifying details shall normally be stricken from copies available to the public unless the public interest requires disclosure of such details.

§ 300.16 Waivers.

(a) A former Board member or Board employee with outstanding scientific or technological qualifications who is disqualified from acting in a representative capacity under the provisions of §§ 300.13 or 300.14 may nevertheless participate in a proceeding in a scientific or technological field pursuant to the terms of a certificate issued in compliance with the proviso following 18 U.S.C. 207 (a) and (b).

(b) An employee who believes his prior employment relationships will not affect the integrity of his services may request that the prohibition of §§ 300.9 or 300.10 be waived in accordance with the procedures set forth in § 370.735–14.

§ 300.17 Disqualification of partners of Board members and employees.

No partner of a Board member or of a Board employee shall act as agent or attorney for anyone other than the United States in any Board proceeding or matter in which such member or employee participates or has participated personally and substantially through decision, approval, disapproval, recommendation, rendering advice, investigation, or otherwise, or which is the subject of his official responsibility. (18 U.S.C. 207 (c).)

§ 300.18 [Reserved]

§ 300.19 Use of confidential information.

No former Board Member or employee, or any person associated with him, shall ever use or undertake to use in any Board proceeding or matter any confidential facts or information which came into the possession of such Member or employee or to his attention by reason of his employment with the Board without first applying for and obtaining the consent of the Board for the use of such facts or information.

§ 300.20 Violations.

(a) The Board may disqualify, and deny temporarily or permanently the

privilege of appearing or practicing before it in any way to, any person who is found by the Board after written notice of charges and hearing to have engaged in unethical or improper professional conduct. Any violation of this part shall be deemed to be such conduct.

(b) When appropriate in the public interest, the Board may deny any application or other request of a party in a proceeding subject to this part where the Board finds after hearing that such party has, in connection with any Board proceeding, violated any of the provisions of this part or any of the provisions of Chapter 11 of Title 18 of the United States Code. The Board may also condition its further consideration of such party's application or other request or the effectiveness of any order granting such application or other request upon such party's first taking such action as the Board may deem necessary or appropirate to remedy the violation of this part or Chapter 11 of Title 18 of the United States Code to prevent or deter any repetition of such violation. The Board may in addition issue a cease and desist order against any repetition of such or similar misconduct.

(c) The action authorized by this section may take place within the framework of the matter during or concerning which the violations occur on in a separate matter, as the Board or the presiding administrative law judge may direct. A complaint alleging that a violation has occurred in the course of a matter shall be filed in the docket or appropriate public file of such matter unless such complaint is made after the Board's decision of the matter has become final, in which event such complaint may be filed pursuant to Part 302, Subpart B of the rules of practice. A violation in the course of a matter which may be attributable to or affect the fitness of a party will ordinarily either be disposed of within the framework of such matter or be considered within the context of any subsequent matter involving the interests of such party. Other violations will ordinarily be disposed of in a separate proceeding.

[FR Doc.76-23841 Filed 8-13-76;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 700]

MAGNUSON-MOSS WARRANTY ACT

Proposed Interpretations

From the time the Magnuson-Moss Warranty Act, Pub. L. 93-637, 15 U.S.C. 2301 was signed into law in January of 1975, many questions concerning the Act have been directed to the Commission. The Commission has determined that guidance should be provided in order that compliance with the terms of the Act may be facilitated. For these same reasons the Commisison published, on June 18, 1975, a policy statement in the FEDERAL REGISTER to provide interim guidance to warrantors during the period of initial implementation of the statute.

As questions and requests for informal staff opinions continue to be directed to the Commission, further guidance of a more permanent nature is appropriate. Therefore, the Federal Trade Commission proposes the following interpretations of the Magnuson-Moss Warranty Act to assist warrantors and suppliers of consumer products to comply with the Act.

These interpretations in many instances parallel the views the Commission expressed in its June 18, 1975, interim policy statement (40 F.R. 25721). In some instances the explanations in the earlier policy statement have been paraphrased or altered in these interpretations. The fact that some items from the earlier statement are omitted herein does not mean that the Commission no longer holds those views.

These interpretations apply to consumer products distributed in commerce and sold with a written warranty. They are intended to clarify the requirements of the Act for consumers, manufacturers, importers, distributors and retailers. They are not, however, substantive rules, and do not have the force or effect of statutory provisions; like industry guides, they are advisory in nature. Failure to comply with them, however, may result in corrective action by the Commission under the applicable statutory provisions.

Accordingly, the Commission proposes to amend 16 CFR Chapter 1 by adding a new Part 700, reading as follows:

§ 700.1 Products covered.

(a) The Act applies to written warranties on tangible personal property which is normally used for personal, family or household purposes. This definition includes property which is intended to be attached to or installed in any real property without regard to whether it is so attached or installed.

(b) Products such as automobiles and typewriters which are used for both personal and commercial purposes come within the statutory definition of consumer product. Where it is unclear whether a particular product is covered under the definition of consumer product, any ambiguity will be resolved in favor of coverage.

(c) Agricultural products such as farm machinery, structures and implements used in the business or occupation of farming are not covered by the Act where their personal, family, or household use is uncommon. However, those agricultural products normally used for personal or household gardening (for example, to produce goods for personal consumption, and not for resale) are consumer products under the Act.

(d) The definition of "consumer product" limits the applicability of the Act to personal property, "including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed". This provision brings under the Act separate items of equipment attached to real property, such as air conditioners, furnaces and water heaters.

(e) The coverage of separate items of equipment attached to real property includes, but is not limited to, appliances and other thermal, mechanical and electrical equipment. (It does not extend to the wiring, plumbing, ducts, and other items which are integral component parts of the structure.) State law would classify many such products as fixtures to, and therefore a part of, realty. The statutory definition is designed to bring such products under the Act regardless of whether they may be considered fixtures under state law.

(f) The coverage of building materials which are not separate items of equipment is based on the nature of the purchase transaction. An analysis of the transaction will determine whether the goods are real or personal property. The numerous products which go into the construction of a consumer dwelling are all consumer products when sold "over the counter," as by hardware and building supply retailers. This is also true where a consumer contracts for the purchase of such materials in connection with the improvement, repair or modification of a home (for example, paneling, dropped ceilings, siding, roofing, storm windows, remodeling). However, where such products are at the time of sale integrated into the structure of a dwelling they are not consumer products, as they cannot be practically distinguished from realty. Thus, for example, the beams, wallboard, wirings, plumbing, windows, roofing, and other structural components of a dwelling are not consumer products when they are sold as part of real estate covered by a written warranty.

(g) In the case where a consumer contracts with a builder to construct a home, a substantial addition to a home, or other realty (such as a garage or an in-ground concrete swimimng pool) the building materials to be used are not consumer products. Although the materials are separately identifiable at the time the contract is made, it is the intention of the parties to contract for the construction of realty which will integrate the component materials. Of course, as noted above, any separate items of equipment to be attached to such realty are consumer products under the Act.

(h) Certain provisions of the Act apply only to products actually costing the consumer more than a specified amount. Section 103 applies to consumer products actually costing the consumer more than $10.00, excluding tax. The $10.00 minimum will be interpreted to include multiple-packaged items which may individually sell for less than $10.00, but which have been packaged in a manner that does not permit breaking the package to purchase an item or items at a price less than $10.00. Thus, a written warranty on a dozen items packaged and priced for sale at $12.00 must be designated, even though identical items may be offered in smaller quantities at under $10.00. This interpretation applies in the same manner to the minimum dollar limits in Section 102 and rules promulgated under that section.

(i) Warranties on replacement parts and components used to repair consumer products are covered; warranties on services are not covered. Therefore, warranties which apply solely to a repairer's workmanship in performing repairs are not subject to the Act. Where a written agreement warrants both the parts provided to effect a repair and the workmanship in making that repair, the warranty must comply with the Act and the rules thereunder.

(j) The Act covers written warranties on consumer products "distributed in commerce" as that term is defined in Section 101(3). Thus, by its terms the Act arguably applies to products manufactured solely for export to foreign jurisdictions. However, the public interest would not be served by the use of Commission resources to enforce the Act with respect to such products. Moreover, the legislative intent to apply the requirements of the Act to such products is not sufficiently clear to justify such an extraordinary result. The Commission does not contemplate the enforcement of the Act with respect to consumer products manufactured solely for export to foreign jurisdictions. Products exported for sale at military post exchanges remain subject to the same enforcement standards as products sold within the United States, its territories and possessions.

§ 700.2 Date of manufacture.

Section 112 of the Act provides that the Act shall apply only to those consumer products manufactured after July 4, 1975. When a consumer purchases repair of a consumer product the date of manufacture of any replacement parts used is the measuring date for determining coverage under the Act. The date of manufacture of the consumer product being repaired is in this instance not relevant. Where a consumer purchases or obtains on an exchange basis a rebuilt consumer product, the date that the rebuilding process is completed determines the Act's applicability.

§ 700.3 Written warranty.

(a) The Act imposes specific duties and liabilities on suppliers who offer written warranties on consumer products. Certain representations, such as energy efficiency ratings for electrical appliances, care labeling of wearing apparel and other product information disclosures may be express warranties under the Uniform Commercial Code. However, these disclosures alone are not written warranties under this Act. Section 101(6) provides that a written affirmation of fact or a written promise of a specified level of performance must relate to a specified period of time in order to be considered a "written warranty".[1] A product information disclosure without a specified time period to which the disclosure relates is therefore not a written warranty. In addition, Section 111(d) exempts from the Act (except Section 102(c)) any written warranty the making or content of which is required by federal law. The Commission encourages the disclosure of product information which is not deceptive and which may benefit consumers, and will not construe the Act to impede information disclosure in product advertising or labeling.

(b) Certain terms, or conditions, of sale of a consumer product may not be "written warranties" as that term is defined in Section 101(6), and should not be offered or described in a manner that may deceive consumers as to their enforceability under the Act. For example, a seller of consumer products may permit consumers to revoke acceptance of goods within a certain number of days after delivery without regard to defects or failure to meet a specified level of performance. Or a seller may permit consumers to return products for any reason for credit toward purchase of another item. Such terms of sale taken alone are not written warranties under the Act.

(c) Such terms of sale should not be described as written warranties, as this may deceive consumers, leading them to believe that such terms may be enforced as warranties under the Act. Therefore, suppliers should avoid any characterization of such terms of sale as warranties. The use of such terms as "free trial period" and "trade-in credit policy" in this regard would be appropriate. Furthermore, such terms of sale should be stated separately from any written warranty. Of course, the offering and performance of such terms of sale remain subject to Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

(d) The Magnuson-Moss Warranty Act generally applies to written warranties covering consumer products. Many consumer products are covered by warranties which are neither intended for, nor enforceable by, consumers. A common example is a warranty given by a component supplier to a manufacturer of consumer products. (The manufacturer may, in turn, warrant these components to consumers.) The component supplier's warranty is generally given solely to the product manufacturer, and is neither intended to be conveyed to the consumer nor brought to the consumer's attention in connection with a sale. Such waranties are not subject to the Act, since a written warranty under Section 101(6) of the Act must become "part of the basis of the bargain between a supplier and a buyer for purposes other than resale." However the Act applies to a component supplier's warranty in writing which is given to the consumer. An example is a supplier's written warranty to the consumer covering a refrigerator that is sold installed in a boat or recreational vehicle. The supplier of the refrigerator relies on the boat or vehicle assembler to convey the written agreement to the consumer. In this case, the supplier's written warranty is to a consumer, and is covered by the Act.

§ 700.4 Parties "actually making" a written warranty.

Section 110(f) of the Act provides that only the supplier "actually making" a written warranty is liable for purposes of FTC and private enforcement of the Act. A supplier who does no more than distribute or sell a consumer product covered by a written warranty offered by another person or business and which identifies that person or business as the warrantor is not liable for failure of the written warranty to comply with the Act or rules thereunder. However, other actions and written and oral representations of such a supplier in connection with the offer or sale of a warranted product may obligate that supplier under the Act. Suppliers are advised to consult state law to determine those actions and representations which may make them co-warrantors, and therefore obligated under the warranty.

§ 700.5 Expressions of general policy.

(a) Under Section 103(b), statements or representations of general policy concerning customer satisfaction which are not subject to any specific limitation need not be designated as full or limited warranties, and are exempt from the requirements of Sections 102, 103, and 104 of the Act and rules thereunder. However, such statements remain subject to the enforcement provisions of Section 110 of the Act, and to Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

(b) The Section 103(b) exemption applies only to general policies, and not to those which are limited to specific consumer products manufactured or sold by the supplier offering such a policy. In addition, to qualify for an exemption under Section 103(b) such policies may not be subject to any specific limitations. For example, policies which have an express limitation of duration or a limitation of the amount to be refunded are not exempted. This does not preclude the imposition of reasonable limitations based on the circumstances in each instance a consumer seeks to invoke such an agreement. For instance, a warrantor may refuse to honor such an expression of policy where a consumer has used a product for 10 years without previously expressing any dissatisfaction with the product. Such a refusal would not be a specific limitation under this provision.

§ 700.6 Designation of warranties.

(a) Section 103 of the Act provides that written warranties on consumer products manufactured after July 4, 1975, and actually costing the consumer more than $10.00, excluding tax, must be designated either "Full (statement of duration) Warranty" or "Limited Warranty". The designation or designations should appear clearly and conspicuously as a caption, or prominent title, clearly separated from the text of the warranty. The full (statement of duration) warranty and limited warranty are the exclusive designations permitted under the Act, unless a specific exception is created by rule.

[1] A "written warranty" is also created by a written affirmation of fact or a written promise that the product is defect free, or by a written undertaking of remedial action within the meaning of § 101(6)(B).

(b) Section 104(b)(4) states that "the duties under subsection (a) [of Section 104] extend from the warrantor to each person who is a consumer with respect to the consumer product." Section 101(3) defines a consumer as "a buyer (other than for purposes of resale) of any consumer product, any person to whom such product is transferred during the duration of an implied or written warranty (or service contract) applicable to the product . . ." Therefore, a full warranty may not expressly restrict the warranty rights of a transferee during its stated duration.

(c) These provisions do not preclude the offering of a full warranty with its duration determined exclusively by the period during which the first purchaser owns the product, or uses it in conjunction with another product. For example, an automotive battery or muffler warranty may be designated as "full warranty for as long as you own your car". Because this type of warranty leads the consumer to believe that proof of purchase is not needed so long as he or she owns the product, a duty to furnish such proof may not be reasonably imposed on the consumer under this type of warranty. The burden is on the warrantor to prove that a particular claimant under this type of warranty is not the original purchaser or owner of the product.

§ 700.7 Use of warranty registration cards.

(a) Under Section 104(b)(1) of the Act a warrantor offering a full warranty may not impose on consumers any duty other than notification of a defect as a condition of securing remedy of the defect or malfunction, unless such additional duty can be demonstrated by the warrantor to be reasonable. Warrantors have in the past stipulated the return of a warranty registration card as the means of proof of the date of product purchase to determine coverage under a warranty.

(b) A requirement that the consumer return a warranty registration card or a similar notice (other than a notice of a defect) as a condition of performance under a full warranty is an unreasonable duty. Thus, a provision such as "This warranty is void unless the warranty registration card is returned to the warrantor" is not permissible in a full warranty, nor is it permissible to imply such a condition in a full warranty.

(c) This does not prohibit the use of such registration cards where a warrantor suggests use of the card as one possible means of proof of the date the product was purchased. For example, it is permissible to provide in a full warranty that the consumer may fill out and return a card to place on file proof of the date the product was purchased. Any such suggestion to the consumer must include notice that failure to return the card will not affect rights under the warranty, so long as the consumer can show in a reasonable manner the date the product was purchased.

§ 700.8 Warrantor's decision as final.

A warrantor shall not indicate in any written warranty or service contract either directly or indirectly that the decision of the warrantor, service contractor, or any designated third party is final or binding in any dispute concerning the warranty or service contract. Nor shall a warrantor or service contractor state that it alone shall detremine what is a defect under the agreement. Such statements are deceptive since Section 110(d) of the Act gives state and federal courts jurisdiction over suits for breach of warranty and service contract.

§ 700.9 Duty to install under a full warranty.

Under Section 104(a)(1) of the Act, the remedy under a full warranty must be provided to the consumer without charge. If the warranted product has utility only when installed, a full warranty must provide such installation without charge. However, this does not preclude the warrantor from imposing on the consumer a duty to remove, return, or reinstall where such duty can be demonstrated by the warrantor to meet the standard of reasonableness under Section 104(b)(1).

§ 700.10 Section 102(c).

(a) Section 102(c) prohibits tying arrangements that condition coverage under a written warranty on the consumer's purchase of an article or service identified by brand, trade or corporate name.

(b) Under a limited warranty that provides only for replacement of defective parts and no portion of labor charges, Section 102(c) prohibits a condition that the consumer use only service (labor) identified by the warrantor to install the replacement parts. A warrantor or his designated representative may not provide parts under the warranty in a manner which impedes or precludes the choice by the consumer of the person or business to perform necessary labor to install such parts.

(c) No warrantor may condition the contained validity of a warranty on the use of only authorized repair service and/or authorized replacement parts for non-warranty service and maintenance. For example, provisions such as "This warranty is void if service is performed by anyone other than an authorized 'ABC' dealer and all replacement parts must be genuine 'ABC' parts," and the like, are prohibited where the service or parts are not covered by the warranty. These provisions violate the Act in two ways. First, they violate the Section 102(c) ban against tying arrangements. Second, such provisions are deceptive under Section 110 of the Act, because a warrantor cannot, as a matter of law, avoid liability under a written warranty where a defect is unrelated to the use by a consumer of "unauthorized" articles or service. This does not preclude a warrantor from expressly excluding liability for defects or damage caused by such "unauthorized" articles or service; nor does it preclude the warrantor from denying liability where the warrantor can demonstrate that the defect or damage was so caused.

(d) A prohibited tying arrangement may also be created at the time of sale. A warranty which promises to replace a product that is functional only when installed may not condition reinstallation under warranty on the consumer's choice of the warrantor to make the original product installation.

§ 700.11 Written warranty, service contract, and insurance distinguished for purposes of compliance under the act.

(a) The Act recognizes two types of agreements which may provide similar coverage of consumer products, the written warranty and the service contract. In addition, other agreements may meet the statutory definitions of either "written warranty" or "service contract", but are sold and regulated under state law as contracts of insurance. One example is the automobile breakdown insurance policies sold in many jurisdictions. The McCarran-Ferguson Act, 15 U.S.C. § 1101 et seq. precludes jurisdiction under federal law over "the business of insurance" to the extent an agreement is regulated by state law as insurance. Thus, such agreements are subject to the Magnuson-Moss Warranty Act only to the extent they are not regulated in a particular state as the business of insurance.

(b) "Written warranty" and "service contract" are defined in Sections 101(6) and 101(8) of the Act, respectively. A written warranty must be "part of the basis of the bargain." This means that it must be conveyed at the time of sale of the consumer product and the consumer must not give any consideration beyond the purchase of the consumer product in order to benefit from the agreement. It is not a requirement of the Act that an agreement obligate a supplier of the consumer product to be a written warranty, but merely that it be part of the basis of the bargain between a supplier and a consumer. This contemplates written warranties by third-party non-suppliers.

(c) A service contract under the Act must meet the definitions of Section 101(8). An agreement which would meet the definition of written warranty in Section 101(6) (A) or (B) but for its failure to satisfy the basis of the bargain test is a service contract. For example, an agreement which calls for some consideration in addition to the purchase price of the consumer product, or which is entered into at some date after the purchase of the consumer product to which it applies, is a service contract. An agreement which relates only to the performance of maintenance and/or inspection services and which is not an undertaking, promise or affirmation with respect to a specified level of performance, or that the product is free of defects in materials or workmanship, is a service contract. An agreement to per-

form periodic cleaning and inspection of a product over a specified period of time, even when offered at the time of sale and without charge to the consumer, is an example of such a service contract.

§ 700.12 Effective date of 16 CFR, Parts 701 and 702.

The Statement of Basis and Purpose of the final rules promulgated on December 31, 1975, provides that parts 701 and 702 will become effective one year after the date of promulgation, December 31, 1976. The Commission intends this to mean that these rules apply only to written warranties on products manufactured after December 31, 1976.

INVITATION TO COMMENT ON THE PROPOSED INTERPRETATIONS

All interested presons may submit to the Assistant Director for Special Statutes, Federal Trade Commission, Washington, D.C. 20580, data, views or arguments on any issue of fact, law or policy bearing upon the proposed interpretations. Written comments will be accepted on or before September 15, 1976. To assure prompt consideration of a comment, it should be identified as an "Interpretations Comment" and submitted, when feasible and not burdensome, in duplicate.

Issued: August 16, 1976.

By direction of the Commission.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.76-23831 Filed 8-13-76;8:45 am]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

[29 CFR Part 2200]

RULES OF PROCEDURE

Notice of Extension of Time for Comments on Proposed Changes

On June 29, 1976, there was published in the FEDERAL REGISTER (41 FR 26707) an advance notice of proposed rulemaking setting forth the report of an internal committee which proposed changes in the Commission's rules of procedure. Interested parties and agencies were given the opportunity to submit, not later than August 16, 1976, data, views and recommendations regarding changes in the rules of procedure, and answers to certain specific procedural questions raised by the notice.

One party has asked for an extension of time in order to consider more fully the extensive changes proposed by the committee and by the Counsel to the Commission. In the interest of encouraging as many comments as possible, the Commission is hereby extending the time for comment on the proposed changes to not later than October 18, 1976. Communications should be submitted to: Executive Secretary, Occupational Safety and Health Review Commission, 1825 K Street, NW., Washington, D.C. 20006. All communications received on or before October 18, 1976, will be considered by the Commission before taking action on the proposed changes. All comments submitted will be available, both before and after the closing date, in the Office of the Executive Secretary.

Issued at Washington, D.C., on August 11, 1976.

For the Commission.

WILLIAM S. MCLAUGHLIN,
Executive Secretary.

[FR Doc.76-23966 Filed 8-13-76;8:45 am]

notices

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

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

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 76-8]

ADVISORY COMMITTEE ON EXPLOSIVES TAGGING

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Advisory Committee on Explosives Tagging will be held on September 22, 1976, at the Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., Room 5041 beginning at 9:00 a.m. (e.d.t.).

The Advisory Committee will discuss detailed proprietary scientific and technical data concerning various candidate explosive tagging systems that can be used in the detection and identification of explosives. The information which will be presented and discussed during the meeting will constitute trade secrets and commercial or financial information obtained from a person and privileged or confidential within the ambit of Title 5, United States Code, Section 552(b)(4). Accordingly, the meeting of the Advisory Committee will, under authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), not be open to the public.

All communications regarding this Advisory Committee meeting should be addressed to the Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, Attention: Mr. Robert F. Dexter, Committees Manager, Technical Services Division, Explosives Technology Branch, Room 8233.

Dated: August 9, 1976.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.76-23797 Filed 8-13-76;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Notice of Registration

By Notice dated May 27, 1976, and published in the FEDERAL REGISTER on June 7, 1976; (41 FR 22849), Winthrop Laboratory, Div. of Sterling Drug, Inc., 33 Riverside Avenue, Rensselaer, New York 12144, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of pethidine, a basic class of controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Deputy Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of pethidine is granted.

Dated: August 10, 1976.

JERRY N. JENSON,
Deputy Administrator, Drug Enforcement Administration.

[FR Doc.76-23820 Filed 8-13-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

COAL MINING

List of Proposed Plans for Exploration and Mining on Federal Lands Determined To Be New or Existing Operations

This notice is published pursuant to the requirement of 30 CFR 211.1(d)(1)(iv) which provides:

On or before August 16, 1976, the Director of the Geological Survey shall review all proposed plans which have been submitted to the Department on or before the effective date of this Part and after consultation with appropriate Federal surface managing agencies, publish in the FEDERAL REGISTER a list which shall identify each such proposed plan and whether it will be considered to cover a new or existing operation.

As required by 30 CFR 211.1(d)(1)(iv), all proposed plans for coal exploration and mining on Federal lands which were submitted to the Department on or before May 17, 1976, the effective date of revised 30 CFR 211, have been reviewed and the appropriate surface managing agency consulted.

The proposed plans have been classified as new or existing operations in accordance with 30 CFR 211.1(d)(1)(iii)(B) which defines existing operations as operations with respect to which a proposed plan has been submitted to the Department on or before the effective date of the Part, and with respect to which proposed plan the Department has on that date either completed its environmental impact analysis and determined that no environmental impact statement under section 102(2)(C) of the National Environmental Policy Act is necessary, or has determined that such a statement is necessary and has commenced, and expended substantial resources of the Department in the preparation or completion, of such a statement.

Substantial resources of the Department are considered to have been expended in the preparation of an environmental impact statement when the preliminary manuscript of the draft environmental impact statement has been completed and circulated internally for comments.

The following list identifies all such plans and indicates whether the plans cover new or existing operations as defined in 30 CFR 211.1(d)(1)(iii).

A. PLANS CONSIDERED TO BE EXISTING OPERATIONS

1. C.M.C. Mine, Cambridge Mining Corporation, Mesa County, Colorado (Colorado-078049)
2. Seneca 2 W. Mine, Peabody Coal Company, Routt County, Colorado (Colorado-081251, -081258)
3. Sun Mine, Ruby Construction Company, Routt County, Colorado. (Denver-051698)
4. Williams Fork Mine, Utah International, Inc., Moffat County, Colorado. (Colorado-07518, -07519, -079641)
5. Colowyo Mine, W. R. Grace and Company, Moffat County, Colorado. (Colorado-034365)
6. East Decker Mine, Decker Coal Company, Big Horn County, Montana. (Montana-073093)
7. North Extension Decker Mine, Decker Coal Company, Big Horn County, Montana. (Montana-057934, -057934-A, -061685)
8. Savage Mine, Knife River Coal Mining Company, Richland County, Montana. (Montana-023207)
9. Area A—Colstrip Mine, Western Energy Company, Rosebud County, Montana. (Billings-020989 -038770)
10. Area E—Colstrip Mine, Western Energy Company, Rosebud County, Montana. (Billings-020989 -038770)
11. Gascoyne Mine, Knife River Coal Mining Company, Bowman County, North Dakota. (BLM-019127 (ND))
12. Milton Mine, Lone Star Steel Company, LeFlore County, Oklahoma. (BLM-C-018820, NM-059992 (OK))
13. Braztah Corporation Mine, Franklin Real Estate Company, Carbon County, Utah. (SL-046652, SL-048442 -050115, SL-029093 -046653, SL-071737, U-019524, U-25485, U-25484, U-014779, U-058184, U-0146345)
14. Wilberg Mine, Peabody Coal Company, Emery County, Utah. (SL-064900, SL-070645, U-02292, U-040151, U-083066, U-1358, U-084924 U-084923)
15. Kaiparowits Project Mines, Resources Company, Mono Power Company, New Albion Resources Company, Kane County, Utah. (U-087805, U-087806, U-087807, U-087828, U-087833, U-087834, U-087835, U-092139, U-092140, U-092141, U-096486, U-096494, U-096495, U-096497)
16. Gordon Creek No. 2 Mine, Swisher Coal Company, Carbon County, Utah. (U-8319)
17. Belina No. 1 Mine, Malcolm N. McKinnon, et al., Carbon and Emery Counties, Utah. (U-017354, U-020305, U-044076)

18. North Belle Ayr Mine, Amax Coal Company, Campbell County, Wyoming. (Wyo–0313773)
19. Vanguard No. 3 Mine, Arch Mineral Corporation, Carbon County, Wyoming. (Wyoming–16466)
20. North Block, Kemmerer Coal Company, Kemmerer Coal Company, Lincoln County, Wyoming. (W–0294513, W–056471, W–060274, W–075207, W–52913, W–52914)
21. Rochelle Mine, Peabody Coal Company, Campbell County, Wyoming. (Wyo–0321779)
22. Cordero Mine, Sun Oil Company, Campbell County, Wyoming. (W–8385)
23. East Gillette Mining Project, Kerr-McGee Corporation, Campbell County, Wyoming. (Wyo–0313668, 0312311)

B. PLANS CONSIDERED TO BE NEW OPERATIONS

1. Energy Mines No. 1 and 2, Energy Fuels Corporation, Routt County, Colorado. (Colorado-081330, Colorado–0128483, Denver–052547)
2. Wise Hill No. 5 Mine, Empire Energy Company, Moffat County, Clorado. (Denver–056298)
3. Martinez Mine, Albert Martinez, Las Animas County, Colorado. (PU–058043)
4. Big Sky Mine, Peabody Coal Company, Rosebud County, Montana. (M–15965)
5. Star Lake Mine, Peabody Coal Company and Thermal Energy Company, McKinley County, New Mexico. (NM–2457)
6. Swisher No. 5 Mine, Intermountain Exploration Company, Emery County, Utah. (SL–050641)
7. Swisher No. 4 Mine, DuVels, Inc., Emery County, Utah. (SL–064903)
8. Exploration, Coastal States Energy Company, Sevier County, Utah. (SL–062583, U–014084, U–062453)
9. Exploration, Coal Search Corporation, Sevier County, Utah. (U–0141171, U–0141178)
10. Coal Search Corporation Mine, Coal Search Corporation, Sevier County, Utah. (U–0141177)
11. McKinnon No. 1 Mine, Malcolm McKinnon, et al., Carbon and Emery Counties, Utah. (U–0142235, U–0147570, U–020305, U044076, U–073120)
12. Exploration, Plateau Mining Company, Carbon and Emery Counties, Utah. (SL–031286, U–13097)
13. Exploration, Franklin Real State Company, Carbon County, Utah. (SL–029093–46653, SL–048442–050115, SL–071737, U–0146345)
14. Seminoe No. 1 Mine, Arch Mineral Corporation, Carbon County, Wyoming. (W–16466)
15. Caballo Mine, Carter Oil Company, Campbell County, Wyoming. (W–3397)
16. Coal Creek Mine, Atlantic Richfield Company, Campbell County, Wyoming. (W–3446)

W. A. RADLINSKI,
Acting Director.

[FR Doc.76–24082 Filed 8–13–76;8:45 am]

TRACT LEASING FOR OIL SHALE DEVELOPMENT BY IN SITU PROCESSES

Preparation of Environmental Impact Statement

Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969, the U.S. Geological Survey (USGS), Department of the Interior, has commenced the preparation of a draft environmental impact statement (EIS) relating to the impacts of in situ processes of oil shale development on selected land tracts to be offered for lease in Uinta County, Utah, and Rio Blanco County, Colo.

This EIS will supplement the August 1937 final environmental impact statement for the Prototype Oil Shale Leasing Program. The focus of the EIS will be on three tracts of land in Uinta County and one tract of land in Rio Blanco County, designated as follows:

Designation	Location	Total acreage
	Salt Lake Meridian, Uinta County, Utah	
U–7	T. 9 S., R. 24 E., sec. 1 T. 9 S., R. 25 E., secs. 3–9	4,912.13
U–8	T. 10 S., R. 21 E., secs. 21, 22, 23, 26, 27, 33, 34, and 35	5,120.00
U–9	T. 13 S., R. 23 E., parts of secs. 13, 14, 22, 23, 24, 25, 26, 27, and 35 T. 13 S., R. 24 E., parts of secs. 18, 19, 30, and 31	5,069.44
	Rio Blanco County, Colo., 6th Principal Meridian	
C–2	T. 3 S., R. 97 W., parts of secs. 27–34 T. 4 S., R. 97 W., parts of secs. 4–7	5,053.37

An interagency task force has been established to prepare the statement.

The draft statement will be circulated for public review, and comments received will be considered in the preparation of the final statement. The final statement will be used as a basis for Secretary of Interior's selection of two tracts to be offered for lease for the development of oil shale using in situ technology.

All interested agencies, organizations, or persons desiring to submit comments or suggestions for consideration in connection with the preparation of the draft environmental impact statement should submit them to the Director, U.S. Geological Survey, Mail Stop 108, National Center, Reston, Virginia 22092. Comments and views should be received on or before September 1, 1976.

Dated: August 9, 1976.

W. A. RADLINSKI,
Acting Director.

[FR Doc.76–23776 Filed 8–13–76;8:45 am]

National Park Service

CUYAHOGA VALLEY NATIONAL RECREATION AREA ADVISORY COMMISSION

Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held at 7:30 p.m. (EDT), September 9, 1976, at the Rocky River Interpretive Center, Metropolitan Park Drive, Rocky River Reservation (Cleveland Metroparks), North Olmsted, Ohio.

The Commission was established by Pub. L. 93–555 to meet and consult with the Secretary of the Interior on matters relating to the development of the Cuyahoga Valley National Recreation Area and with respect to carrying out the provisions of the Public Law.

The members of the Commission are as follows:

Mrs. Robert G. Warren (Chairman)
Mr. Courtney Burton
Mr. Norman A. Godwin
Mr. Donald W. Haskett
Mr. Robert L. Hunker
Mr. James S. Jackson
Mr. Melvin J. Rebholz
Mrs. Roger Rossi
Mrs. George N. Seltzer
Ms. Robin Stillman
Mr. Barry K. Sugden
Mr. Robert W. Teater
Mr. William O. Walker

Matters to be discussed at this meeting include:

1. Report on park operations.
2. Legislation regarding transfer of State lands and the "In Lieu of Texas" Bill, HR 9719.
3. Status of land acquisition.
4. Discussion of educational resources and tion concerning adverse landfill.
4. Discussion of educatonal resources and uses.

The meeting will be open to the public. It is expected that about 100 persons in addition to members of the Commission will be able to attend this meeting. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meetnig may be obtained from William C. Birdsell, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264, telephone (216) 653–9036. Minutes of the meeting will be available for public inspection three weeks after the meeting at the office of Cuyahoga Valley National Recreation Area, located at 501 West Streetsboro Road, (State Route 303), two miles east of Peninsula, Ohio.

Dated: August 6, 1976.

MERRILL D. BEAL,
Regional Director,
Midwest Region.

[FR Doc.76–23765 Filed 8–13–76;8:45 am]

Office of the Secretary

COMMUNICATIONS RELATING TO INTERNATIONAL AIR TRANSPORTATION CASES

Staff Coordination

Correction

In FR Doc. 76–21878 appearing at page 31247 in the issue for Tuesday, July 27,

1976, the following correction should be made: In the 8th line of the document now reading, "partment of the Interior, Staff, Solicitor," should have read "partment of the Interior, Staff Coordinator (Assistant Solicitor—Territories), Office of the Solicitor,".

DEPARTMENT OF AGRICULTURE

Forest Service

CANEY UNIT PLAN

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Caney Unit Plan, Kisatchie National Forest, USDA–FS–R8–FES (Adm.) 76–09.

The Caney Unit contains 31,989 acres of National Forest Land located in Claiborne and Webster Parishes, Louisiana. The major management objectives are to manage and utilize the resources, consistent with considerations for the protection of the environment and to meet National, Regional and local demands for goods and services. This primarily includes, but is not limited to, recreation, wildlife, harvesting forest products, and maintaining air and water quality standards.

This final environmental statement was transmitted to CEQ August 6, 1976. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Rm. 3230 12th St. and Independence Ave., SW, Washington, D.C. 20250.
USDA, Forest Service, 1720 Peachtree Rd., NW, Rm. 804, Atlanta, Georgia 30309.
U.S. Forest Service, Caney Ranger District, P.O. Box 479, Homer, Louisiana 71040.

A limited number of single copies are available upon request to Forest Supervisor, Kisatchie National Forest, 2500 Shreveport Highway, Pineville, Louisiana 71360.

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

Dated: August 6, 1976.

DAVID F. JOLLY,
Regional Environmental Coordinator.

[FR Doc.76–23768 Filed 8–13–76;8:45 am]

MT. CHARLESTON PLANNING 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 the Mt. Charleston Planning Unit, Toiyabe National Forest, Nevada. The Forest Service report number is USDA–FS–FES (Adm) R4–76–11.

The environmental statement identifies and evaluates the probable effects of proposed land uses for the planning unit, evaluates possible alternative courses of action, and provides a summary record of public participation in development of the land use plan. The purpose of the land use plan is to allocate National Forest lands and resources to specific uses and activities; establish management objectives; provide a record of management direction and decisions for specific areas and units of land; coordinate measures between resource uses and activities; and establish protective measures to keep adverse environmental effects to a minimum.

This final environmental statement was transmitted to CEQ on August 9, 1976.

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

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., S.W., Washington, D.C. 20250.
Forest Supervisor, Toiyabe National Forest, 111 North Virginia Street, Room 601 Reno, Nevada 89501.
Regional Planning Office, USDA, Forest Service, Federal Building, Room 4408, 324 25th Street, Ogden, Utah 84401.
District Forest Ranger, Las Vegas Ranger District, Federal Building, 300 Las Vegas Blvd., South Las Vegas, Nevada 89101.

A limited number of single copies are available upon request to Forest Supervisor John J. Lavin, Toiyabe National Forest, 111 North Virginia Street, Room 601, Reno, Nevada 89501.

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

Dated: August 9, 1976.

P. M. REES,
Director, Regional Planning and Budget.

[FR Doc.76–23769 Filed 8–13–76;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Asmospheric Administration

NATIONAL CONFERENCE FOR REGIONAL FISHERY MANAGEMENT COUNCILS

Public Meeting

Notice is hereby given of a conference for the membership of the Regional Fishery Management Councils, established under the Fishery Conservation and Management Act of 1976 (P.L. 94–265), to be held on September 13–17, 1976, at the Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia.

The purpose of the conference is to brief Council members on such items as their responsibilties, authorities, and duties under the Act; their relationships to NMFS regional and central offices; legal requirements concerning frequency of meetings; and administrative arrangements for budgeting, organization, and staffing. Sessions will be characterized by individual speakers and panel presentations and discussions.

The conference will be open to the public throughout and members of the public will be admitted to the extent of seating availability on a first-come, first-served basis.

The preliminary agenda is as follows:

September 13, 1976: Registration.
September 14, 1976: Morning Session—(1) Introductory session. (2) NOAA overview of the Fishery Conservation and Management Act of 1976 (FCMA). (3) Congressional commentary on the FCMA. (4) Panel presentation and discussion regarding regional fishery management councils.
Afternoon Session—(1) Panel presentation and discussion regarding regional fishery management councils (continued). (2) Panel presentation and discussion regarding the scientific and technological requirements for managing fisheries under the FCMA.
September 15, 1976: Morning Session—(1) The role of the State Department with respect to foreign fishing under U.S. jurisdiction. (2) The role of the Coast Guard with respect to enforcement of foreign fishing in the U.S. fisheries zone. (3) The role of the Commerce Department with respect to regulation of foreign fishing in the U.S. fisheries zone. (4) Panel presentation and discussion of the FCMA requirements regarding foreign fishing under extended jurisdiction.
Afternoon Session—Panel presentation and discussion regarding fishery management plans.
September 16, 1976: Morning Session—(1) Separate regional council preliminary briefings.
Afternoon Session—(2) Separate regional council preliminary briefings (continued). (3) Administration Commentary on the FCMA.
September 17, 1976: Morning Session—Final summary session.

Additional information concerning this conference may be obtained by contacting the Extended Jurisdiction Program Office, National Marine Fisheries Service, Washington, D.C. 20235, telephone (202) 634–7454.

Issued at Washington, D.C., August 12, 1976.

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

[FR Doc.76–23949 Filed 8–13–76;8:45 am]

Office of the Secretary

CTAB PANEL ON ENERGY POLICY

Establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. IV, 1974)) and Office of Management and Budget Circular A–63 of March 1974, and after consultation with OMB, the Secretary of Commerce has determined that the establishment of the Commerce Technical Advisory Board Panel on Energy Policy is in the public interest in connection with the performance of duties imposed on the Department by law. The Panel previously existed as the Panel on Project Independence Blueprint and terminated (March, 1975) upon submission of its

report "CTAB Recommendations For A National Energy Program."

The Panel will appraise the Nation's current energy situation. It will provide an independent and experienced voice to help establish a National energy program. The Panel will do the following:

1. Review from a private sector point of view FEA's National Energy Outlook,
2. Review from a private sector point of view ERDA's 1976 research plan,
3. Update the Panel's earlier recommendations for National energy policies, and
4. Prepare a report for review by CTAB and submission to the Secretary of Commerce.

The Panel will consist of approximately twenty members appointed by the Assistant Secretary of Commerce for Science and Technology. Members will be individuals with experience to render service and to perform an in-depth review and analysis of the Nation's energy posture. To assure a balanced representation, members will be sought representing a broad cross-section of industry, academia, labor, and consumer advocacy.

The Panel will report to the Assistant Secretary for Science and Technology. It will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act and the Office of Management and Budget Circular A-63. The Panel's charter will be filed under the Act, August 31, 1976.

Interested persons are invited to submit comments regarding the establishment of the CTAB Panel on Energy Policy. Such comments, as well as any inquiries, may be addressed to the Executive Director, Commerce Technical Advisory Board, U.S. Department of Commerce, Washington, D.C. 20230, phone: (202) 377-4595.

Dated: August 9, 1976.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76-23780 Filed 8-13-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N-0253; DESI 10849]

CERTAIN LONG-ACTING SYSTEMIC SULFONAMIDES

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Hearing

In a notice (DESI 10849; Docket No. FDC-D-244 (now Docket No. 76N-0253)) published in the FEDERAL REGISTER of September 8, 1971 (36 FR 18019), the Food and Drug Administration announced its conclusions that the drug products described below are effective in the treatment of various infections. The drug products were also classified as less than effective (probably effective, possibly effective, and lacking substantial evidence of effectiveness) for certain other indications. The notice provided an opportunity for hearing concerning the indications concluded at that time to lack substantial evidence of effectiveness. No person submitted data in support of the probably or possibly effective indications and they have been reclassified as lacking substantial evidence of effectiveness. This notice offers an opportunity for hearing concerning those indications and states the conditions for marketing such drugs for the indications for which the drugs continue to be regarded as effective. Persons who wish to request a hearing may do so on or before September 15, 1976.

The notice that follows does not pertain to the indications stated in the September 8, 1971 notice to lack substantial evidence of effectiveness. No person requested a hearing concerning them, and they are no longer allowable in labeling. Any such product labeled for those indications is subject to regulatory action.

1. NDA 11-389; Kynex Acetyl Pediatric Suspension containing acetyl sulfamethoxypyridazine; Lederle Laboratories, Division of American Cyanamid Company, P.O. Box 500, Pearl River, NY 10965.

2. NDA 10-849; Kynex Tablets containing sulfamethoxypyridazine; Lederle Laboratories.

3. NDA 11-892; Midicel Acetyl Suspension containing acetyl sulfamethoxypyridazine; Parke, Davis & Co., Joseph Campau Ave., at the River, Detroit, MI 48232.

4. NDA 11-305; Midicel Tablets containing sulfamethoxypyridazine; Parke, Davis & Co.

5. That part of NDA 11-625 pertaining to Madribon Chewable Tablets containing sulfadimethoxine; Roche Laboratories, Division of Hoffmann-LaRoche Inc., Nutley, NJ 07110.

6. That part of NDA 11-625 pertaining to Madribon Suspension containing sulfadimethoxine; Roche Laboratories.

7. That part of NDA 11-625 pertaining to Madribon Tablets containing sulfadimethoxine; Roche Laboratories.

8. NDA 11-766; Madribon Pediatric Drops containing sulfadimethoxine; Roche Laboratories.

9. NDA 11-765; Madribon Capsules containing sulfadimethoxine; Roche Laboratories. This product was not submitted for review by the National Academy of Sciences-National Research Council nor was it included in the September 18, 1971 notice, but the conclusions described in this notice are applicable to it.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below. The drugs now lack substantial evidence of effectiveness for the indications evaluated as probably and possibly effective in the September 8, 1971 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drugs are in tablet, capsule, suspension, or chewable tablet form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement,

Caution: Federal law prohibits dispensing without prescription.

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of drug. The Indication section is as follows:

INDICATIONS

Chancroid.
Trachoma.
Inclusion conjunctivitis.
Nocardiosis.

Urinary tract infections (primarily pyelonephritis, pyelitis and cystitis) due to susceptible organisms (usually *E. coli, Klebsiella*, the enterobacter, *S. aureus, P. mirabilis*, and less frequently, *P. vulgaris*) in the absence of obstructive uropathy or foreign bodies.

Toxoplasmosis as adjunctive therapy with pyrimethamine.

Malaria due to chloroquine-resistant strains of *P. falciparum* when used as adjunctive therapy.

In acute otitis media due to *H. influenzae* when used concomitantly with adequate doses of penicillin.

Prophylaxis of rheumatic fever as an alternative to penicillin.

IMPORTANT NOTE: In vitro sulfonamide sensitivity tests are not always reliable. The test must be carefully coordinated with bacteriologic and clinical response. When the patient is already taking a sulfonamide, followup cultures should have aminobenzoic acid added to the culture media.

The currently increasing frequency of resistant organisms is a limitation of the usefulness of antibacterial agents including the sulfonamides.

Wide variation in blood levels may result with identical doses. Blood levels should be measured in patients receiving sulfonamides for serious infections. Free sulfonamide blood levels of 5-15 mg per 100 ml may be considered therapeutically effective for most infections, with blood levels of 12-15 mg per 100 ml optimal for serious infections; 20 mg per 100 ml should be the maximum total

sulfonamide level as adverse reactions occur more frequently above this level.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before October 15, 1976, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug for the indication(s) lacking substantial evidence of effectiveness refered to in paragraph A. of this notice.

Notice is given to the holder of the new drug application, and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application (or, if indications above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto providing for the indications lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product, evaluated together with the evidence available to him at the time of approval of the application, shows there is a lack of substantial evidence that the drug product will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application supplemented, in accord with this notice, to delete the claims lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and al. identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before September 15, 1976, a written notice of appearance and request for hearing, and (2) on or before October 15, 1976, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the fact of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited fro mpublic disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be sen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 10849, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number): Division of Anti-Infective Drug Products (HFD-140), Rm. 12B-45 Bureau of Drugs.

Original abbreviated new drug applications (identity as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Data Preparation Branch (HFD-614), Division of Drug Information Resources, Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-101), Bureau of Drugs.

(Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).)

Dated: August 6, 1976.

J. RICHARD CROUT,
Director,
Bureau of Drugs.

[FR Doc.76-23787 Filed 8-13-76;8:45 am]

[Docket No. 76N-0265; DESI 7358]

FURAZOLIDONE FOR ORAL USE

Drug Efficacy Study Implementation; Followup Notice and Rescission of Portion of Previous Notice for Hearing

In a notice (DESI 7358; Docket No. FDC-D-520 (now Docket No. 76N-0265; NDA 5-795 etc.)) in the FEDERAL REGISTER of March 29, 1973 (38 FR 8186), the Commissioner of Food and Drugs proposed to withdraw approval of the new

drug applications for certain drug products for oral use containing furazolidone, an antibacterial agent. The March 29, 1973 notice stated that such drug products were regarded as lacking substantial evidence of effectiveness for their labeled indications and lacking proof of safety because of evidence they were tumorigenic in animals. The lack of substantial evidence of effectiveness and lack of evidence of safety were felt to result in an unfavorable benefit-to-risk ratio. This notice announces that, after a review of all available data, the following single-entity drug products containing furazolidone have been reevaluated as effective for certain indications. Other products that were included in the March 29, 1973 notice are not affected by this notice.

1. NDA 11-270; Furoxone Tablets containing furazolidone; and

2. That part of NDA 11-323 pertaining to Furoxone Liquid containing furazolidone, both marketed by Norwich Products, Division of Morton-Norwich Products, Inc., 17 Eaton Ave., Norwich, NY 13815.

BACKGROUND

The above single-entity product, Furoxone Liquid, containing furazolidone, is a reformulated product. The original product, as listed in the March 29, 1973 notice, was a combination product containing furazolidone with kaolin and pectin. Subsequent to the March 29, 1973 notice, Norwich supplemented its new drug application to reformulate the combination product by removing the kaolin and pectin. By letter of February 27, 1974, the Food and Drug Administration permited marketing of the reformulated Furoxone Liquid pending final effectiveness conclusions.

Norwich filed requests for hearing in response to the March 29, 1973 notice for Furoxone Tablets and the combination product Furoxone Liquid. The firm also submitted additional data, including reports of animal and clinical studies to support the safe and effective use of the single ingredient furazolidone for certain limited indications. No data were submitted to support the combination of furazolidone with kaolin and pectin. No other person requested a hearing.

CONCLUSIONS

All available data have been evaluated and have been determined to provide substantial evidence of effectivenes of the single ingredient furazolidone in the treatment of enteritis due to *Giardia lamblia* and as an adjunct to fluid and electrolyte replacement in the treatment of cholera. The animal findings included in the above data demonstrate tumorigenic activity following chronic oral administration to rodents. The Director of the Bureau of Drugs concludes that these findings and the following factors must be considered in assessing the benefits to be expected against the risks. The unfavorable benefit/risk ratio previously attributed to the drug was based in part on the judgment that the risk associated with a tumorigenic drug is not warranted when there are fully satisfactory alternative drugs. Moreover, effectiveness had not been demonstrated for any indication. Now, however, effectiveness of furazolidone has been demonstrated in two serious conditions, cholera and giavdiasis, for which alternative therapy is needed. Moreover, administration of the drug in either condition would be a short term use. Although the primary treatment of cholera is fluid and electrolyte replacement, antibiotic therapy is effective adjunctive treatment. Tetracycline is the drug generally used for cholera, but there is occasionally need for alternative therapy. Tetracycline is subject to degradation at high temperatures and this may well affect its availability in hot climates where cholera most often occurs. The drugs used at present in giardiasis are not without the risk of adverse effects; one of them, metronidazole, (which is not approved for this use) is also a tumorigen in rats and mice.

It is concluded that the new clinical evidence of effectiveness of furazolidone in these serious, relatively rare diseases, the fact that in both diseases use is short-term, and the need for alternative therapy in these conditions result in favorable benefit-to-risk ratio. A Warning statement describing the animal findings will be required in the labeling. To reflect this conclusion, the March 29, 1973 notice is revised as set forth below, insofar as it pertained to furazolidone for oral use.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has considered reports of the National Academy of Sciences-National Research Council, as well as other available evidence, and concludes that furazolidone is effective when administered orally for the treatment of enteritis due to *Giardia lamblia*, and as an adjunct to fluid and electrolyte replacement in the treatment of cholera.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve new drug applications and supplements to previously new drug applications under conditions described herein.

1. *Form of drug.* The drug is in a form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement,

Caution: Federal law prohibits dispensing without prescription.

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

1. For use in the treatment of enteritis due to *Giardia lamblia*.

2. As an adjunct to fluid and electrolyte replacement in the treatment of cholera. Controlled studies have shown that furazolidone is comparable to tetracycline in reducing the degree of diarrhea in cholera patients. However, the clearance of *Vibrio comma* organisms from stools is more rapid with tetracycline than with furazolidone.

c. The "Warning" section includes the following statement:

Furazolidone has shown evidence of tumorigenic activity in several studies involving chronic oral administration to rodents. Promotion of the development of mammary neoplasia has been demonstrated in rats of two strains. Prominent among the findings in mice was the furazolidone caused significant increases in malignant lung tumors.

3. *Market status.* a. Marketing of such drug product that is now the subject of an approved or effective new drug application may be continued provided that, on or before October 15, 1976, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-365H (21 CFR 314.1(c)).

b. Approval if a full new drug application (21 CFR 314.1(c)) to include limited clinical studies, must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

Communications forwarded in response to this notice should be identified with the reference number DESI 7358, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number) and original new drug applications: Division of Anti-Infective Drug Products (HFD-140), Rm. 12B-45, Bureau of Drugs.

Inquiries concerning clinical studies required: Division of Anti-Infective Drug Products (HFD-140), Rm. 12B-45, Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-101), Bureau of Drugs.

Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: August 5, 1976.

J. RICHARD CROUT,
Director,
Bureau of Drugs.

[FR Doc.76-23786 Filed 8-13-76;8:45 am]

[Docket No. 76N-0259; DESI 9990]

HYDROXYDIONE SODIUM SUCCINATE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Hearing

In a notice (DESI 9990; Docket No. FDC-D-239 (now Docket No. 76N-0259)) published in the FEDERAL REGISTER of October 15, 1970 (35 FR 16196), the Food and Drug Administration announced its conclusions that the drug product described below is effective for induction of anesthesia or for supplementing other anesthic agents. The drug product was also classified as possibly effective or lacking substantial evidence of effectiveness for its other indications. The notice provided an opportunity for hearing for the indication concluded at that time to lack substantial evidence of effectiveness. No person submitted data in support of the possibly effective indication and it is now reclassified to lacking substantial evidence of effectiveness. This notice offers an opportunity for hearing concerning the possibly effective indication, which is now reclassified to lacking substantial evidence of effectiveness, and states the conditions for marketing the drugs for the indications for which it continues to be regarded as effective. Persons who wish to request a hearing may do so on or before September 15, 1976.

The notice that follows does not pertain to the indication stated in the October 15, 1970 notice to lack substantial evidence of effectiveness. No person requested a hearing concerning the indication and it is no longer allowable in labeling. Any such product labeled for that indication is subject to regulatory action.

NDA 9-990; Viadril containing hydroxydione sodium succinate; formerly marketed by Pfizer Laboratories, Division Pfizer, Inc., 235 E. 42d St., New York, NY 10017.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications listed in the labeling conditions below. The drug now lacks substantial evidence of effectiveness for the indication evaluated as possibly effective in the October 15, 1970 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in sterile powder form suitable, after reconstitution, for intravenous administration.

2. *Labeling conditions.* a. The label bears the statement,

Caution: Federal law prohibits dispensing without prescription.

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For induction of anesthesia or for supplementing other anesthetic agents.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before October 15, 1976, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201 (p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to

a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before September 15, 1976, a written notice of appearance and request for hearing, and (2) on or before October 15, 1976, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 9990, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number): Division of Surgical-Dental Drug Products (HFD-160), Rm. 18B-08, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Data Preparation Branch (HFD-614), Division of Drug Information Resources, Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-101), Bureau of Drugs.

Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: August 6, 1976.

J. RICHARD CROUT,
Director,
Bureau of Drugs.

[FR Doc.76-23785 Filed 8-13-76;8:45 am]

[Docket No. 76N-0200; DESI 1403]

ORPHENADRINE HYDROCHLORIDE TABLETS

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

Correction

In FR Doc. 76-19235 appearing at page 27418 in the issue for Friday, July 2, 1976, in the second column, in the last line of the 5th paragraph, "idiapathic" should have read "idiopathic".

Health Services Administration

PSRO AREA DESIGNATIONS

Poll of Physicians in State of Arizona

Notice is hereby given in accordance with Section 1152(g) of the Social Security Act [42 USC 1320c-1(g)] that the Secretary of the Department of Health, Education, and Welfare, prior to the designation of a conditional Professional Standards Review Organization (PSRO) within any PSRO area located in the State of Arizona, is conducting a poll of all the doctors of medicine or osteopathy who are engaged in active practice in each PSRO Area to determine whether such physicians in each area support a change from the present local Professional Standards Review Organization area designations as stipulated in 42 CFR 101.5 to a single statewide area designation.

Each such doctor in the PSRO Areas will receive a ballot on which he shall indicate whether he supports a change from the present local PSRO area designations to a single PSRO area for the entire State of Arizona. Any licensed doctor of medicine or osteopathy engaged in active practice in the PSRO Area who has not received a ballot on or before August 23, 1976, may request in writing a ballot prior to the expiration of the polling period from the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588 FDR Station, New York, New York 10022. Only those ballots postmarked no later than September 15, 1976 and returned in the stamped self-addressed envelope provided to each individual doctor will be considered valid.

The Secretary has determined that there are 2,352 doctors of medicine engaged in active practice in PSRO Area I and 1,221 doctors in PSRO Area II. In the event that more than 50 percentum of doctors within each of these PSRO areas respond in the affirmative to the question "Do you support a change from the present local and regional Professional Standards Review Organization area designation to a single statewide area designation?", the Secretary will then proceed to establish the entire State of Arizona as a single Professional Standards Review Organization area.

If more than 50 percentum of the eligible doctors responding in any one of the two PSRO areas indicate that they do not support a change in the present area designations, the Secretary will not designate the entire State of Arizona as a single PSRO area.

This poll will be conducted in accordance with the provisions of 42 CFR 101.2a (41 FR 33436-33437, August 9, 1976).

Dated: August 11, 1976.

JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc.76-23881 Filed 8-13-76;8:45 am]

PSRO AREA DESIGNATIONS

Poll of Physicians in State of Indiana

Notice is hereby given in accordance with Section 1152(g) of the Social Security Act [42 USC 1320c-1(g)] that the Secretary of the Department of Health, Education, and Welfare, prior to the designation of a conditional Professional Standards Review Organization (PSRO) within any PSRO area located in the State of Indiana, is conducting a poll of all the doctors of medicine or osteopathy who are engaged in active practice in each PSRO Area to determine whether such physicians in each area support a change from the present local Professional Standards Review Organization area designations as stipulated in 42 CFR 101.18 to a single statewide area designation.

Each such doctor in the PSRO Areas will receive a ballot on which he shall indicate whether he supports a change from the present local PSRO area designations to a single PSRO area for the entire State of Indiana. Any licensed doctor of medicine or osteopathy engaged in active practice in the PSRO Area who has not received a ballot on or before August 23, 1976 may request in writing a ballot prior to the expiration of the polling period from the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588 FDR Station, New York, New York 10022. Only those ballots postmarked no later than September 15, 1976 and returned in the stamped self-addressed envelope provided to each individual doctor will be considered valid.

The Secretary has determined that there are 788 doctors of medicine engaged in active practice in PSRO Area I; 998 doctors in PSRO Area II; 531 doctors in PSRO Area III; 609 doctors in PSRO Area IV; 2,410 doctors in PSRO Area V; 356 doctors in PSRO Area VI; and 457 doctors in PSRO Area VII. In the event that more than 50 percentum of doctors within each of these PSRO areas respond in the affirmative to the question "Do you support a change from the present local and regional Professional Standards Review Organization area designation to a single statewide area designation?", the Secretary will then proceed to establish the entire State of Indiana as a single Professional Standards Review Organization area.

If more than 50 percentum of the eligible doctors responding in any one of the seven PSRO areas indicate that they do not support a change in the present area designations, the Secretary will not designate the entire State of Indiana as a single PSRO area.

This poll will be conducted in accordance with the provisions of 42 CFR 101.2a (41 FR 33436–33437, August 9, 1976).

Dated: August 11, 1976.

JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc.76–23883 Filed 8–13–76;8:45 am]

PSRO AREA DESIGNATIONS

Poll of Physicians in State of Louisiana

Notice is hereby given in accordance with Section 1152(g) of the Social Security Act [42 USC 1320c–1(g)] that the Secretary of the Department of Health, Education, and Welfare, prior to the designation of a conditional Professional Standards Review Organization (PSRO) within any PSRO area located in the State of Louisiana, is conducting a poll of all the doctors of medicine or osteopathy who are engaged in active practice in each PSRO Area to determine whether such physicians in each area support a change from the present local Professional Standards Review Organization area designations as stipulated in 42 CFR 101.22 to a single statewide area designation.

Each such doctor in the PSRO Areas will receive a ballot on which he shall indicate whether he supports a change from the present local PSRO area designations to a single PSRO area for the entire State of Louisiana. Any licensed doctor of medicine or osetopathy engaged in active practice in the PSRO Area who has not received a ballot on or before August 23, 1976, may request in writing a ballot prior to the expiration of the polling period from the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588 FDR Station, New York, New York 10022. Only those ballots postmarked no later than September 15, 1976 and returned in the stamped self-addressed envelope provided to each individual doctor will be considered valid.

The Secretary has determined that there are 1,063 doctors of medicine engaged in active practice in PSRO Area I; 640 doctors in PSRO Area II; 677 doctors in PSRO Area III; and 2,500 doctors in PSRO Area IV. In the event that more than 50 percentum of doctors within each of these PSRO areas respond in the affirmative to the question "Do you support a change from the present local and regional Professional Standards Review Organization area designation to a single statewide area designation?", the Secretary will then proceed to establish the entire State of Louisiana as a single Professional Standards Review Organization area.

If more than 50 percentum of the eligible doctors responding in any one of the four PSRO areas indicate that they do not support a change in the present area designations, the Secretary will not designate the entire State of Louisiana as a single PSRO area.

This poll will be conducted in accordance with the provisions of 42 CFR 101.2a (41 FR 33436–33437, August 9, 1976).

Dated: August 11, 1976.

JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc.76–23884 Filed 8–13–76;8:45 am]

PSRO AREA DESIGNATIONS

Poll of Physicians in State of North Carolina Regarding

Notice is hereby given in accordance with Section 1152(g) of the Social Security Act [42 USC 1320c–1(g)] that the Secretary of the Department of Health, Education, and Welfare, prior to the designation of a conditional Professional Standards Review Organization (PSRO) within any PSRO area located in the State of North Carolina, is conducting a poll of all the doctors of medicine or osteopathy who are engaged in active practice in each PSRO Area to determine whether such physicians in each area support a change from the present local Professional Standards Review Organization area designations as stipulated in 42 CFR 101.37 to a single statewide area designation.

Each such doctor in the PSRO Areas will receive a ballot on which he shall indicate whether he supports a change from the present local PSRO area designations to a single PSRO area for the entire State of North Carolina. Any licensed doctor of medicine or osteopathy engaged in active practice in the PSRO Area who has not received a ballot on or before August 23, 1976 may request in writing a ballot prior to the expiration of the polling period from the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588 FDR Station, New York, New York 10022. Only those ballots postmarked no later than September 15, 1976 and returned in the stamped self-addressed envelope provided to each individual doctor will be considered valid.

The Secretary has determined that there are 722 doctors of medicine engaged in active practice in PSRO Area I; 911 doctors in PSRO Area II; 582 doctors in PSRO Area III; 1,328 doctors in PSRO Area IV; 535 doctors in PSRO Area V; 573 doctors in PSRO Area VI; 1,260 doctors in PSRO Area VII; and 636 doctors in PSRO Area VIII. In the event that more than 50 percentum of doctors within each of these PSRO areas respond in the affirmative to the question "Do you support a change from the present local and regional Professional Standards Review Organization area designation to a single statewide area designation?", the Secretary will then proceed to establish the entire State of North Carolina as a single Professional Standards Review Organization area.

If more than 50 percentum of the eligible doctors responding in any one of the eight PSRO areas indicate that they do not support a change in the present area designations, the Secretary will not designate the entire State of North Carolina as a single PSRO area.

This poll will be conducted in accordance with the provisions of 42 CFR 101.2a (41 FR 33436–33437, August 9, 1976).

Dated: August 11, 1976.

JOHN H. KELSO,
Deputy Administrator, Health Services Administration.

[FR Doc.76–23886 Filed 8–13–76;8:45 am]

PSRO AREA DESIGNATIONS

Poll of Physicians in State of Virginia

Notice is hereby given in accordance with Section 1152(g) of the Social Security Act [42 USC 1320c–1(g)] that the Secretary of the Department of Health, Education, and Welfare, prior to the designation of a conditional Professional Standards Review Organization (PSRO) within any PSRO area located in the State of Virginia, is conducting a poll of all the doctors of medicine or osteopathy who are engaged in active practice in each PSRO Area to determine whether such physicians in each area support a change from the present local Professional Standards Review Organization area designations as stipulated in 42 CFR 101.52 to a single statewide area designation.

Each such doctor in the PSRO Areas will receive a ballot on which he shall indicate whether he supports a change from the present local PSRO area designations to a single PSRO area for the entire State of Virginia. Any licensed doctor of medicine or osteopathy engaged in active practice in the PSRO Area who has not recevied a ballot on or before August 23, 1976, may request in writing a ballot prior to the expiration of the polling period from the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1583 FDR Station, New York, New York 10022. Only those ballots postmarked no later than September 15, 1976 and returned in the stamped self-addressed envelope provided to each individual doctor will be considered valid.

The Secretary has determined that there are 1,254 doctors of medicine engaged in active practice in PSRO Area I; 1,448 doctors in PSRO Area II; 1,133 doctors in PSRO Area III; 1,486 doctors in PSRO Area IV; and 1,401 doctors in PSRO Area V. In the event that more than 50 percentum of doctors within each of these PSRO areas respond in the affirmative to the question "Do you support a change from the present local and regional Professional Standards Review Organization area designation to a single statewide area designation?", the Secretry will then proceed to establish the entire State of Virginia as a single Professional Standards Review Organization area.

If more than 50 percentum of the eligible doctors responding in any one of the five PSRO areas indicate that they do not support a change in the present area designations, the Secretary will not designate the entire State of Virginia as a single PSRO area.

This poll will be conducted in accordance with the provisions of 42 CFR 101.2a (41 FR 33436–33437, August 9, 1976).

Dated: August 11, 1976.

JOHN H. KELSO,
Deputy Administrator, Health Services Administration.

[FR Doc.76–23888 Filed 8–13–76;8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization for PSRO Area XVI of the State of California

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act [42 USC 1320c–1(f)] and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Organization for Professional Standards Review of Santa Barbara and San Luis Obispo Counties for PSRO Area XVI, Which area is designated a Professional Standards Review Organization area in 42 CFR 101.7.

The Secretary has determined that the Organization for Professional Standards Review of Santa Barbara and San Luis Obispo Counties is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of California, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 per centum of the licensed doctors of medicine or osteopathy engage in active practice in PSRO Area XVI of the State of California.

As stipulated in its Articles of Incorporation, the principal officers of the Organization for Professional Standards Review of Santa Barbara and San Luis Obispo Counties are:

Name and office held: 1. James Conner, M.D., President; 2. Bruce Howard, M.D., Vice President; 3. Ivan Cliff, M.D., Secretary; 4. Stanford Deitrich, M.D., Treasurer.

The official address of the corporation is 9 East Pedregosa, Santa Barbara, California 93101.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XVI of the State of California who objects to the Secretary entering into an agreement with the Organization for Professional Standards Review of Santa Barbara and San Luis Obispo Counties, on the grounds that this organization is not representative of the doctors in such area may, on or before September 15, 1976, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 727 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area XVI of the State of California. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Organization for Professional Standards Review of Santa Barbara and San Luis Obispo Counties is representative of such doctors in the area; Provided that pursuant to Section 108(b) of Public Law 94–182, the provisions of Section 1152(f) [42 USC 1320c–1(f)], relating to notification and polling, as described above, shall not apply where: (1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review, or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: August 11, 1976.

LOUIS M. HELLMAN,
Administrator, Health Services Administration.

JOHN H. KELSO,
Deputy Administrator, Health Services Administration.

[FR Doc.76–23882 Filed 8–13–76;8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization for PSRO Area I of the State of Missouri

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act [42 USC 1320c–1(f)] and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Northwest Missouri PSRO for PSRO Area I, which area is designated a Professional Standards Review Organization area in 42 CFR 101.29.

The Secretary has determined that the Northwest Missouri PSRO is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organizations is incorporated, according to the laws of the State of Missouri, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area I of the State of Missouri.

As stipulated in its Articles of Incorporation, the principal officers of the Northwest Missouri PSRO are:

NAME AND OFFICE HELD

1. Fred D. Fowler, M.D., president.
2. William A. Slente, M.D., vice president.
3. Hamilton V. Reid, treasurer.
4. Robert McConnell, secretary.

The official address of the corporation is 3036 Gillham Road, Kansas City, Missouri 64108.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area I of the State of Missouri who objects to the Secretary entering into an agreement with the Northwest

Missouri PSRO, on the grounds that this organization is not representative of the doctors in such area may, on or before September 15, 1976 mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 2,004 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area I of the State of Missouri. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Northwest Missouri PSRO is representative of such doctors in the area; Provided that pursuant to Section 108(b) of Pub. L. 94–182, the provisions of Section 1152(f) [42 USC 1320c–1(f)], relating to notification and polling, as described above, shall not apply where: (1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: August 11, 1976.

JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc.76–23885 Filed 8–13–76;8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization for the State of North Dakota

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act (42 USC 1320c–1(f)) and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the North Dakota Health Care Review for the State of North Dakota, which area is designated a Professional Standards Review Organization area in 42 CFR 101.38.

The Secretary has determined that the North Dakota Health Care Review is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of North Dakota, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in the State of North Dakota.

As stipulated in its Articles of Incorporation, the principal officers of the North Dakota Health Care Review are:

NAME AND OFFICE HELD
1. W. B. Huntley, M.D., President
2. M. A. K. Lomman, M.D., Vice President
3. C. R. Montz, M.D., Secretary-Treasurer

The official address of the corporation is 810 E. Rosser, Bismarck, North Dakota 58501.

Any licensed doctor of medicine or osteopathy engaged in active practice in the State of North Dakota who objects to the Secretary entering into an agreement with the North Dakota Health Care Review, on the grounds that this organization is not representative of the doctors in such area may, on or before September 15, 1976, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or medical or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 644 doctors of medicine and/or osteopathy are engaged in active practice in the State of North Dakota. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the North Dakota Health Care Review is representative of such doctors in such area; Provided that pursuant to Section 108(b) of Public Law 94–182, the provisions of Section 1152(f) [42 USC 1320c–1(f)], relating to notification and polling, as described above, shall not apply where: (1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: August 11, 1976.

LOUIS M. HELLMAN,
Administrator,
Health Services Administration.

JOHN H. KELSO,
Deputy Administrator,
Health Services Administration.

[FR Doc.78–23887 Filed 8–13–76;8:45 am]

National Institutes of Health

CANCER CENTER DIRECTORS

Meeting

Notice is hereby given of the meeting of Cancer Center Directors sponsored by the Division of Cancer Research Resources and Centers, October 25–27, 1976, which will be held at the Beach Club Hotel in Naples, Florida.

This meeting will be open to the public on October 25–27, 1976, from 8:30 a.m. to adjournment. The meeting will be concerned with two major areas: (1) Current items of mutual concern of Cancer Center Directors and National Cancer Institute staff, and (2) exchange of ideas and problems with Administrators of Cancer Centers and National Cancer Institute staff, mainly in the area of grants administration. Attendance by the public will be limited to space available.

Dr. William A. Walter, Assoicate Director for the Centers and Treatment Program, Division of Cancer Research Resources and Centers, National Cancer Institute, Room 826 Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland 20016, 301–496–7427, will provide additional information.

Dated: August 9, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–23793 Filed 8–13–76;8:45 am]

CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Commission for the Control of Huntington's Disease and Its Consequences, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, on August 30, 1976, in Conference Room 5169, DHEW North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. The purpose of the meeting will be to discuss legislation pertinent to the social management and biomedical research aspects of Huntington's disease; to discuss plans for taking public testimony; and, to continue discussions on the organization of the Commission's work. Attendance by

the public will be limited to space available.

Mrs. Ruth Dudley, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, Bethesda, Maryland 20014 (301) 496–5751, will provide summaries of the meeting and rosters of committee members.

Dr. Nancy Wexler, Executive Director, Commission for the Control of Huntington's Disease and Its Consequences, Building 31, Room 8A11, Bethesda, Maryland 20014 (301) 496–9275, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health)

Dated: August 9, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–23790 Filed 8–13–76;8:45 am]

MAMMALIAN CELL LINES COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Mammalian Cell Lines Committee, National Institute of General Medical Sciences on October 1–2, 1976, 9 a.m., National Institutes of Health, Building 31C, Conference Room #8. This meeting will be open to the public. It will be concerned with procedural matters and issues relevant to the Genetics Program, including a discussion of genetics center grants. Attendance by the public will be limited to space available.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 919, Bethesda, Maryland 20014, Telephone: 301, 496–7301, will furnish summary minutes of the meeting and a roster of committee members. Substantive program information may be obtained from Dr. Michael I. Goldberg, Executive Secretary, Westwood Building, Room 921, Bethesda, Maryland 20014, Telephone: 301, 496–7175.

(Catalog of Federal Domestic Assistance Program 13–862, General Medical Sciences-Genetics Program)

Dated: August 9, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–23795 Filed 8–13–76;8:45 am]

PATHOBIOLOGICAL CHEMISTRY STUDY SECTION AND REPRODUCTIVE BIOLOGY STUDY SECTION

Workshops

Notice is hereby given of Workshops to be held by the following Study Sections on the dates and places listed below:

PATHOBIOLOGICAL CHEMISTRY STUDY SECTION

Workshop on Connective Tissue Biochemistry in Health and Disease, Room 5, Building 31, Bethesda, Maryland, November 3, 1976, from 9:00 a.m. to 5:00 p.m.

Further information may be obtained from Dr. J. Sri Ram, Executive Secretary, Pathobiological Chemistry Study Section, Westwood Building, Room 206, telephone 301/496–7432.

REPRODUCTIVE BIOLOGY STUDY SECTION

Workshop on Peptide Releasing Hormones, Wilson Hall, Building 1, Bethesda, Maryland, November 1, 1976, 8:30 a.m. to adjournment and November 2, 1976, 8:30 a.m. to adjournment.

Further information may be obtained from Dr. Dharam S. Dhindsa, Executive Secretary, Reproductive Biology Study Section, Westwood Building, Room 307, telephone 301/496–7318.

These workshops will be open to the public. Attendance by the public will be limited to space available.

Dated: August 9, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–23794 Filed 8–13–76;8:45 am]

RATIONAL EVALUATION OF PESTICIDAL VERSUS MUTAGENIC/CARCINOGENIC ACTION

Workshop

The Interagency Collaborative Group on Environmental Carcinogenesis (National Cancer Institute) and the Subcommittee on Evironmental Mutagenesis of the DHEW Committee to Coordinate Toxicology and Related Programs wish to announce a Workshop entitled "A Rational Evaluation of Pesticidal versus Mutagenic/Carcinogenic Action", on September 15, 1976, from 9:00 a.m. to 4:30 p.m., National Library of Medicine, Billings Auditorium, Bethesda, Maryland. The agenda will include presentations by scientists actively engaged in research on the mutagenic and carcinogenic properties of pesticides. Attendance by the public will be limited to space available.

For further information, Dr. H. F. Kraybill, NCI, Landow Building, Room C337, phone 496–1625, may be contacted.

Dated: August 9, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–23791 Filed 8–13–76;8:45 am]

WORKSHOP ON TUMOR PROMOTION AND COFACTORS IN CARCINOGENESIS

Meeting

Notice is hereby given of the Workshop on Tumor Promotion and Cofactors in Carcinogenesis sponsored by the Division of Cancer Research Resources and Centers, National Cancer Institute, October 12–14, 1976, Swope Center at the Marine Biological Laboratory, Woods Hole, Massachusetts.

This meeting will be open to the public on October 12 from 8:00 p.m. to 10:00 p.m., on October 13 from 9:00 a.m. to 10:00 p.m., and on October 14 from 9:00 a.m. to 1:00 p.m., to discuss current understandings relative to the phenomenon of tumor promotion and to identify areas of tumor promotion research which may be ready for significant, further exploration. Attendance by the public will be limited to space available.

Dr. Thaddeus J. Domanski, Chief, Cause and Prevention Branch, Division of Cancer Research Resources and Centers, National Cancer Institute, Westwood Building, Room 850, 5333 Westbard Avenue, Bethesda, Maryland 20014, Telephone Number (Area Code, 301) 496–7801, will provide additional information.

Dated: August 9, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–23792 Filed 8–13–76;8:45 am]

Office of the Assistant Secretary for Health

NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

Notice is hereby given that the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research will meet on August 17, 1976, in Room 207, Building 1, Center for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333. The meeting will convene at 9:00 a.m. and adjourn at noon; it will be open to the public, subject to the limitation of available space.

The agenda will be a discussion of informed consent and procedures for assuring that the risks and benefits from the swine flu vaccine are fully explained to each individual to whom such vaccine is to be administered.

The usual requirement for 15 days advance notice of this meeting is impossible to meet due to a recent legislative action indicating that the Commission's consultation with respect to the swine flu vaccination program must be completed by September 1, 1976.

Requests for information should be directed to Mr. Don Berreth, Public Information Officer, Center for Disease Control, Room 2067, 1600 Clifton Road, N.E., Atlanta, Georgia 30333, (404) 633–3311.

DAVID J. SENCER,
Director, Center for
Disease Control.

AUGUST 12, 1976.

[FR Doc.76–23967 Filed 8–12–76;12:59 pm]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N–76–587]

BONADELLE SIERRA HIGHLANDS

Hearing

In the matter of: Bonadelle Sierra Highlands, Tract 2240, 76–131–IS OILSR No. 0–1030–04–170.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d)

Notice is hereby given that:

1. Bonadelle Sierra Highlands, Tract 2240, Bob C. Gaston, President and Land Dynamics, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the In-

terstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, *et seq.*) received a Notice of Proceedings and Opportunity for Hearing issued June 2, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Officer of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Bonadelle Sierra Highlands, Tract 2240 located in Fresno County, California, 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 June 21, 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 qeustions 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 October 26, 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 October 2, 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 allegations 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.

By the Secretary.

Dated: July 15, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23801 Filed 8-13-76;8:45 am]

[Docket No. N-76-594]

BRIARCLIFF-BY-THE-LAKE

Hearing

In the matter of: Briarcliff-By-The-Lake, Lawrence E. Steelman, President and Resort Land Corporation, 76-157-IS OILSR No. 0-1601-03-71 and (A) and (B).

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d)

Notice is hereby given that:

1. Briarcliff-By-The-Lake, Lawrence E. Steelman, President and Resort Land Corporation, authorized agents and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 16, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Briarcliff-By-The-Lake located in Baxter County, Arkansas, 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 July 2, 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 October 28, 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 October 5, 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 allegations 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.

By the Secretary.

Dated: July 21, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23802 Filed 8-13-76;8:45 am]

[Docket No. N-76-591]

CYPRESS ACRES

Hearing

In the matter of: Cypress Acres, Harry Holmes, President and Del Monte Properties Company, 76-137-IS, OILSR No. 0-3789-04-700.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Cypress Acres, Harry Holmes, President and Del Monte Properties Company, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 8, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Cypress Acres located in Monterey County, California, 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 June 25, 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 October 21, 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 October 1, 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 allegations 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.

By the Secretary.

Dated: July 15, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23803 Filed 8-13-76;8:45 am]

[Docket No. N-76-581]

INDIAN TRAILS

Hearing

In the matter of: Indian Trails, Camp Indian Trails, Inc., and Solomon Gorewitz, President, 76-146-IS, OILSR NO. 0-

1436–44–67. Pursuant to 15 U.S.C. 1706 (d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Indian Trails, Camp Indian Trails, Inc., and Solomon Gorewitz, President, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 9, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Indian Trails located in Pike County, Pennsylvania, 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 June 21, 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 August 27, 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 August 22, 1976.

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

By the Secretary.

Dated: June 24, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–23804 Filed 8–13–76;8:45 am]

[Docket No. N–76–583]

LAKE-FRONT ROYAL

Hearing

In the matter of: Lake-Front Royal, Martin Price, President, First American Land Corporation, 76–127–IS, OILSR No. 0–1243–54–50.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Lake-Front Royal, Martin Price, President, First American Land Corporation, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 9, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Lake Front Royal subdivision located in Warren County, Virginia, 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 June 21, 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 September 21, 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 August 31, 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 allegations of which shall be deemed to be true, and on 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.

By the Secretary.

Dated: June 24, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–23805 Filed 8–13–76;8:45 am]

[Docket No. N–76–598]

LOST CREEK

Hearing

In the matter of: Lost Creek, Section One, William C. Davidson, Jr., Esquire, Authorized Agent, Mutual Savings Institution d/b/a Lost Creek Developers, 76–190–IS OILSR No. 0–3960–49–626.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d)

Notice is hereby given that:

1. Lost Creek, Section One, William C. Davidson, Jr., Esquire, Authorized Agent Mutual Savings Institution d/b/a Lost Creek Developers, authorized agent and officers, 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. 1710, et seq.), received a Notice of Proceedings and Opportunity for Hearing issued July 9, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Lost Creek, Section One located in Travis County, Texas, 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 July 23, 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 November 8, 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 October 17, 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 allegations 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.

By the Secretary.

Dated: July 30, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76–23806 Filed 8–13–76;8:45 am]

[Docket No. N–76–593]

MOONRIDGE

Hearing

In the matter of: Moonridge, John K. Karlock, Developer d/b/a Moonridge

Subdivision, 76-185-IS, OILSR No. 0-1791-44-90.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Moonridge, John K. Karlock, Developer d/b/a Moonridge Subdivision, authorized agents and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 30, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Moonridge located in Easton, Pensylvania 18042, 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 July 15, 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 November 1, 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 October 18, 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 allegations 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.

By the Secretary.

Dated: July 21, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23807 Filed 8-13-76;8:45 am]

[Docket No. N-76-599]

MT. POCONO SKI HAVEN LAKE ESTATES

Hearing

In the matter of: Mt. Pocono Ski Haven Estates, Mt. Pocono Ski Haven Lake Estates, Inc. and Nicholas Kotovos, President, 76-194-IS, OILSR No. 0-2266-44-136.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Mt. Pocono Ski Haven Lake Estates, Mt. Pocono Ski Haven Lake Estates, Inc. and Nicholas Kotovos, President, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. 90-448) (15 U.S.C. 1710, et seq.,) received a Notice of Proceedings and Opportunity for Hearing issued July 9, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Mt. Pocono Ski Haven Lake Estates, located in Monroe County, Pennsylvania, 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 July 23, 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. 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 November 5, 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 October 14, 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 allegations 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.

By the Secretary.

Dated: July 30, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23808 Filed 8-13-76;8:45 am]

[Docket No. N-76-595]

MOUNTAIN SHADOW LAKE

Hearing

In the matter of: Mountain Shadow Lake, National Recreational Communities, Inc., and Richard W. Gerrity, President, 76-172-IS OILSR No. 0-1798-44-91.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Mountain Shadow Lake, National Recreational Communities, Inc., and Richard W. Gerrity, President, authorized agents and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et. seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 23, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Mountain Shadow Lake located in Beaver Township, Columbia County, Pennsylvania, 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 July 19, 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 October 19, 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 September 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 allegations 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.

By the Secretary.

Dated: July 21, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23809 Filed 8-13-76;8:45 am]

[Docket No. N–76–592]

PEBBLE BEACH TOWNHOUSES

Hearing

In the matter of: Pebble Beach Townhouses No. 2, Harry Holmes, President and Del Monte Properties Company, 76–138–IS, OILSR No. 0–4510–04–807.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Pebble Beach Townhouses No. 2, Harry Holmes, President and Del Monte Properties Company, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 8, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Pebble Beach Townhouses No. 2 located in Monterey County, California, 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 June 25, 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 October 21, 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 October 1, 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 allegations 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.

By the Secretary.

Dated: June 15, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23810 Filed 8-13-76;8:45 am]

[Docket No. N–76–588]

PESCADERO HEIGHTS

Hearing

In the matter of: Pescadero Heights No. 3, Harry Holmes, President and Del Monte Properties Company, 76–139–IS, OILSR No. 0–4368–04–797.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Pescadero Heights No. 3, Harry Holmes, President and Del Monte Properties Company, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 8, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Pescadero Heights No. 3, located in Monterey County, California, 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 June 25, 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 October 21, 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 October 1, 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 allegations 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.

By the Secretary.

Dated: July 15, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23811 Filed 8-13-76;8:45 am]

[Docket No. N–76–585]

POCONO RANCHETTES, INC.

Hearing

In the matter of: Pocono Ranchettes, Pocono Ranchettes, Inc. and B. G. Jones, III, President, 76–161–IS OILSR No. 0–1556–44–17.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Pocono Ranchettes, Pocono Ranchettes, Inc. and B. G. Jones, III, President, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 16, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Pocono Ranchettes, located in Wayne County, Pennsylvania, contain untrue statements of material fact or omit to state material facts requried to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received June 29, 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 September 28, 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 September 21, 1976.

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

By the Secretary.

Dated: July 2, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23812 Filed 8-13-76;8:45 am]

[Docket No. N-76-582]

RAINBOW ACRES

Hearing

In the matter of: Rainbow Acres, B. E. Coffman, President and El Dorado Water Company, Inc., 76-133-IS, OILSR No. 0-2771-02-574.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Rainbow Acres, B. E. Coffman, President and El Dorado Water Company, Inc., authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 2, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Rainbow Acres located in Mohave 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 June 21, 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 September 14, 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 August 25, 1976.

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

By the Secretary.

Dated: June 24, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23813 Filed 8-13-76;8:45 am]

[Docket No. N-76-597]

RANCH LANDS IN THE POCONOS

Hearing

In the matter of: Ranch Lands in the Poconos, Pocono Ranch Lands, Ltd. and Karl Hope, Authorized Agent, 76-176-IS OILSR No. 0-2015-44-113 and (A).

Purusant to 15 U.S.C. 1706(d) and 24 CRF 1720.160(d), notice is hereby given that:

1. Ranch Lands in the Poconos, Pocono Ranch Lands, Ltd. and Karl Hope, Authorized Agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 23, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Ranch Lands in the Poconos, located in Pike County, Pennsylvania, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statemnts therein not misleading.

2. The Respondent filed an Answer received July 14, 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, S.W., Washington, D.C., on October 27, 1976 at 2.00 p.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 October 6, 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 allegations 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.

By the Secretary.

Dated: July 21, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23814 Filed 8-13-76;8:45 am]

[Docket No. N-76-584]

RIVER HILLS

Hearing

In the matter of: River Hills, Martin Price, President and First American Land Corporation, 76-162-IS OILSR No. 0-1580-54-67.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. River Hills, Martin Price, President and First American Land Corporation, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 16, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 River Hills Subdivision located in Page County, Virginia, contain untrue statements of material fact or omit to state material facts required to be stated herein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received July 1, 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 September 21, 1976 at 2:00 p.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 August 31, 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 allegations 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 1710.45(b)(1).

This Notice shall be served upon the CFR 1720.440.

By the Secretary.

Dated: July 14, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23815 Filed 8-13-76;8:45 am]

[Docket No. N-76-589]

SPYGLASS WOODS UNIT NO. 3

Hearing

In the matter of: Spyglass Woods Unit No. 3, Harry Holmes, President and Del Monte Properties Company, 76-140-IS, OILSR No. 0-3762-04-689.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), notice is hereby given that:

1. Spyglass Woods Unit No. 3, Harry Holmes, President and Del Monte Properties Company, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 8, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Spglass Woods Unit No. 3 located in Monterey County, California, 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 June 25, 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, S.W., Washington, D.C., on October 21, 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 October 1, 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 allegations 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.

By the Secretary.

Dated: July 15, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23816 Filed 8-13-76;8:45 am]

[Docket No. N-76-586]

STELLA MARIS ESTATES

Hearing

In the matter of: Stella Maris Estates, Long Island Estates Developers, Inc., and Joerg B. Schnapka, Executive Vice-President 76-33-IS, OILSR NO. 0-0247-60-11.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Stella Maris Estates, Long Island Estates Developers, Inc., and Joerg B. Schnapka, Executive Vice-President, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued February 6, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Stella Maris Estates, located on Adderly's Island, Bahama Islands, 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 May 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 October 12, 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 September 22, 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 allegations 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.

By the Secretary.

Dated: July 9, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23817 Filed 8-13-76;8:45 am]

[Docket No. N-76-590]

SUNRIDGE PINES, HAWKINS WAY, ET AL.

Hearing

In the matter of: Sunridge Pines, Hawkins Way, Benbow Road, Pebble Beach Heights No. 1, and Del Monte Research Park, Harry Holmes, President and Del Monte Properties Company, 76-141-IS OILSR No. 0-3263-04-590.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Sunridge Pines, Hawkins Way, Benbow Road, Pebble Beach Heights No. 1, and Del Monte Research Park, Harry Holmes, President and Del Monte Properties Company, authorized agent and officers, 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. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 8, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 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 Sunridge Pines, Hawkins Way, Benbow Road, Pebble Beach Heights No. 1 and Del Monte Research Park located in Monterey County, California, 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 June 25, 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 October 21, 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 October 1, 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 allegations 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.

By the Secretary.

Dated: July 15, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23818 Filed 8-13-76;8:45 am]

[Docket No. N-76-596]

WINONA LAKES

Hearing

In the matter of: Winona Lakes, American Landmark Corporation and Karl Hope, President, 76-174-IS, OILSR No. 0-1278-44-53 (A) thru (E).

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Winona Lakes, American Landmark Corporation and Karl Hope, President, authorized agent and officers, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued June 23, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(d) (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 Winona Lakes, Located in Pike County, Pennsylvania, 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 July 14, 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 September 28, 1976 at 2:00 p.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 September 7, 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 allegations 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.

By the Secretary.

Dated: July 21, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.76-23819 Filed 8-13-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

CEDAR RAPIDS, IOWA, AIR TRAFFIC CONTROL TOWER; PARTIAL CLOSING

Public Hearing

Notice is hereby given that the Federal Aviation Administration will convene a public hearing commencing at 2:00 p.m. on Tuesday, August 24, 1976, at the Armory, Basement of Veterans Memorial Building, City Hall, Cedar Rapids, Iowa, regarding the proposed closure of the Cedar Rapids, Iowa, Air Traffic Control Tower between the hours of 11:00 p.m. and 7:00 a.m. Said hearing is being convened by reason of the public interest expressed in the proposed action. The hearing will be informal in nature and will be presided over by the Acting Chief, Air Traffic Division, Central Region, FAA, Kansas City, Missouri. Interested parties are invited to attend and express their views with regard to this action by the submission of oral or written statements. Written statements should be submitted in duplicate to the Presiding Officer and be made a part of the record. Persons wishing to make oral statements at the hearing must notify the Presiding Officer that they desire to be heard and indicate the amount of time requested. Presentations will be limited to ten minutes unless adequate justification is given for additional time. Presentations will be scheduled in the order that such notifications are received, and other interested persons may thereafter make oral statements on a first-come, first-serve basis.

A transcript of the hearing will be made and anyone may purchase copies from the reporter. A transcript of the hearing will be available for examination in the office of the Chief, Plans, Programs and Evaluation Branch, Air Traffic Division, 1601F Federal Building, 601 East 12th Street, Kansas City, Missouri.

Since this proposed action has been previously announced to interested parties by letter on July 8, it is determined that publishing of the Notice of Public Hearing in the FEDERAL REGISTER less than fifteen (15) days before hearing is reasonable under 44 U.S.C. 1508.

Issued in Kansas City, Missouri, on August 4, 1976.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.76-23613 Filed 8-13-76;8:45 am]

SIOUX CITY, IOWA, AIR TRAFFIC CONTROL TOWER; PARTIAL CLOSING

Public Hearing

Notice is hereby given that the Federal Aviation Administration will convene a public hearing commencing at 2:00 p.m. on Monday, August 23, 1976, at the Airport Conference Room, Terminal Building, Sioux City Municipal Airport, Sioux City, Iowa, regarding the proposed closure of the Sioux City, Iowa, Air Traffic Control Tower between the hours of 11:00 p.m. and 7:00 a.m. Said hearing is being convened by reason of the public interest expressed in the proposed action. The hearing will be informal in nature and will be presided over by the Acting Chief, Air Traffic Division, Central Region, FAA, Kansas City, Missouri. Interested parties are invited to attend and express their views with regard to this action by the submission of oral or written statements. Written statements should be submitted in duplicate to the Presiding Officer and be made a part of the record. Persons wishing to make oral statements at the hearing must notify the Presiding Officer that they desire to be heard and indicate the amount of time requested. Presentations will be limited to ten minutes unless adequate justification is given for additional time. Presentations will be scheduled in the order that such notifications are received, and other interested persons may thereafter make oral statements on a first-come, first-serve basis.

A transcript of the hearing will be made and anyone may purchase copies from the reporter. A transcript of the hearing will be available for examination in the office of the Chief, Plans, Programs and Evaluation Branch, Air Traffic Division, 1601F Federal Building, 601 East 12th Street, Kansas City, Missouri.

Since this proposed action has been previously announced to interested parties by letter on July 8, it is determined that publishing of the Notice of Public Hearing in the FEDERAL REGISTER less than fifteen (15) days before hearing is reasonable under 44 U.S.C. 1508.

Issued in Kansas City, Missouri, on August 4, 1976.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.76-23612 Filed 8-13-76;8:45 am]

SPRINGFIELD, MISSOURI, AIR TRAFFIC CONTROL TOWER; PARTIAL CLOSING

Public Hearing

Notice is hereby given that the Federal Aviation Administration will convene a public hearing commencing at 2:00 p.m. on Wednesday, August 25, 1976, at the City Council Chambers, City Hall, 830 Boonville, Springfield, Missouri, regarding the proposed closure of the Springfield, Missouri, Air Traffic Control Tower between the hours of 11:00 p.m. and 6:00 a.m. Said hearing is being convened by reason of the public interest

expressed in the proposed action. The hearing will be informal in nature and will be presided over by the Acting Chief, Air Traffic Division, Central Region, FAA, Kansas City, Missouri. Interested parties are invited to attend and express their views with regard to this action by the submission of oral or written statements. Written statements should be submitted in duplicate to the Presiding Officer and be made a part of the record. Persons wishing to make oral statements at the hearing must notify the Presiding Officer that they desire to be heard and indicate the amount of time requested. Presentations will be limited to ten minutes unless adequate justification is given for additional time. Presentations will be scheduled in the order that such notifications are received, and other interested persons may thereafter make oral statements on a first-come, first-serve basis.

A transcript of the hearing will be made and anyone may purchase copies from the reporter. A transcript of the hearing will be available for examination in the office of the Chief, Plans, Programs and Evaluation Branch, Air Traffic Division, 1601F Federal Building, 601 East 12th Street, Kansas City, Missouri.

Since this proposed action has been previously announced to interested parties by letter on July 8, it is determined that publishing of the Notice of Public Hearing in the FEDERAL REGISTER less than fifteen (15) days before hearing is reasonable under 44 U.S.C. 1508.

Issued in Kansas City, Missouri, on Aug. 4, 1976.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.76-23614 Filed 8-13-76;8:45 am]

Office of Pipeline Safety Operations

[Docket No. 76-12W]

TRANS-ALASKA PIPELINE

Anticipated Petition for Waivers

Alyeska Pipeline Service Company (Alyeska) has advised the Department of Transportation that it expects to petition the Director of the Materials Transportation Bureau for waivers of provisions applicable to the construction of liquid pipelines. Alyeska is the company formed by the owners of the trans-Alaska pipeline system to design, construct and operate the pipeline. In its advice to the Department, and in testimony before cognizant Congressional committees in mid-July 1976, statements made on behalf of Alyeska have included the following information:

Late in the summer of 1975 it came to the attention of Alyeska and to officials of the State of Alaska, the Department of the Interior and the Department of Transportation, that there were possible problems with the quality of girth welds, made in the field to join adjacent sections of pipe, and with the radiographic record of girth welds made during the 1975 construction season. Alyeska undertook a reexamination of its 1975 weld and radiograph programs. It determined that of the welds that were accepted in 1975, some 3,955 welds were apparently not radiographed in conformance with applicable requirements, or were radiographed and found to be not in conformity with the Bureau's construction standards (49 CFR Part 195), and in particular, the requirements for weld acceptability, weld repair, and replacement of defective welds.

Of the approximately 1,400 radiographic defects initially determined, it subsequently appeared that some 307 related to welds which had been scheduled for 1975 but had, in fact, not been made. Another 237 welds have now been radiographed by Alyeska. Of the remaining radiographic deficiencies, there are 61 welds for which there is not any radiograph on file, and of that number, 21 are identified by Alyeska as being in "critical areas." Additionally, another 59 radiographic deficiencies, or a total of 80, are both in critical areas and significant in nature. Alyeska includes in the "significant" category radiographs which purport to be of two or more welds but are, in fact, duplicates of one weld.

A total of 2,552 welds were found by x-rays to have discontinuities in excess of the criteria set forth in section 6 of the American Petroleum Institute Standard for Welding Pipelines and Related Facilities (13th ed. 1973) (API-1104), which is incorporated by reference in 49 CFR 195.228, or other variations from the construction standards set forth in Subpart D of 49 CFR 195. As of recent date, remedial work has been undertaken on more than half of those defective welds, leaving a balance of 1,235. Of that figure, some 760 welds are located in "critical areas" meaning, according to Alyeska, under riverbeds, in permafrost, or in other areas of difficult access or environmental sensitivity.

The radiographic deficiencies are measured against the requirement for radiographic inspection of all main line girth welds, which is set forth in Section 3.2.2.3 of the Stipulations for the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline, entered into by the United States, acting through the Secretary of the Interior, and by the owner-permittees, but could also be discrepancies in the program intended by Alyeska to demonstrate compliance with 49 CFR 195.234. Since paragraph (a) of § 195.234 provides that nondestructive testing may be performed by any process that will clearly indicate defects affecting weld integrity, use of other accepted techniques for nondestructive testing could meet the Bureau's requirements, but would be at variance with the Stipulation. Alyeska has not explicitly indicated whether it will petition the Department of the Interior for any amendment to or other relief from the present requirements of the Stipulation. In an August 5 news release, however, Alyeska announced that "it has suspended, pending further review, its efforts to develop an acoustic imaging system as an independent tool for examination of buried welds." That news release also stated that Alyeska now believes "the necessary additional development of the system and its acceptance by the government agencies as an independent tool could not occur within the time remaining for construction of the pipeline."

Alyeska has stated its belief that the 1,235 welds, including the 760 located in areas of "critical" access, do not pose a risk to the safety and integrity of the pipeline. Accordingly, it is to be anticipated that Alyeska will apply for waivers with respect to all or a substantial portion of those welds. Although the Bureau is not yet in receipt of any such waiver request, Alyeska has announced in its August 5 news release that it "will apply at this time for exceptions to strict pipeline weld specifications for 11 welds buried beneath rivers" and "* * * that other applications may be filed later." It is expected that Alyeska will not request a waiver for any weld containing a crack.

It is anticipated that in support of its petition(s) Alyeska will present the results of tests being conducted by or for the British Welding Institute. Those tests are intended to establish fracture toughness, by use of crack opening displacement (COD) method, and impact toughness, by use of the Charpy notch test. Further, Alyeska is expected to present a fracture mechanics analysis that is intended to demonstrate mathematical relationships between dimensions of defects of various types and the associated risks of crack formation and crack propagation. Those relationships may be stated as functions of the length, depth and orientation of weld defects or arc burns and, in some cases, functions of other characteristics such as the radial (weld depth) location. Depth, orientation and location may be either estimated by interpretation of radiographs or measured by use of ultrasonic techniques.

In this connection, the National Bureau of Standards (NBS) is serving as technical consultant to the Bureau's Office of Pipeline Safety Operations. The NBS will prepare an analysis of test procedures and methodology, and an assessment of the adequacy of the statistical data base. It will also prepare its own evaluation of any submitted fracture mechanics analysis, including specifically, provision for safety margins taking into consideration projected normal operating conditions, abnormal loading, fatigue cycling, corrosion fatigue cycling, anticipated temperature ranges, and other environmental conditions. The NBS evaluations and analyses will be made part of the record of proceedings on any petition that relies upon the fracture mechanics concept.

Thus, the anticipated petition(s) and the proceedings thereon may raise issues requiring analysis of interrelated technical problems. This Notice is accordingly published to bring the nature of those problems to the attention of interested Federal and State agencies and other interested persons at the earliest practicable time.

Further, since the nature of the anticipated petition(s) is unusual and the number of weld deficiencies to be ad-

dressed may be large, this Notice sets forth a preliminary determination of the information and data required for processing any request for a waiver to allow girth weld defects or arc burns greater than allowed by 49 CFR Part 195, Subpart D, on the basis of a fracture mechanics concept.

REQUIREMENT I—EVALUATION OF PROPOSED ALTERNATIVE MAXIMUM ALLOWABLE WELD DEFECT AND ARC BURN SIZES

Discussion. Alternative allowable defect sizes should be proposed applicable to each type of defect, other than cracks, for which a waiver is being requested. If a waiver is being requested for any arc burns, allowable arc burn sizes should be proposed. Proposed alternative allowable weld defect and proposed allowable arc burn sizes must be supported by fracture mechanics analyses using the worst case fatigue stress spectrum. For analysis, these defects must be asumed to be surface cracks equal in size to twice the proposed allowable weld defect or arc burn size (in both length and depth). These assumed defects must not grow in size such that stressing to the maximum credible service stress could cause leakage. The crack growth analyses must account for both cyclic and sustained stresses in the most deleterious service environments and temperatures.

For weld defects the final output of the analysis shall be a proposed allowable defect size curve with weld defect depth (Y axis) versus weld defect length (X axis); defects having sizes which fall below this curve will be within the proposed acceptance limits. For arc burns, the final output of the analysis shall be a proposed allowable arc burn size curve with arc burn depth (Y axis) versus arc burn length (X axis); arc burns having sizes which fall below this curve will be within the proposed acceptance limits. Requests for waiver of any weld defects or arc burns which fall above their respective curve must be the subject of separate submittals, as described in Requirement III.

SUPPORTING INFORMATION AND DATA

1. A minimum fracture toughness value for the pipeline shall be established by documenting the fracture toughness in sufficient notch locations and temperatures for the weld metal and the heat-affected zone that is representative of the pipeline welds and, in the case of arc burns, for the base metal. The toughness value used in the fracture mechanics analyses shall be the minimum toughness at 10° C below the minimum anticipated service temperature.

2. A maximum fatigue crack growth rate for the pipeline shall be established by documenting the fatigue crack growth behavior of the weld metal and heat-affected zone that is representative of the pipeline welds and operating conditions and, in the case of arc burns, representative of the base metal. The fatigue crack growth rate used in the fracture mechanics analyses shall be the maximum fatigue growth rate multiplied by an assumed safety factor of four.

3. A minimum threshold for sustained loan crack growth shall be established by documenting for each of the service environments the sustained load cracking behavior of the weld metal and the heat-affected zone that is representative of the pipeline welds and, in the case of arc burns, representative of the base metal. The minimum threshold established shall be used as a terminal condition for the fracture mechanics analyses.

4. The worst case fatigue stress spectrum, the worst case instantaneous credible stress, and the appropriate residual stress, all representative of pipeline welds and heat-affected zones shall be used in the proposed allowable weld defect analysis. Similarly, the worst case of hoop stresses shall be used in the proposed allowable arc burn analysis. Documentation of stress analysis methodology and derivation is necessary for proper assesment of the operating and residual stresses.

5. Any request shall contain relevant documentation of the material property data. This includes tensile, elastic, impact, and corrosion properties of the weld, heat-affected, and base material at appropriate temperatures and environments.

REQUIREMENT II—EVALUATION OF INDIVIDUAL DEFECTS OR ARC BURNS FOR WHICH WAIVER IS REQUESTED AGAINST ALLOWABLE DEFECT AND ARC BURN SIZES ESTABLISHED UNDER REQUIREMENT I

SUPPORTING INFORMATION AND DATA

1. In the case of weld defects, inspection data shall be provided for each individual weld for which a waiver is requested. These data shall include defect type, location and dimensions (length and depth). The methodology used to obtain these data shall also be described. The dimensions of non-planar defects such as porosity and slag inclusions may be determined from radiographs; uncertainties in these measurements and differences in interpretations shall be described. The length of planar defects, such as lack of penetration or lack of fusion, may also be determined from radiographs; uncertainties in these measurements and differences in interpretations shall be described. The depth of planar defects should be determined by a nondestructive test method specifically designed for depth measurement, such as ultrasonics reflection methods. If radiographs are used to determine the depth of planar defects, an additional assumed safety factor of two shall be applied to the estimated depth.

2. In the case of arc burns, inspection data shall be provided for each individual arc burn for which a waiver is requested. These data shall include the location and the maximum length and depth of the arc burn heat-affected area. The methodology used to obtain these data shall also be described. The length of heat-affected areas may be determined from radiographs; uncertainties in these measurements and differences in interpretations shall be described. The depth of each heat-affected area shall be determined by estimating on a conservative basis the depth of other arc burns of representative severity using appropriate metallographic examination techniques and applying an additional assumed safety factor of two to this estimated depth.

REQUIREMENT III—EVALUATION OF SPECIAL CASES NOT MEETING ALLOWABLE DEFECT OR ARC BURN SIZE CRITERIA ESTABLISHED UNDER REQUIREMENT I

Discussions. Separate submittals are required to establish alternative acceptance standards for defects and arc burns that exceed the allowable size criteria that may be established on the worst case basis for Requirement I. This submittal must be based on the fatigue stress spectrum, environment and location of the defect under consideration. All other technical requirements are the same as specified in Requirement I.

The inspection data provided for each individual weld defect or arc burn shall include the maximum width of that defect or arc burn. The width of weld defects and arc burns may be determined in the manner described in Requirement II for determining the length of weld defects and arc burns.

For the most critical combinations of weld defects, arc burns and operating conditions, full (or large) scale tests may be required to demonstrate that the pipeline retains an acceptable level of integrity.

Supporting Information and Data. Except as described in the discussion above, the supporting information and data requirements are the same as specified for Requirements I and II.

Docket No. 76–12W is being established in the Office of Pipeline Safety Operations, 2100 Second Street, SW., Washington, D.C. 20590, at this time to receive any written views or comments that interested persons may wish to submit based on the general discussion of the anticipated waiver petition(s), the statement of evaluation requirements and the description of the required information and data set forth in this Notice. Upon receipt of a petition for waiver from Alyeska, the Bureau will publish a supplemental notice in the FEDERAL REGISTER under this docket number describing the petition, making it available for public inspection and inviting public comment on the specific requests made in the petition.

Persons planning to file comments on this Notice or on the anticipated petition(s) who wish to be served with copies of future notices issued by the Bureau in this matter, may file with the Docket Clerk at the above address a request to be placed on the Notice Mailing List for Docket No. 76–12W.

All comments received will be considered and will be made available in the docket for public inspection along with

the petition(s) and related analyses for public inspection upon receipt.

(18 U.S.C. 831–835, 49 CFR 1.53(g).)

Issued in Washington, D.C., on August 12, 1976.

CESAR DELEON,
Acting Director,
Office of Pipeline Safety Operations.

NOTE.—This document is reprinted without change from the issue of Friday, August 13, 1976.

[FR Doc.76-23938 Filed 8-12-76;11:39 am]

CIVIL AERONAUTICS BOARD

[Order 76-8-17; Docket 29198]

ALASKA AIRLINES, INC., ET AL.

Domestic Passenger-Fare Increase

Correction

In FR Doc. 76-23114, appearing at page 33318 in the issue for Monday, August 9, 1976, the following corrections should be made:

1. On page 33319, column one, first full paragraph, in the 7th line, the last word now reading "correct" should read "incorrect."

2. On page 33319, column two, in footnote 11, the first line should read as follows: "Pan American's fares applicable between".

[Docket 29558; Order 76-8-52]

DOMESTIC PASSENGER-FARE INCREASE

Order Dismissing Complaint

By tariff revisions marked to become effective on various dates from August 11, 1976 to September 15, 1976 [1] for travel effective September 15, 1976, all domestic trunkline and local service carriers operating within the 48 contiguous states and the District of Columbia propose a general increase in passenger fares of two percent. In justification, the carriers reiterate previous arguments with respect to the continuing inflation and the Board's adherence to its hypothetical ratemaking return on investment methodology. Various carriers argue that the utilization adjustment is unwarranted since there is nothing abnormal about current utilization levels; that the existence of expiration dates on all discount fares obviates an adjustment for present discount fares, since no uneconomic fare can exist for more than 18 months, and therefore can no longer affect capacity or burden full-fare passengers; and that the Board should make its decision with regard to anticipatory costs in order to begin taking a more realistic view of the persistent effects of inflation. In any event, the carriers assert, the present two-percent increase appears justified under the Board's own methodology.

The National Passenger Traffic Association (NPTA) has filed a complaint against the proposed increase stating that the carriers have already been granted cumulative increases totalling 8 percent since last November; that continued tarffic growth and stabilized fuel prices have had a beneficial impact on earnings which must be assessed by the Board in its evaluation of the present proposal; and that the Board should reject carrier suggestions to alter its present methodology. American Airlines, Inc. and Eastern Air Lines, Inc. have filed answers to the complaint stating that NPTA has failed to indicate any error in the analyses submitted by the carriers, which clearly demonstrate a need for additional revenues; that the brief respite from the pressure of rising fuel costs will not continue into the future; and that the carriers have amply demonstrated the impropriety of the Board's adjustments adopted after the DPFI without notice or hearing.

Upon consideration of the proposals, the complaint and answers thereto, and all relevant matters, the Board finds that the complaint does not set forth sufficient facts to warrant investigation, and consequently the request for suspension will be denied and the complaint dismissed.

Both the carriers and complainant state views with which the Board has dealt on several prior occasions. The carriers again argue against the utilization and discount-fare adjustments, but, in our opinion, do not set forth anything new which would cause us to alter our previous decisions. The complainant, NPTA, raises the same general issues it has argued against past increase proposals but which are effectively treated in the Board's evaluative ratemaking methodology. The Board has responded to these issues in several prior orders and we need not repeat ourselves herein. Thus, under the ratemaking methodology we have employed in the past, including all adjustments which we continue to believe are proper, the estimated ratemaking return on investment under the present level of fares is 10.2 percent as of the tariff effective date.[2] The proposed two-percent increase is estimated to provide the carriers the means to attain a 12.1 percent return on their investment,[3] and, therefore, we do not find an investigation is warranted under present circumstances.[4]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered that:

1. The complaint in Docket 29558 is hereby dismissed; and

2. Copies of this order be served upon all certificated scheduled carriers operating between points within the 48 contiguous states and the District of Columbia, and the National Passenger Traffic Association, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-23843 Filed 8-13-76;8:45 am]

[Docket 27573; Agreement C.A.B. 26035; Order 76-8-34]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates; Order

Issued under delegated authority August 6, 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 the Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

With respect to air transportation as defined by the Act, the agreement cancels certain specific commodity rates as shown in the attachment.[1]

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, it is ordered that:

Agreement C.A.B. 26035 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

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.

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[1] Revisions to Airline Tariff Publishing Company, Agent, C.A.B. No. 259. The tariff becomes effective on August 11, 1976 for American Airlines, Inc.; on August 15, 1976 for Continental Air Lines, Inc.; on August 19, 1976 for Braniff Airways, Inc.; and on September 15, 1976 for Delta Air Lines, Inc., Eastern Air Lines, Inc., National Airlines, Inc., Northwest Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., Allegheny Airlines, Inc., Frontier Airlines, Inc., Hughes Air Corp d/b/a Hughes Airwest, North Central Airlines, Inc., Ozark Air Lines, Inc., Piedmont Aviation, Inc., Southern Airways, Inc., and Texas International Airlines, Inc.

[2] The Board is still considering the issue of anticipatory costs.

[3] Both estimates of the ratemaking return include no increase in the average price of fuel over that experienced by the carriers during the month of June. (See Appendix A), filed as part of original document.

[4] For the revised fare formula, see Appendix B, filed as part of original document.

[5] Dissenting statements filed as part of original document.

[1] Filed as part of original.

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.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Economics.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-23842 Filed 8-13-76;8:45 am]

COMMISSION ON FEDERAL PAPERWORK

IMPACT OF FEDERAL PAPERWORK

Public Hearings

Notice is hereby given of two public hearings of the Commission on Federal Paperwork to be held in New York City. The hearings will be held on September 9 and 10, 1976, at the U.S. Customs Service, 6 World Trade Center, Room 770, New York City.

The hearings will commence each day at 9:00 a.m. and end at 1:00 p.m. On the first day the Commission will receive comments about the impact of Federal paperwork upon income security programs. On the second day the Commission will receive comments about the impact of Federal paperwork upon finance, transportation, importing, and exporting.

Testimony presented at these hearings will be used by the Commission on Federal Paperwork in making recommendations to the Congress and the President on changes which would ease the burden of Federal paperwork.

Persons wishing further information about the hearings should contact the Commission on Federal Paperwork, located at 1111 20th Street NW., Suite 200, Washington, D.C. 20582, telephone (202) 653-5400.

FRANK HORTON,
Chairman.

[FR Doc.76-23788 Filed 8-13-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 600-1; OPP 33000/445 & 446]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, SW., Washington D.C. 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, & 13—202/755-9315
PM 15, 16, & 17—202/426-9425
PM 21 & 22—202/426-2454
PM 23—202/755-1397
PM 24—202/755-2196
PM 25—202/755-7012
PM 31—202/426-2635
PM 32—202/426-9486
PM 33—202/755-9041
PM 34—202/426-9490

The Interim Policy Statement requires that claims for compensation be filed on or before October 15, 1976. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended should be made on or before September 15, 1976.

Dated: August 6, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP—33000/445)

EPA Reg. No. 1145-128. Amoco Oil Co., 200 E. Randolph Dr., Chicago IL 60601. AMOCO 2,4-D LV ESTER-M. Active Ingredients: Propylene glycol butyl ether esters of 2,4-Dichlorophenoxy-acetic acid 72.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for re-registration. PM23

EPA Reg. No. 1145-130. Amoco Oil Co. AMOCO 2,4-D WEED KILLER NO. 2-M. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 49.3%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1448-44. Buckman Laboratories, Inc., 1256 N. McLean Blvd., Memphis TN 38108. BUSPERSE 51T. Active Ingredients: 2 - (Thiocyanomethylthio) benzothiazole 1.6%; 2-Hydroxypropyl methanethiolsulfonate 1.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM33

EPA File Symbol 6288-RE. Capitol Packaging Co., 1502 N. 25th Ave., Melrose Park IL 60160. SURFACE DISINFECTANT AND DEODORIZER. Active Ingredients: Tributylin isopropyl succinate 0.024%; tributyltin benzoate 0.036%; tributyltin linoleate 0.012%; n-alkyl (60% C14, 30% C16, 5% 512, 5%, C18) dimethyl benzyl ammonium chloride 0.339%; isopropyl alcohol 39.025%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 239-2353. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHO WEED AND FEED 21-4-4. Active Ingredients: Isooctyl ester of 2,4-dichlorophenoxyacetic acid 0.97%; Isooctyl ester of 2-(2-Methyl-4-chlorophenoxy) propionic acid 0.98%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 239-2342. Chevron Chemical Co. ORTHO WEED-B-GON M. Active Ingredients: Diethanolamine salt of 2,4-Dichlorophenoxyacetic acid 14.2%; Diethanolamine salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 14.3%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 239–1857. Chevron Chemical Co. WEED-B-GON Bar. Active Ingredients: Triethylamine salt of 2,4-Dichlorophenoxyacetic acid 18.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 4715–219. Colorado International Corp., 5321 Dahlia St., Commerce City CO 80022. BEST 4 SERVIS BRAND 2,4-D BUTYL ESTER 334E. Active Ingredients: Butyl ester of 2,4-Dichlorophenoxyacetic Acid 49.1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–201. Diamond Shamrock Corp., Agricultural Chemicals Div., 1100 Superior Ave., Cleveland OH 44114. DACAMINE 4D WEED KILLER. Active Ingredients: N-Oleyl-1,3-propylenediamine salt of 2,4-Dichlorophenoxyacetic Acid 31.6%; 2,4-Dichlorophenoxyacetic Acid 25.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–166. Diamond Shamrock Corp. DACTHAL W–75 HERBICIDE (75% WETTABLE POWDER). Active Ingredients: Dimethyl tetrachloroterephthalate 75.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 11345–2. Dold Feed Co., Inc., 717 Elk St., Buffalo NY 14210. GREENWAY WEED AND FEED PLUS IRON. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid 1.28%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–201. Dow Chemical U.S.A., PO Box 1706, Midland MI 48640. ESTERON 99 CONCENTRATE. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Propylene Glycol Butyl Ether Esters 72.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 449–466. Techne Corp., c/o Regulator Affairs Dept., Farmland Industries, Inc., PO Box 7305, Kansas City MO 64116. TECHNE SUPER "80" BUTYL ESTER. Active Ingredients: 2,4-Dichlorophenoxyace'ic acid, Butyl Ester 80.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 449–349. Techne Corp. TECHNE NO. 6 AMINE WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic acid, Dimethylamine Salt 70.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 279–2613. FMC Corp., Agricultural Chemicals Div., 100 Niagara St., Middleport NY 14105. BOTRAN 6 KOLODUST 35 DUST FUNGICIDE. Active Ingredients: 2,6-Dichloro-4-nitroaniline 6.00%; Sulfur 29.40%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 279–1191. FMC Corp. ZIRAM 10 DUST FUNGICIDE. Active Ingredients: Ziram 10.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 279–268. FMC Corp. ZIRAM SPRAY FUNGICIDE. Active Ingredients: Ziram (zinc dimethyl dithiocarbamate) 76.0%. Method of Support: Application proceeds under 2(b) of interim policy. Appliaction for reregistration. PM21

EPA Reg. No. 802–503. The Chas. H. Lilly Co., 7737 NE Killingsworth, Portland OR 97218. SUPER RICH CRABGRASS KILLER & LAWN FOOD. Active Ingredients: Dimethyl Tetrachloroterephthalate 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 802–441. The Chas. H. Lilly Co. MILLER'S WEEDER. Active Ingredients: Dimethyl tetrachloroterephthalate 5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 8249–7. Maintenance Engineering Corp., PO Box 1729, Houston TX 77001. MECO MICROBIOCIDE 74. Active Ingredients: 2-(Thiocyanomethylthio)-benzothiazole 8.0%; 2-Hydroxypropylmethanethiosulfonate 7.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM33

EPA Reg. No. 524–62. Monsanto Co., 800 N. Lindbergh Blvd., St. Louis MO 63166. 2,4-D BUTYL ESTER TECHNICAL GRADE. Active Ingredients: Butyl Ester of 2,4-Dichlorophenoxyacetic Acid 99.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 524–85. Monsanto Co. 2,4-D BUTYL ESTER. Active Ingredients: Butyl ester of 2,4-Dichlorophenoxyacetic acid 41.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 524–115. Monsanto Co. FIELDCLEAN. Active Ingredients: Isooctyl ester of 2,4–Dichlorophenoxyacetic acid 94.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 33404–4. Stat Enterprises, A Div. of Pride Laboratories, Inc., 1865 New Highway, Farmingdale NY 11735. SAHARA GRANULAR WEED KILLER. Active Ingredients: Bromacil (5-Bromo-3-sec-butyl-6-methyluracil) 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 228–95. Riverdale Chemical Co., 220 E. 17th St., Chicago Heights IL. RIVERDALE 2,4-D LV6. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic acid 92.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 557–1918. Swift Agricultural Chemicals Corp., 111 W. Jackson Blvd., Chicago IL 60604. K-MART SATISFACTION ALWAYS WEED AND FEED. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 0.976%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 557–1823. Swift Agricultural Chemical Corp. EARL MAY DANDELION & WEED CONTROL PLUS LAWN FOOD. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 1.22%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 557–1819. Swift Agricultural Chemical Corp. GOLDEN VIGORO WEED CONTROL PLUS FERTILIZER. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 0.976%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 557–1781. Swift Agricultural Chemical Corp. VIGORO DANDELION KILLER. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 1.40%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 557–1706. Swift Agricultural Chemical Corp. K-MART SATISFACTION ALWAYS WEED AND FEED. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 1.22%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 557–1654. SWIFT AGRICULTURAL CHEMICAL CORP. SWIFT LAWN WEEDER & FEEDER. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 1.22%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1023–43. Tuco, Div. of the Upjohn Co., 7171 Portage Rd., Kalamazoo MI 49001. BOTRAN 90% (DUST BASE). Active Ingredients: 2,6-Dichloro-4-Nitroaniline 90.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 1023–36. Tuco. BOTRAN 75W FUNGICIDE. Active Ingredients: 2,6-Dichloro-4-Nitroaniline 75%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA File Symbol 876–ELE. Velsicol Chemical Corp., 341 E. Ohio St., Chicago IL 60611. TSAR INSECTICIDE TECHICAL GRADE. Active Ingredients: 1-Methylethyl (E)-3-[[(ethylamino) methoxyphosphinothioyl] oxy]-2-butenoate 90%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

APPLICATIONS RECEIVED (OPP—33000/446)

EPA Reg. No. 8590–39. Agway, Inc., Fertilizer-Chemical Div., Box 1333, Syracuse NY 13201. AGWAY WEED KILLER "66". Active Ingredients: Triethanolamine salt of 2,4-dichlorfophenoxyacetic acid 64.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 4185–125. Smith-Douglass, Div. of Borden Chemical, Borden, Inc., PO Box 419, Norfolk VA 23501. STRANGLE WEED KILLER. Active Ingredients: Isooctyl ester of 2,4-Dichlorophenoxyacetic acid 67.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for registration. PM23

EPA Reg. No. 677–218. Diamond Shamrock Corp., Agricultural Chemicals Div., 1100 Superior Ave., Cleveland OH 44114. DACTHAL G–2.5 HERBICIDE. Active Ingredients: Dimethyl tetrachloroterephthalate 5:0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–227. Diamond Shamrock Corp. DACTHAL G–5 HERBICIDE (5% DACTHAL GRANULES). Active Ingredients: Dimethyl tetrachloroterephthalate proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–255. Diamond Shamrock Corp. TECHNICAL ISOOCTYL-D (2,4-D). Active Ingredients: Isooctyl Esther of 2,4-Dichlorophenoxyacetic Acid 97.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–262. Diamond Shamrock Corp. DACTHAL W–75 FOR TURF (75% WETTABLE POWDER). Active Ingredients: Dimethyl tetrachloroterephthalate 75.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 677–318. Diamond Shamrock Corp. DACTHAL FLOWABLE TURF HERBICIDE. Active Ingredients: Dimethyl tetrachloroterephthalate 54.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 464–LGO. Dow Chemical, PO Box 1706, Midland MI 48640. DMA 6 WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid as the Dimethylamine salt 69.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 464–151. Dow Chemical. DMA 6 WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid as the Dimethylamine salt 69.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 912–54. Farmers Union Central Exchange, Inc., PO Box G, St. Paul MN 55101. 76–BE ESTER WEED KILLER CONCENTRATE. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Butyl Ester 79.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1990–138. Farmland Industries, Inc., PO Box 7305, Kansas City MO 64116. CO–OP WEED–OUT BUTYL ESTER 6 POUND. Active Ingredients: 2,4-Dichlorophenoxyacetic Acid, Butyl Ester 79.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2124–421. W. R. Grace & Co. Agricultural Chemicals, PO Box 277, Memphis TN 38101. NACO LV–4D WEED KILLER. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic Acid 69.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 334–265. Hysan Corp., 919 W. 38th St. Chicago IL 60609. GCC–535. Active Ingredients: Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) Propionic acid 4.05%; Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 4.02%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 334–264. Hysan Corp. GCC–533. Active Ingredients: Dimethylamine salt of of 2-(2-methyl-4-chlorophenoxy) Propionic acid 8.10%; Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 8.05%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 334–254. Hysan Corp. GCC–531. Active Ingredients: Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) Propionic acid 16.2%; Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 16.1%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 334–81. Hysan Corp. GCC–620 2,4-D SELECTIVE WEED KILLER. Active Ingredients: Alkanolamine Salts (of the Ethanol and Isopropanol series) of 2,4-Dichlorophenoxyacetic Acid 16.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 12315–L. I. V. Co., 709–11 Dauphia St., Mobil AL 36602. LEMONOL DISINFECTANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 4.0%; Isopropanol 2.0%; Essential oils 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 1381–7. Land O'Lakes, Inc., 2827 8th Ave. So., Fort Dodge IA 50501. 4 LB. BUTYL ESTER HV4 WEED KILLER. Active Ingredients: Butyl Ester of 2,4-Dichlorophenoxyacetic acid 57.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1180–43. Midland Cooperatives, Inc., 2021 E. Hennepin Ave., Minneapolis MN 55413. A–40,2,4-WEED KILLER. Active Ingredients: Dimethyl Amine Salt of 2,4-Dichlorophenoxyacetic Acid 49.8%. Method of Support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 524–147. Monsanto Co., Agricultural Products, 800 N. Lindbergh Blvd., St. Louis MO 63166. 2,4-D AMINE CONCENTRATE. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 70.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 524–GEN. Monsanto Co. 2,4-D AMINE CONCENTRATE. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 70.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 524–86. Monsanto Co. 2,4-D BUTYL ESTER CONCENTRATE. Active Ingredients: Butyl ester of 2,4-Dichlorophenoxyacetic acid 57.7%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 524–82. Monsanto Co. 2,4-D LOW VOLATILE ESTER. Active Ingredients: Isooctyl ester of 2,4-Dichlorophenoxyacetic acid 69.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 524–78. Monsanto Co. 2,4-D AMINE. Acitve Ingredients Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 49.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 524–GER. Monsanto Co. 2,4-D AMINE. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 49.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 524–76. Monsanto Co. 2,4-D ISOPROPYL ESTER. Active Ingredients: Isopropyl estser of 2,4-Dichlorophenoxyacetic acid 45.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2155–48. I. Schneid, Inc., PO Box 93188, Martech Station, Atlanta GA 30318. 2,4-D DMA AMINE WEED KILLER NON-VOLATILE FOR THE SELECTIVE CONTROL OF MANY BROADLEAVED WEEDS. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 49.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 538–93. O. M. Scott & Sons, Marysville OH 43040. SCOTTS TURF BUILDER PLUS 2 BRAND. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 0.75%; 2-(2-Methyl-4-chlorophenoxy) propionic acid 0.75%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2853–36. Vineland Chemical Co., PO Box 745, Vineland NJ 08360. VI-PAR (MCPP+2,4D). Active Ingredients: Diethanolamine salt of 2-methyl-4-chlorophenoxy) propionic acid 30.1%; Diethanolamine salt of 2,4-dichlorophenoxyacetic acid 14.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1769–263. National Chemsearch, Div. of USA Chem, Inc., 2727 Chemsearch Blvd., Irving TX 75062. NATIONAL CHEMSEARCH SELECT-TROL. Active Ingredients: Diethanolamine salt of 2-(2-Methyl-4-chlorophenoxy) Propionic acid 6.31%; Diethanolamine salt of 2,4-Dichlorophenoxyacetic acid 6.37%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

[FR Doc.76–23474 Filed 8–13–76;8:45 am]

[FRL 600–6; OPP–33000/447 & 448]

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Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under

Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

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PM 11, 12, & 13—202/755-9315.
PM 15, 16, & 17—202/426-9425.
PM 21 & 22—202/426-2454.
PM 23—202/755-1397.
PM 24—202/755-2196.
PM 25—202/755-7012.
PM 31—202/426-2635.
PM 32—202/426-9486.
PM 33—202/755-9041.
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Dated: August 10, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP-33000/447)

EPA File Symbol 150-LE. Anderson Chemical Co., Box 1041, Litchfield MN 55355. GERON II. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 10088-33. Athen Labs., Inc., 4180 N. First St., Milwaukee WI 53212. SELECTIVE HERBICIDE No. 2. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxy-acetic Acid 49%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 4-37. Bonide Chemical Co., Inc., 2 Wurz Ave., Yorkville NY 13495. BONIDE 20% 2,4-D. Active Ingredients: Triethanolamine 2,4-Dichlorophenoxyacetate 33.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Filed Symbol 3579-RO. Brewer Chemical Corp., PO Box 48, Honolulu HI 96810. CHLORINE-LIQUEFIED. Active Ingredients: Chlorine 100%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA Reg. No. 1448-30. Buckman Laboratories, Inc., 1256 N. McLean Blvd., Memphis TN 38108. BUSAN 25. Active Ingredients: 2-(Thiocyanomethylthio) benzothiazole 13.3%; 2-Hydroxypropyl methanethiolsulfonate 11.7%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. No. 5011-128. Carmel Chemical Corp., Box 406, Westfield IN 46074. FORMULA F-500. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.500%; Related Compounds 0.068%; Aromatic Petroleum Hydrocarbons 0.662%; Petroleum Hydrocarbons 98.750%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA Reg. No. 11345-3. Dold Feed Co., 717 Elk St., Buffalo NY 14210. SUPER GREEN WEED AND FEED PLUS. Active Ingredients: 2,4 - Dichlorophenoxyacetic Acid 1.28%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1057-57. C. B. Dolge Co., 11 Ferry Lane West, Westport CT 06880. E.W.T. PLUS/CONTROLS BROADLEAVED WEEDS. Active Ingredients: Diethanolamine salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 31.00%; Diethanolamine salt of 2,4-dichlorophenoxyacetic acid 15.35%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1057-6. C. B. Dolge Co. E.W.T./A SELECTIVE WEED-KILLER. Active Ingredients: Diethanolamine salt of 2,4-dichlorophenoxyacetic acid 49.6%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 7774-A. Erny Supply Co., 5406 N. 59th St., Tampa FL 33610. ESCO 501 DISINFECTANT. Active Ingredients: Alkyl (C14 50%, C12 40%, C16 10%) dimethyl benzyl ammonium chloride 10.00%; Ethanol 2.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 12315-U.I.V. Co., 709-11 Dauphin St., Mobile AL 36602. MINTOL DISINFECTANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 4.00%; Isopropanol 4.00%; Methyl salicylate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 61-167 Koppers Co., Inc., 1401 Koppers Bldg., Pittsburgh PA 15219. BRO-LITE Z-SPAR COLORTOX BOTTOM PAINT. Active Ingredients: Tributyltin Flouride 15.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM24

EPA Reg. No. 1706-125. Nalco Chemical Co., 2901 Butterfield Rd., Oak Brook IL 60521. NALKIL 2413 GRANULAR WEED KILLER. Active Ingredients: Bromacil (5-Bromo-3-sec-butyl-6-methyl-uracil 2.0%; Diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea) 2.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 1020-20. Oakite Products, Inc., 50 Valley Rd., Berkeley Hts. NJ 07922. OAKITE MICROBIOCIDE 30. Active Ingredients: 2-(thiocyanomethylthio) Benzothiozole 3.2%; 2-Hydroxypropyl Methanethiosulfonate 2.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM33

EPA Reg. No. 34704-5. Platte Chemical Co., 240 22nd St., P.O. Box 667, Greeley CO 80631. PLATTE AMINE 4 2,4-D WEED KILLER. Active Ingredients: Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid 49.5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Amended Use. PM23

EPA File Symbol 26393-E. Positive Formulators, Inc., 1044 N. Jerrie Ave., Tucson AZ 85711. KILLMASTER II. Active Ingredients: Chlorpyrifos [0,0-diethyl 0-(3,5,6-trichloro 2-pyridyl) phosphorothioate] 2.0%; Aromatic petroleum derivative solvent 1.2%; Petroleum distillate 94.7%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 9538-L. Sellers Chemical Corp., PO Box Harahan LA 70183. FLO-MO 810 SUCKER TOBACCO SUCKER CONTROL AGENT. Active Ingredients: Fatty Alcohols (C6 0.42%, C8 38.68%, C10 45.90%) 85%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Change in method of support from 2(a) to 2(b) and revised offer to pay statement submitted. PM25

EPA File Symbol 11511-ET. Shalco Chemical Corp., PO Box 2508, 2421 Lexington Ave., Toledo OH 43606. SHALCO ALGAECIDE. Active Ingredients: n-Alkyl (50% C12, 30% C14, 17% C16, 3% C18) dimethyl ethylbenzyl ammonium chloride 5.0%; ammonium chloride 5.0%. Method of Support: Application proceeds under 2(c) of interim policy. Revised offer to pay statement submitted. PM24

EPA File Symbol 7902-RT. TNT Chemicals Inc., 7301 N.W. 77th St., Miami FL 33166. TNT PROFESSIONAL STRENGTH FORMULA. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related Compounds 0.027%; d-trans Allethrins (allyl homolog of Cinerin I), 0.400%; Related compounds 0.030%; Aromatic petroleum hydrocarbons 0.265%; Petroleum distillate 6.500%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA File Symbol 1023-LO. Tuco Products Co., Division of The Upjohn Co., 7171 Partage Rd., Kalamazoo MI 49001. BAAM EC MITICIDE/INSECTICIDE FOR APPLES AND PEARS. Active Ingredients: N'-(2,4-dimethylphenyl)-N [[(2,4-dimethylphenyl) imino] methyl]-N-methylmethanimidamide 19.8%. Method of Support: Application proceeds under 2(a) of interim policy. PM13

EPA Reg. No. 1386-569. Universal Cooperatives, Inc., 111 Glamorgan St., Alliance OH 44601. UNICO TURF TREETER "T". Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 3.23%; Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 10.59%; Dimethylamine salt of Dicamba (3,6-dichloro-o-anisic acid) 1.28%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 876-42. Velsicol Chemical Corp., 341 E. Ohio St., Chicago IL 60611. VELSICOL BANVEL D (+2,4-D. Active Ingredients: Dimethylamine Salt of dicamba (3,6-dichloro-o-anisic acid) 18.4%; Dimethylamine Salts of related acids 3.2%; Dimethylamine Salt of 2,4-dichlorophenoxylacetic acid 36.8%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 876–25. Velsicol Chemical Corp. BANVEL D HERBICIDE. Active Ingredients: Dimethyl Salt of dicamba (3,6-dichloro-o-anisic acid) 49.0%; Dimethylamine Salt of Related acids 7.9%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Application for Reregistration and revised offer to pay statement submitted. PM25

EPA Reg. No. 876–44. Velsicol Chemical Corp. BANVEL K HERBICIDE. Active Ingredients: Dimethylamine Salt of dicamba (3,6-dichloro-o-anisic acid) 15.5%, Dimethylamine salt of related acids 2.8%; Dimethylamine salt of 2,4-dichlorophenoxy acetic acid 31.2%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 876–215. Velsicol Chemical Corp. VELSICOL 2,4-D AMINE HERBICIDE. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic Acid 49.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Smybol 37648–I. Water Guard Div., Southern Industrial Sales Corp., PO Box 350, Wilson NC 27893. WATER GUARD #166. Active Ingredients: Vinylene bisthiocyanate 8%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 99–RRN. Watkins Products, Inc., Winona MN 55987. DUAL PURPOSE GARDEN DUST. Active Ingredients: Carbaryl (1-naphthyl methyl carbamate) 3.00%; Malathion (O,O-dimethyl dithiophosphate of diethyl mercaptosuccinate 1.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA File Symbol 52–EUL. West Agro-Chemical Inc., A Subsidiary of West Chemical Products, Inc., 42–16 West Street, Long Island City NY 11101. ACIDET WEST ACID SANITIZER. Active Ingredients: Phosphoric Acid 50.0%; Dodecylbenzenesulfonic Acid 15.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement submitted. PM32

APPLICATIONS RECEIVED (OPP–33000/448)

EPA Reg. No. 8419–14. The Andersons, PO Box 119, Maumee OH 43537. CRABGRASS PREVENTER WITH DACTHAL. Active Ingredients: 2,3,5,6-Dimethyl Tetrachloroterephthalate 2.87%. Method of Support: Application proceeds under 2(b) of interim policy Application for reregistration. PM23

EPA Reg. 264–249. Amchem Products, Inc., Brookside Ave., Ambler PA 19002. WEED-ONE PREEMERGENCE. Active Ingredients: Dimethyltetrachloroterephthalate 6.9%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 5549–2. Coastal Chemical Corp., PO Box 627, Greenville NC 27834. 15% FERMATE DUST. Active Ingredients: Ferbam (Ferric Dimethyldithiocarbamate) 11.40%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 4715–168. Colorado International Corp., PO Box 7257, Denver CO 80207. BEST 4 SERVIS BRAND AMINE 400 2,4–D WEED KILLER. Active Ingredients: Dimethylamine Salt of 2,4-Dichlorophenoxyacetic acid 49.3%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 7774–T. Erny Supply Co., 5406 N. 59th St., Tampa FL. ESCO MINT DISINFECTANT (COEF. 7). Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.0%; Isopropanol 2.0%; Methyl salicylate 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 449–293. Techne Corp., c/o Farmland Industries, Inc., Agricultural Chemicals Div., PO Box 7305, Kansas City MO 64116. TECHNE WEED-D. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 25.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 279–388. FMC Corp., Agricultural Chemical Div., 100 Niagara St., Middleport NY 14105. CARBAMATE. Active Ingredients: Ferbam 76.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 8764–7. FMC Corp., Citrus Machinery Div., PO Box 552, Riverside CA 92502. STA-FRESH 101. Active Ingredients: 2,6-Dichloro-4-nitroaniline 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 334–271. Hysan Corp., 919 W. 38th St., Chicago IL 60609. GCC–534. Active Ingredients: Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) Propionic acid 0.312%; Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 0.310%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 334–272. Hysan Corp. GCC–532. Actice Ingredients: Dimethylamine salt of 2-(2-methyl-4-chlorophenoxy) Propionic acid 0.312%; Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 0.310%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 2342–793. Kerr-McGee Chemical Corp., PO Box 25861, Oklahoma City OK 73125. FASCO FERBAM DUST. Active Ingredients: Ferbam (ferric dimethyl dithiocarbamate) 11.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 2342–869. Kerr-McGee Chemical Corp. FASCO FERBAM 76–WP FUNGICIDE. Active Ingredients: Ferbam (ferric dimethyl dithiocarbamate) 76%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No, 1769–242. National Chemsearch, 2727 Chemsearch Blvd., Irving TX 75062. SELEX SELECTIVE BROADLEAF WEED KILLER. Active Ingredients: Diethanolamine salt of 2-(2-methyl-4-chlorophenoxy) propionic acid 0.25%; Diethanolamine salt of 2,4-dichlorophenoxy acetic acid 0.25%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistraiton. PM23

EPA Reg. No. 538–51. O. M. Scott & Sons, Marysville OH 43040. SCOTTS PLUS 2 BRAND. Active Ingredients: 2,4-Dichlorophenoxyacetic acid 0.40%; Dicamba (2-Methoxy-3,6-dichlorobenzoic acid) 0.07%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 33955–245. Acme Div., PBI/Gordon Corp., 300 South St., Kansas City KS 66118. ACME KARBAM BLACK. Active Ingredients: Ferbam (Ferric Dimethyldithiocarbamate) 76%. Method of support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA File Symbol 655–LUT. Prentiss Drug & Chemical Co., Inc., 363 7th Ave., New York NY 10001. PRENTOX PYRETHRUM PASTE RTU. Active Ingredients: Pyrethrins 0.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 4822–28. S. C. Johnson & Son, Inc., 1525 Home St., Racine WI 53403. JOHNSON RAID WEED KILLER. Active Ingredients: Morpholine 2,4-Dichlorophenoxyacetate 1.59%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 1159–162. Seacoast Laboratories, Inc., PO Box 157, 257 Hwy. 18, East Brunswick NJ 08816. TWIN LIGHT CRABGRASS PREVENTER WITH BALAN. Active Ingredients: N-butyl-N-ethyl-α,α,α-trifluro-2,6-dinitro-p-toluidine 1.72%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM25

EPA Reg. No. 4185–374. Smith-Douglass/Div. of Borden Chemical, Borden, Inc., PO Box 419, Norfolk VA 23501. BORDEN NUTRO CRABGRASS PREVENTER. Active Ingredients: Tetrachloroterephthalic acid, dimethy ester 3.85%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 11715–LL. Speer Products, Inc., PO Box 9383, Memphis TN 38109. SPEER HOUSE PLANT INSECT SPRAY. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related compounds 0.028%; d-trans Allethrin (allyl homolog of Cinerin I) 0.150%; Related compounds 0.012%; Aromatic petroleum hydrocarbons 0.272%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 148–REAE. Thompson-Hayward Chemical Co., PO Box 2383, Kansas City KS 66110. DIMILIN W–25 FOR SOYBEANS. Active Ingredients: N-[[(4-Chlorophenyl)amino] carbonyl] - 2,6 - difluorobenzamide 25.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA Reg. No. 226–13. Tobacco States Chemical Co., PO Box 479, Lexington KY 40501. TOBACCO STATES BRAND 15% FERMATE DUST. Active Ingredients: Ferbam (Ferric dimethyl dithiocarbamate) 10.5%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA File Symbol 400–RRI. Uniroyal Chemical, Div., of Uniroyal, Inc., 74 Amity Rd., Naugatuck CT 06770. VITAVAX HB–10 COTTON SEED TREATER (VITAVAX WITH CAPTAN). Active Ingredients: Carboxin (5,6 - Dihydro - 2 - Methyl - 1,4-Oxathiin-3-Carboxanilide 5.00%; Captan (N-Trichloromethylthio - 4 - Cyclohexene-1,2-Dicarboximide) 5.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM21

EPA Reg. No. 7401–144. Voluntary Purchasing Groups, Inc., PO Box 460, Bonham TX 75418. SPOT WEED KILLER. Active Ingredients: Dimethylamine Salt of 2,4-D-Dichlorophenoxy-acetic acid 0.89%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7401–24. Voluntary Purchasing Groups, Inc. FERTI-LOME SPRING CRABGRASS PREVENTER. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7401–27. Voluntary Purchasing Groups, Inc. FERTI-LOME WEED & GRASS PREVENTER. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.41%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7401-76. Voluntary Purchasing Groups, Inc. CRABGRASS AND WEED PREVENTER. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 7401-140. Voluntary Purchasing Groups, Inc. YEAR-AROUND CRABGRASS AND WEED PREVENTER. Active Ingredients: Dimethyl ester of tetrachloroterephthalic acid 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA Reg. No. 769-73. Woolfolk Chemical Works, Inc., PO Box 938, Fort Valley GA 31030. SECURITY FERBAM DUST. Active Ingredients: Ferbam 11.4%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM21

EPA Reg. No. 1270-138. Zep Manufacturing Co., PO Box 2015, Atlanta GA 30301. ZEP X-12670 SELECTIVE WEED KILLER. Active Ingredients: N-Oleyl-1,3-propylenediamine salt of 2,4-Dichlorophenoxyacetic acid 11.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

[FR Doc.76-23900 Filed 8-13-76;8:45 am]

[FRL 600-3]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES (NSPS) AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAPS)

Notice of Delegation of Authority to the U.S. Virgin Islands on Behalf of the Department of Conservation and Cultural Affairs

On December 23, 1971 (36 F.R. 24876) and March 8, 1974 (39 F.R. 9308) and August 6, 1974 (39 F.R. 33152), and September 23, 1975 (40 F.R. 43850), and January 15, 1976 (41 F.R. 2232), and January 26, 1976 (41 F.R. 3826), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator promulgated regulations codified in 40 CFR Part 60 establishing standards of performance for certain categories of new stationary sources (NSPS). In addition, on April 6, 1973 (38 F.R. 8820), and October 14, 1975 (40 F.R. 48292), pursuant to Section 112 of the Clean Air Act, as amended, the Administrator promulgated in 40 CFR Part 61 national emission standards for three hazardous air pollutants (NESHAPS). Sections 111(c) and 112(d) direct the Administrator to delegate authority to implement and enforce the standards following delegation of authority to a state.

On July 27, 1973, the Regional Administrator, Region II, forwarded to the U.S. Virgin Islands information setting forth the requirements for an adequate procedure for implementing the NSPS and NESHAPS. On October 9, 1973, the Honorable Melvin H. Evans, then Governor of the U.S. Virgin Islands, submitted a request for delegation of authority to implement and enforce the NSPS and certain aspects of the NESHAPS program. A March 9, 1976 letter from the Honorable Cyril E. King, presently Governor of the U.S. Virgin Islands, served to amend the terms of the Virgin Islands original request in certain respects, and to supplement it in others.

Examination of the U.S. Virgin Islands request by the Regional Office revealed statutory inadequacies affecting the authority to implement the NESHAPS for certain asbestos categories. The Regional Administrator otherwise found the procedures proposed to be employed by the Department to be adequate and, by means of a letter to Governor King on June 30, 1976 formally delegated to the U.S. Virgin Islands (per the U.S. Virgin Islands Department of Conservation and Cultural Affairs) certain aspects of the existing federal authority to implement and enforce the NSPS and NESHAPS programs.

What follows is the entire text of the Regional Administrator's June 30 letter, which describes fully the delegated aspects of the relevant programs, and articulates the conditions and understandings upon which delegation was based.

HON. CYRIL E. KING
Governor of the Virgin Islands
of the United States
St. Thomas, U.S. Virgin Islands 00802

DEAR GOVERNOR KING: On October 9, 1973, former Governor Melvin H. Evans submitted the Virgin Islands' formal request for delegation of federal authority for the implementation and enforcement of the Standards of Performance for New Stationary Sources (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS), pursuant to §§ 111(c)(1) and 112(d)(1) of the Clean Air Act, respectively. Your letter of March 9, 1976 served to amend the original application. This represents EPA's formal response to the referenced requests.

(A) We have reviewed the relevant laws of the U.S. Virgin Islands, and the rules and regulations of the Virgin Islands air pollution control agency and have determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS and NESHAPS programs by the Department of Conservation and Cultural Affairs, Division of Natural Resources Management ("the Department") and the U.S. Virgin Islands. Therefore, we hereby grant delegation of NSPS and NESHAPS to the U.S. Virgin Islands per the Department of Conservation and Cultural Affairs, Division of Natural Resources Management, as follows:

(A) Authority for all sources located in the U.S. Virgin Islands subject to the standards of performance for new stationary sources as promulgated in 40 CFR Part 60 as of the date of delegation. The categories of new sources covered by the delegation are fossil fuel fired steam generators; incinerators; portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; sewage treatment plants; primary lead smelters; primary aluminum reduction plants; phosphate fertilizer industry: wet process phosphoric acid plants; phosphate fertilizer industry: superphosphoric acid plants; phosphate fertilizer industry: diammonium phosphate plants; phosphate fertilizer industry: triple superphosphate plants; phosphate fertilizer industry: granular triple superphosphate storage facilities; coal preparation plants; ferroalloy production facilities; and steel plants: electric arc furnaces.

(2) Authority for all sources located in the U.S. Virgin Islands subject to the national emissions standards for hazardous air pollutants promulgated in 40 CFR Part 61 as of the date of delegation, with the exception of the asbestos building demolition and renovation, road surfacing, spraying, insulating, and waste disposal site regulations codified at 40 CFR §§ 61.22 (b), (d), (e)(1)(1), and § 61.25. The three hazardous air pollutanta covered by the delegation are asbestos, beryllium and mercury.

(B) This delegation is based upon the following conditions:

(1) Semi-annual reports shall be submitted to EPA by the Department which include a list of all identified new sources subject to NSPS and sources of hazardous air pollutants subject to NESHAPS located within the Virgin Islands; the status of compliance of sources; an identification of violators; a report of any legal action initiated by the Government of the Virgin Islands ("the Government") against such violators; and performance tests where applicable.

(2) The Department and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed and current regarding compliance status of the subject sources and interpretation of the regulations.

(3) The delegated authority shall be implemented by attaching as conditions to the Department's permits to construct and/or permits to operate:

(a) All substantive emission limitations associated with the standards hereby delegated; and

(b) All notification, record-keeping, record retention, reporting and self-monitoring requirements imposed by 40 CFR Parts 60 and 61.

(4) The Department shall employ the test methods and procedures set out in 40 CFR Part 60 Appendix A and Part 61 Appendix B in determining source compliance with the standards herein delegated as appropriate for the particular source involved; except that such test methods as have been formally approved by the Administrator as "equivalent" or "alternative" methods, pursuant to 40 CFR §§ 60.8(b) or 61.14(a) (as limited by § 61.14 (c)), may be employed by the Department in lieu of the analogous EPA reference method.

(5) The Department shall utilize the requirements for making emission data public as specified in 40 CFR §§ 60.9 and 61.15 until such time as they become Virgin Islands requirements through adoption by reference. In any instance where the Virgin Islands is unable under its own authority to release emissions data to the public, it shall so notify EPA, so that EPA may take the action necessary to release such data.

(6) Enforcement of the NSPS and NESHAPS in the U.S. Virgin Islands will be the primary responsibility of the Department. If the Department or the Government determined that such enforcement is not feasible and so notify EPA, or where the Department or the Government act in a manner inconsistent with the terms of this delegation, EPA may exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act with respect to sources within the U.S. Virgin Islands subject to NSPS and NESHAPS.

(7) The Government or the Department shall at no time grant a variance or waiver from compliance with NSPS and NESHAPS. Furthermore, the U.S. Virgin Islands and the Department are not delegated hereby the Administrator's authority pursuant to 40 CFR § 61.11 to grant waivers of compliance to sources subject to the NESHAPS regulations. Should the Government or the Department grant such a waiver or variance, EPA will consider the source receiving such relief to

be in violation of the applicable federal regulation and may initiate enforcement action against the source pursuant to Secton 113 of the Clean Air Act. The granting of the variance or waiver shall also constitute grounds for revocation of delegation by EPA.

(8) Acceptance of this delegation of presently promulgated NSPS and NESHAPS does not commit the U.S. Virgin Islands and the Department to accept delegation of future standards and requirements. A new request for delegation will be required for any standards and requirements not included in the Virgin Islands request of March 9, 1976.

(9) The delegation to the U.S. Virgin Islands and the Department does not include the authority to implement or enforce the NSPS or NESHAPS against federal facilities located within the Virgin Islands. This condition in no way relieves any federal facility from meeting the requirements of 40 CFR §§ 60 and 61 or any Virgin Islands regulation.

(10) If the Regional Administrator should determine at some future time that a Virgin Islands or Department procedure for enforcing or implementing the NSPS or NESHAPS is inadequate or is not being effectively carried out, this delegation may be revoked in whole or in part, and any such revocation shall be effective as of the date specified in the notice of revocation.

A notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. This notice will state, among other things, that, effective immediately, all reports required pursuant to the federal NSPS and NESHAPS by sources located in the U.S. Virgin Islands should be submitted to the Department's Office at P.O. Box 578, Charlotte Amalie, St. Thomas. Any such reports which have been or may be received by the Region II Office of EPA will be promptly transmitted to the Department.

Since this delegation is effective upon the date of this letter, there is no requirement that you notify EPA of acceptance. Unless EPA receives a written notice of any objections within ten days of your receipt of this letter the U.S. Virgin Islands will be deemed to have accepted all of the terms and conditions associated with this delegation.

Sincerely yours,

GERALD M. HANSLER, P.E.,
Regional Administrator.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007.

Effective immediately, copies of all reports required by the NSPS and NES HAPS (with the exeception of the asbestos building demolition and renovation, road surfacing, spraying, insulating, and waste disposal site regulations codified at 40 CFR § 61.22 (b), (d), (c), (i), (1), and § 61.25) should also be submitted to the office of the U.S. Virgin Islands Department of Conservation and Cultural Affairs, P.O. Box 578, Charlotte Amalie, St. Thomas.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. § 1857c-6 and 7).

Dated: August 4, 1976.

GERALD M. HANSLER,
Regional Administrator,
Region II.

[FR Doc.76-23897 Filed 8-13-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20468; FCC 76-677]

INTERNATIONAL TELECOMMUNICATION UNION

1977 World Administrative Radio Conference Preparations; Report and Order

In the matter of an inquiry relating to the preparations for the 1977 World Administrative Radio Conference of the International Telecommunication Union for planning of the Broadcasting-Satellite Service in the 11.7–12.2 GHz band.

BACKGROUND

1. The 1973 Plenipotentiary Conference of the International Telecommunication Union (ITU) resolved that a World Administrative Radio Conference (WARC) be convened in Geneva, Switzerland for the planning of the Broadcasting-Satellite Service in the 11.7–12.2 GHz (12.5 GHz in ITU Region 1) band in 1977. The Administrative Council of the ITU adopted on June 27, 1975, a convening date of January 10, 1977, and the following agenda for the 1977 WARC:

1. To establish the sharing criteria for the bands 11.7–12.2 GHz (in Regions 2 and 3) and 11.7–12.5 GHz (in Region 1) between the Broadcasting Satellite Service and the other services to which these bands are allocated, namely:
—the Fixed Service;
—the Broadcasting Service;
—the Mobile Service (except the Aeronautical Mobile);
—the Fixed-Satellite Service (Space-to-Earth) in Region 2;

2. To plan for the Broadcasting-Satellite Service in the above-mentioned bands in accordance with Resolution No. 27 of the Plenipotentiary Conference (Torremolinos, 1973) and Resolution No. Spa 2-2 of the World Administrative Conference for Space Telecommunications, Geneva, 1971;

3. To establish procedures to govern the use of these bands by the Broadcasting-Satellite Service and by other services mentioned in point 1 above to the extent considered necessary by the Conference.

2. On April 30, 1975, the Commission instituted the above-captioned proceeding with the issuance of a Notice of Inquiry, 52 F.C.C. 2d 1069 (40 F.R. 20673), calling for comments and reply comments on or before August 1 and September 2, 1975, respectively. Then on January 15, 1976, the Commission adopted its Second Notice of Inquiry (41 F.R. 4065), calling for comments and reply comments on or before March 5 and March 24, 1976, respectively. The purpose of these inquiries was to solicit comments and supporting materials to assist in the preparation of the United States proposals for the 1977 Broadcasting Satellite WARC. The Commission pointed out that the results of the conference could have a far reaching effect on the development of both the Broadcasting Satellite and Fixed-Satellite Services which are both allocated to ITU Region 2 (includes the United States) in this band. Even though this Report and Order as well as the preceding Notices of Inquiry are not rule making actions, the results of this conference could cause revision of several of the ITU Radio Regulations, which are annexed to a treaty to which the United States is a signatory nation.[1]

3. On June 24, 1975, the Commission established a Joint Industry-Government Committee (JIGC), pursuant to the Federal Advisory Committee Act, (FACA) 5 U.S.C. §§ 1–15 (App. I, Supp. III, 1973). The Committee is composed of interested industry and government representatives, has held open public meetings in accordance with the FACA, and has six working groups (WG)–WG-A, Definitions and Terminology; WG-B, Sharing Principles; WG-C, Sharing Criteria; WG-D, Evolution and Requirements; WG-E, Non-Technical Implications; and WG-F, Procedures; which have filed reports to the Commission which are summarized in this Report and Order.

4. Ancillary to the proceedings in this docket, additional technical preparatory work is being performed by the United States Study Groups of the International Radio Consultative Committee (CCIR). The CCIR held a Joint Working Party of various concerned study groups from May 10 to June 2, 1976, to provide technical input to the 1977 WARC-BS.

5. It is the purpose of this Report and Order to deal with the Comments filed in response to the Second Notice; to consider the reports filed on behalf of the JI/GC; to terminate the proceedings in this docket; and to present a document entitled "Proposals of the United States of America for the World Administrative Radio Conference for the Planning of the Broadcasting-Satellite Service in the 11.7–12.2 GHz Band—Geneva, 1977". This document represents the combined thinking of the Commission and all other interested parties on this subject. The Commission and the Office of Telecommunications Policy (OTP) will recommend to the Department of State that the document be forwarded to the Secretary General of the ITU as the formal proposals of the U.S.A. to the 1977 WARC.

SUMMARY OF COMMENTS

6. Subsequent to the issuance of the Second Notice of Inquiry, comments were filed by twelve parties:
ABC Television Network Affiliates Association,
CBS Television Network Affiliates Association, and
NBC Television Network Affiliates Association (Network Affiliates);
American Broadcasting Companies, Inc. (ABC);
American Telephone and Telegraph Co. (AT&T);
COMSAT General Corporation (COMSAT General);
Joint Council on Educational Telecommunications (JCET);
Corporation for Public Broadcasting (CPB);

[1] The Commission summarized the background of this conference along with the allocations in the band and a history of the Broadcasting-Satellite Service in the U.S. in its First Notice of Inquiry.

Satellite Business Systems (SBS);
Public Service Satellite Consortium (PSSC);
GTE Service Corporation (GTESC);
International Telecommunications Satellite Organization (INTELSAT);
Department of Health, Education, and Welfare (HEW); and
Western Union. (WN)

Reply comments were received from CPB, SBS, and JCET.

7. Regarding the establishment of direct-to-home Broadcasting-Satellite Service in the United States, HEW feels that the only opposition to this is the use of direct-to-home satellite transmissions for "traditional broadcasting program delivery" including entertainment, news, etc. They point out that no respondent to the Notice nor participant in the Joint Industry/Government Committee has formally proposed such a use. They say they have found no serious opposition in the JI/GC or CCIR to the use of either high-powered direct-to-home or medium powered direct-to-community satellite delivery of "specialized" health, educational, or other social or public information. They conclude that there is no significant difference of opinion regarding the need for a broadcasting-satellite service in this country but only on the meaning of the term "broadcasting". HEW feels a definite need exists "for such specialized services delivered to the home and that a satellite might provide the most feasible delivery technology in the more distant future (the next decade)." HEW urges that options be maintained at the WARC to provide high-powered satellite transmissions for direct-to-home reception of specialized social and public services. They further urge the Commission to consider the creation of a domestic "service" fitting in the ITU "broadcasting-satellite" category but which would be called by a more descriptive or meaningful name which would not be confused with the aspects of "traditional broadcast service."

8. The CPB, on the other hand, feels that comments and reply comments to the First Notice of Inquiry made it abundantly clear that there is not a consensus in the U.S. "either on the needs for satellite communications that can be satisfied in the 11.7–12.2 GHz band or on the classification of any of these needs as to whether they can and should be satisfied in the Broadcasting-Satellite Service or the Fixed-Satellite Service." They feel these are domestic issues which should not be considered at the WARC or certainly not in detail. They feel that our flexibility should not be constrained by decisions of the 1977 WARC. They further state that "the corporation strongly supported the allocation of the band 2500–2690 MHz to what was then called Distribution-Satellite Service for the * * *" WARC–ST 1971. They point out that the intended use was clearly stated at that time as for non-entertainment purposes such as health and education. The U.S. requirement, therefore, was interpreted as synonymous with the Broadcasting-Satellite Service (community reception). CPB feels the more restrictive interpretation by the FCC of what constitutes a Broadcasting-Satellite Service casts doubt on the usability of the 2500–2690 MHz band and this together with other services in the band lends additional importance to the preservation of the 11.7–12.2 GHz band for similar services—Broadcasting-Satellite Services or Fixed-Satellite Services. "There are no viable technical alternatives to these two frequency bands—2.5 GHz and 12 GHz—in the foreseeable future."

9. Some respondents feel that a domestic U.S. policy proceeding is necessary to determine probable domestic uses of the 11.7–12.2 GHz band in order to more properly ascertain the most applicable and appropriate technical standard for use of the band. ABC proposed a rulemaking proceeding in its Petition for Rulemaking, RM–2614. They state that "there is no available medium better suited to resolving these questions and promoting orderly growth of satellite services than a rulemaking policy inquiry * * *" In their summary comments ABC states "Apart from supplying the need for clear national goals and plans as the basis for effective participation in the WARC, a rulemaking proceeding is necessary to determine basic allocation decisions before the practical opportunities to structure satellite services are lost."

10. Network Affiliates mentioned a possible confusion on meaning of the term "community reception". They maintain "community reception" does not mean satellite distribution to local broadcast stations and cable systems—that (type of) distribution is "fixed satellite service". "Community reception" refers to *one location* or distribution covering a *limited area*. They further say that there is no need to "do violence" to the meaning of community reception "as the Fixed-Satellite Service has been allocated much more spectrum than the Broadcasting-Satellite Service. The important program distribution function that satellites can offer will be advanced by treating it as within the Fixed-Satellite Service." On the other hand JCET, in reply comments as well as initial comments, stated that discussion of these matters is an internal domestic issue and should not be broached in the international arena. Further, they do not agree that the term "community reception" does not apply to program distribution for rebroadcast or that all program distribution must be in the Fixed-Satellite Service. JCET also does not agree with Network Affiliates "interpretation that 'specialized users' fall into the Fixed-Satellite Service rather than the 'community reception'." WU has stated in their comments (received at the Commission on April 12, 1976) that there is no need for broadcasting-satellites in the 11.7–12.2 GHz frequency band. They further state that orbit sharing is a technological device which can be accommodated under existing regulations. They state that free growth in orbit-spectrum allocation will be most efficient. They feel that the "principles"[2] should not be included in the Radio Regulations or the CCIR, but should rather be treated as "objectives" to be further considered as the state-of-the-art warrants.

11. Regarding placing of principles into the body of the Radio Regulations, all respondents except WU felt that the CCIR was the proper forum to handle this matter at least until more operational experience is gained in the future, with the exception of JCET which feels that the principles recommended by WG–B should be incorporated into the ITU Radio Regulations. All parties responding except WU who addressed the issue, agreed that Working Group F's recommendation to modify Article 9A to include broadcasting satellite operations was the proper way to handle the coordination and notification internationally. WU has suggested that Article 9A be amended to include broadcasting satellites rather than to have an extensive modification to the Article.

12. Most parties responding supported the position of flexibility espoused by the Commission in paragraph 5 of the Second Notice in Docket 20468. They feel that to unduly constrain the efforts of those involved in furthering the use of satellite services at this time would tend to stifle progress and thwart the entry of new ideas, technology and interested entities into the field. They feel over regulation would be detrimental to effective expansion and utilization of this budding technological advancement.

13. In response to the previous two Notices in this proceeding, AT&T has recommended limits on out-of-band emissions radiated from satellites in the 11.7–12.2 GHz band, and that receiver designs for the Broadcasting-Satellite Service provide adequate discrimination against frequencies in adjacent bands. AT&T and GTESC suggest limits 20 dB below those stated in RR 470 NQ. They feel that without more stringent levels, interference problems could become acute in the adjacent 10.7–11.7 GHz band. They cite the inadequacy of RR's 116, 674; and 697 as lacking specific, numerical criteria on which to base practical engineering and planning. AT&T sees no inconsistency between their proposal for specific out-of-band interference criteria and the Commission's view that power limitations sholud be avoided in the 11.7–12.2 GHz band. AT&T is also conerned that receivers will not be adequately selective to avoid receiving unwanted signals from stations authorized to operate in the band below 11.7GHz. COMSAT General Corporation, on the other hand, feels that the establishment of numerical limits for out-of-band emissions is premature at this time. Further, AT&T and GTESC recommend

[2] "Principles" refers to the eight orbit/spectrum sharing principles enunciated by the JI/GC Working Group B.

that extraneous out-of-band impact on terrestrial microwave systems be limited to 10 picowatts or less as opposed to JI/GC WG C's preliminary recommendation of 100 picowatts. They are of the pinion that power flux density limitations must ultimately be imposed for both Broadcasting- and Fixed-Satellite Services over the entire 11.7–12.2 GHz band and suggest that the Commission study the issue. JCET, on the other hand, has stated in comments to the First Notice, Second Notice and in reply comments that they feel establishment of out-of-band limits is premature. Further JCET and CPB feel that out-of-band limits are outside the terms of reference for WARC 77. SBS believes, as stated in its reply coments, that the imposition of the stringent out-of-band emission controls recommended by AT&T and GTESC are not necessary at this time, pointing out that the relationship between level of interference and power flux density is a function of the number and deployment of satellites in the 11.7–12.2 GHz band and that no such relationship has been put forth by AT&T or GTESC. They say therefore, that there is simply no evidence to support the PFD[1] limits being 20 dB less than that specified in RR 470 NQ. Although GTESC disagrees that 100 picowatts should be used, they state that the value of 100 picowatts was put forth on the basis that it represents a one percent increase in the total noise budget of 10,000 picowatts and that the members of WG–C concluded that the additional noise increase of 0.04 dB (from 10,000 picowatts to 10,100 picowatts) was negligible. While this may have been brought up in deliberations in WG–C, it is not espoused in their report of March 16, 1976 as is pointed out by SBS. SBS further states that since the density of satellites operating in the 11.7–12.2 GHz band having contiguous US coverage will undoubtedly be smaller than that used in the original development of RR 470 NQ, the interference level to terrestrial systems would be significantly less than the acceptable level of 1000 picowatts if a PFD limit were established at the same level as given in 470 NQ. SBS argues that level as given in 470 NQ. SBS argues that the imposition of a PFD limit for out-of-band emissions would also impose a PFD limit in the 11.7–12.2 GHz band notwithstanding AT&T's assertion to the contrary. Also, since AT&T has requested the additional 20 dB of protection beyond 470 NQ for the band 11.7–12.2 GHz, then satellites operating below (and above) the 11.7–12.2 GHz band could operate with power levels 20 dB higher than satellites operating in that band. This more stringent limitation has not been justified and should be rejected, SBS states. Regarding the preliminary study on emission compliance problems prepared by Bell Systems in this conection, using the conservative value of 10 picowatts as the acceptable interference level, it was determined that *no* power flux density limitations are necessary since first generation satellite operations in the 11.7–12.2 GHz band would not cause excessive interference to out-of-band terrestrial systems. SBS also does not agree that choice of power output, control of frequency separation from the band edge, and shaping the power spectrum are not PFD limitation. Also they say that the angle of arrival for satellite systems servin gthe contiguous 48 states from a synchronous orbit position *"cannot"* be controlled to serve the purpose put forth by AT&T.

14. AT&T has also suggested that a new allocation will be needed for common carrier .TV pickup stations which will eventually be displaced by the space service authorized to operate in the 11.7–12.2 GHz band.

Summary of the Reports of the Joint Industry/Government Committee Working Groups

15. As was stated in the Commission's Second Notice of Inquiry in this proceeding, a Joint Industry/Government Committee (JI/GC) was established in June of 1975 to assist in preparation of the position to be set forth by the United States at the 1977 World Administrative Radio Conference concerning the use of the 11.7–12.2 GHz frequency band. This JI/GC formed six working groups to treat various specialized areas of interest to the WARC preparations. These six groups were as follows: WG–A, Definitions and Terminology; WG–B, Sharing Principles; WG–C, Sharing Criteria; WG–D, Evolution and Requirements; WG–E, International Non-Technical Implications; and WG–F, Procedures. Following is a brief summary of the conclusions and recommendations of each of the JI/GC working group reports.

WG–A: Definitions and Terminology

16. This report presents the historical derivation, intended meanings, and general technological and regulatory characteristics of the satellite radio services sharing the 11.7–12.2 GHz band. Distinguishing technological from regulatory service characteristics, the report diagnoses the ambiguity of the broadcasting service concept. The report concludes that, in making the satellite service definitions consistent with their terrestrial service counterparts, the 1971 WARC adopted long existing definitions, but incorporated the ambiguous relationship between broadcasting and multiple address fixed service. The report also discusses the ambiguity of the Community Reception Service, the only satellite service without a terrestrial counterpart. The report concludes that, despite its broadcasti: g nomenclature, community reception service is best understood as a unique multipurpose satellite classification within which both multiple address fixed service and broadcasting service may be rendered in traffic combinations to be determined by each nation.

17. The WG–A report suggests that the American delegation should be cognizant that, while apparently not on the WARC agenda, the ITU service definitions appear to be indirectly at issue because of the possibility that a determination of technical standards for satellite services sharing the 12 GHz band may be overly influenced by preconceived use classifications based upon individual interpretations of the ITU service definitions. The report goes on to state that service definitions have a technological as well as regulatory meaning. The ITU service definitions contain elements of both meanings, but one should note that they do not in themselves technically describe stations, nor do they prescribe how each nation will regulate its own radio services. Consequently, the ITU service definitions should be considered an ambiguous technological classification based on the very broadest of service characteristics. Furthermore, technological service characteristics may be independent of, and are not necessarily synonymous with, certain regulatory service concepts. Since all of the benefits of satellite technology have not been perceived, the WARC should avoid artificial treaty distinctions or unnecessary regulatory restrictions which could needlessly hinder future technological and service development. Although the WARC will deal primarily with "broadcasting satellites," the regulatory concept of broadcasting appears to be very ambiguous. The ITU definition offers no guides to distinguish the program content of a large group's multiple address communication from that of special format, broadcasting programming. Rather than a definitional question, such a distinction would appear to be more of a domestic regulatory issue to determine access to scarce broadcast frequencies.

18. Finally, the WG–A report contends that community reception, despite its "broadcasting" nomenclature, appears to be a unique multipurpose satellite classification within which both multiple address fixed service and broadcasting service may be rendered in traffic combinations to be determined by each administration. Because multiple address radio stations are traditionally considered capable of a broadcasting service, domestic regulation will have to weigh the extent of such a need and determine how much community reception service should be broadcasting and how much should be multiple address program distribution. Furthermore, domestic regulation will have to evaluate the content of intended community reception programming in order to apply appropriate regulatory safeguards. Thus, WG–A concluded that "community reception" is a unique international classification which includes services which will be regulated domestically as both broadcasting and fixed.

WG–B: Sharing Principles

19. This report deals specifically with orbit sharing methods and orbit use principles that are applicable to Region 2. In particular, it deals with the problems arising from sharing the 12 GHz frequency band and the geostationary arc among several fixed-satellite systems, among several broadcasting-satellite systems, and between systems of these two services. In those parts of Region 2 where terrestrial services may be permitted on

[1] PFD—power flux density.

a coequal basis, additional measures may have to be considered to prevent excessive levels of mutual interference between the broadcasting-satellite systems and those terrestrial services, and special problems may arise at the boundaries of countries that do and that do not plan such services (e.g., the U.S.A. and Mexico, should the latter choose to establish terrestrial services in this frequency band on a coequal basis). In such cases, special coordination procedures may be required, but no such considerations are included in this report. The WG–B report is divided into three primary sections. The first considers approaches to sharing the geostationary orbit and the band 11.7–12.2 GHz in Region 2; the second on sharing principles for an evolutionary approach to use of the 11.7–12.2 GHz band; and the third is devoted to capacity estimates for the geostationary orbit serving Region 2 in the band 11.7–12.2 GHz.

20. As stated above, the first section considers approaches to sharing the orbit/spectrum resource. From the technical viewpoint, there are two basically different approaches to sharing the orbit and spectrum between two space services that use the geostationary orbit. The first of these, called spectrum division, does not, per se, impose any constraints. Rather, it seeks to eliminate the difficulties of sharing between two services by assigning to each a certain fraction of the band. Aside from the difficulty, at this stage, of choosing the appropriate division, this approach has one overriding disadvantage. This is the fact that, for a given traffic flow, once that flow exceeds the amount that can be accommodated by the assigned share of the band, another satellite becomes necessary. Thus a significant economic penalty may be imposed. Largely for this economic reason, coupled with the fact that it permits equally high or higher orbit-spectrum utilization, it is concluded that the second, or orbit-divison approach, is to be preferred for practical applications.

21. From the point of view of implementation, three approaches to sharing, representing varying degrees of constraint on system design and operation have been described. The first approach, "no advance planning", is basically an extension of the status quo. Consequently, there are no substantial constraints on system design. On the other hand this very lack of guidelines threatens to produce, ultimately, an inefficient utilization of the orbit-spectrum resource. For this reason, this approach would appear to be less than satisfactory.

22. The second approach, called "evolutionary planning", has basically one constraint (aside from its associated sharing principles and criteria) and that is the necessary degree of satellite repositioning flexibility to accommodate new entries as they materialize. The penalty associated with this method is operational disruption in the event of a satellite relocation and the consequent consumption of fuel. On the other hand, satellite repositionings are likely to be rare, particularly in the near term, and maximum flexibility is maintained.

23. The third approach is that of an *a priori* plan, where all technical characteristics and satellite locations are fixed at a certain time and for a certain period. The major difficulty with this approach is the necessity for making decisions regarding traffic demand, implementation, etc., at a stage which, perhaps in most cases, will be too early for such decisions to be soundly based.

24. It appears that, on balance, the second or evolutionary planning approach is to be preferred for Region 2 because it provides the maximum flexibility to system designers while preserving access to the geostationary-satellite orbit for later entries. It does not force premature decisions and in fact permits an orderly evolution of implementations as they naturally arise. The possible penalties described above seem in just proportion to the advantages, and in practice will likely have to be rarely incurred by any particular network. Finally, this approach is compatible with efficient utilization of the spectrum-orbit resource since the proper relative positioning of satellites is the major consideration in achieving this efficiency.

25. Section 2 of the WG–B report considers sharing principles which would compliment the evolutionary approach described in the first section of the report. The report states that sample calculations show that the capacity of the spectrum-orbit resource can exceed the most liberal estimate of need and demand for the next decade or two. This, however, is stated to be true only if many of the techniques for increasing spectrum-orbit utilization are implemented. The principles espoused in the WG–B report include:

(a) Maximum Flexibility with Respect to System Characteristics.

(b) Maximum Flexibility with Respect to Orbit Apportionment: Until relative need and demand can be ascertained, maximum flexibility should be maintained with respect to the apportionment of the orbit between broadcasting- and fixed-satellites.

(c) Use of Orthogonal Polarization.

(d) Use of Frequency Interleaving.

(e) Use of Crossed-Path Geometry: This principle proposes that adjacent satellites should serve areas separated by at least one other service area.

(f) Use of Paired Service Areas: This principle would call for the pairing of widely separated geographic areas which would be served by the same satellite location.

(g) Clustering: This principle would cluster satellites with similar characteristics, and generally attempt to limit the number of interfaces between different clusters to a minimum.

(h) Equitable Burden Sharing: The burden of accepting interference should be shared on an equal basis.

Also considered in this section of the report were some of the problems associated with implementation of the principles:

The orbit sharing principles proposed in Section 2 can be used as guidelines for the establishment of a large number of broadcasting-satellite and fixed-satellite systems. However, it is not expected that a large number of such systems will, in fact, be established in the near future. It is more reasonable to expect that such systems will be established gradually as the need arises and as funds become available. While detailed planning in the face of uncertainties, both technical and administrative, is neither possible nor desirable at this time, it nevertheless is possible to apply these principles in practice as operational satellite systems are gradually introduced into service. The problems are associated basically with the trade-off between satellite spacing and restrictions imposed to avoid harmful interference. One would like initially to space the satellites so far apart that interference problems become negligible. On the other hand, one would like to foresee the positions and characteristics of all future satellite systems in order to make sure that all can be accommodated. It is believed that the principles proposed are sufficient to produce a reasonable compromise for both these features. It should be noted that future needs to be considered do not extend to centuries, or even quarter-centuries. The actual lifetime of satellites in orbit is of the order of 7 to 10 years. There will therefore be a succession of generations of satellites, each new one showing some changes over the previous ones. Also considered in the implementation of these principles were: first positioning of satellites; apportionment of the orbit; eclipse considerations; repositioning requirements; and satellite sharing of services and service areas.

26. The third section of the WG–B report considers capacity estimates of the geostationary orbit serving Region 2 in the 11.7–12.2 GHz band. This section considers the various "sharing principles" of the second section and how the use of these principles affects the orbit capacity. Table 3 of this section indicates that, with the assumptions made, there is capacity for a total of from about 65 to about 252 satellites in geostationary orbit, all operating in the 11.7–12.2 GHz band and serving Region 2. The exact number depends on what portion of the available arc is allocated to broadcasting satellites and what portion to fixed satellites, on whether or not crosspolarization is used for broadcasting satellites, and on the specific characteristics assumed for fixed satellites. The corresponding communication capabilities vary from 172 TV channels plus 1,300,000 voice channels to 3,528 TV channels plus 634,000 voice channels. All the numbers obtained are based on broadcasting satellites being either all used for community reception, or half of them for individual reception. If all of them, or even substantially more than half of them, were used for individual reception, the number of broadcasting satellites would be reduced substantially since the spacing between broadcasting satellites for individual reception may be as much as eight times the spac-

ing required between satellites for community reception.

27. The numbers in Table 3 are critically dependent on the application of certain orbit sharing principles, in particular on satellite pairing, which assures maximum utilization of satellite antenna discrimination, and on the extensive use of crosspolarization, at least for the fixed satellites. Additionally, use of crosspolarization for broadcasting satellites doubles (approximately) the number of possible broadcasting satellites. It should be pointed out that there are several factors that tend to make the capacity estimates larger than can, perhaps, be realized in practice. The most important ones are limitations on the available service arc due to the geography of the service area, additional limitations on the available service arc due to operational characteristics of particular systems (e.g., eclipse occurring at prescribed times, or need for elevation angles greater than 15°), and characteristics that tend to make some particular system more sensitive to interference, or more likely to generate interference than the baseline systems used here (e.g., systems using SCPC, or fixed-satellite systems operating with smaller earth stations than assumed here). On the other hand, there are also factors that tend to make the estimates of Table 3 smaller than might be realized in practice. For example, no use was made of the technique of crossed-beam geometry, which states that adjacent satellites should not serve adjacent (or overlapping) areas (not counting adjacent satellites serving paired areas). The application of this principle allows utilization of satellite antenna discrimination in cases where the separation of service areas is not large enough for pairing. Other examples of such factors are given in the report.

28. While this has been an extremely cursory review of the WG–B report, all comments and recommendations contained therein have been given consideration in the formulation of the final U.S. proposals to the WARC–BS.

WG–C: Sharing Criteria

29. The WG–C report has stated that the need to examine the characteristics and requirements of domestic broadcasting and fixed satellite systems, to define sharing criteria, and to explore the possibility of adopting "performance standards" into future rules and regulations in the 11.7–12.2 GHz band is motivated by three primary considerations:

A. Sharing criteria and performance standards to be adopted may affect the efficiency with which services in the 11.7–12.2 GHz band can share the orbital arc and the frequency band.

B. The 11.7–12.2 GHz band is allocated to two space services and three terrestrial services in Region 2. Sharing criteria and performance standards to be adopted may influence the feasibility and the efficiency of sharing among the services. Without appropriate sharing criteria and performance standards it is possible that certain applications may be precluded. Considering different types of systems sharing the band, appropriate use of sharing criteria or performance standards may affect the quantity and quality of communications.

C. Fixed-Satellite and Broadcasting-Satellite systems operating in the 11.7–12.2 GHz band may affect or be affected by: (a) U.S. terrestrial services in the band, (b) both satellite-based and terrestrial operations that may be implemented outside of the U.S. in the 11.7–12.2 GHz band, and (c) out-of-band services, both satellite and terrestrial, that affect 11.7–12.2 GHz satellite operations.

30. A United States position relating to new radio regulations for the operation of Fixed-Satellite and Broadcasting-Satellite Services in the 11.7–12.2 GHz band must be predicated upon detailed analyses of the technical performance of systems in these services. This must include an assessment of the intersystem interference potential of the two satellite services, and the interference potential of these satellite services to and from terrestrial services operating within the band. At this time, the technical characteristics of domestic satellite systems that will operate in this band are not well defined. This is particularly true of the Broadcasting-Satellite Service in Region 2. In addition, the interpretation of the definitions of Fixed-Satellite and Broadcasting-Satellite Services is currently evolving. In view of the foregoing factors, this report is limited primarily to an identification and discussion of technical considerations that determine the suitability of various system and subsystem parameters as sharing criteria or performance standards. Specific recommendations are given in the case of a few parameters, but it is believed that the specification of additional criteria should await further definition of the services that will share the band and more authoritative information on the technical characteristics and economic considerations of systems in those services.

31. A table is presented as a summary of the results of the analyses and considerations discussed in this report. Each of the candidate areas for sharing criteria and performance standards is listed and a summary of the conclusions drawn is indicated. As a result of the studies and efforts that are described in this report, WG–C has drawn the following conclusions.

A. The values for many candidate sharing parameters have not been specified (and those that have are preliminary) because of uncertainties in system definitions, the services to be offered, and system characteristics.

B. Many system parameters should not be controlled or regulated because control of more fundamental parameters will achieve the desired goal of sharing and efficient use of orbit and the spectrum. These fundamental interrelated parameters include power flux density limits, satellite spacing, and acceptable levels of interference.

The adoption of sharing criteria and performance standards involves a complex situation where technical characteristics are interrelated with system costs and require comprehensive analysis to determine the impact on system performance, cost to implement, and improvement to be gained. The current state of knowledge concerning the technical characteristics of domestic communications satellite systems which may share the 11.7–12.2 GHz band, particularly in the Broadcasting-Satellite Service, is deficient from the point of view of making specific recommendations for performance standards. In fact, definition of the basic nature of the services to be provided in the two service areas is lacking. With this in mind, WG–C sets forth the following recommendations:

Candidate sharing criteria	*Result*
Communication system:	
Polarization	Use of orthogonal polarization recommended. Further study and experimentation necessary to define preferred techniques and standards.
Channelization	No standard recommended at this time.
Quality of communications.	CCIR recommendations exist. Further study indicated to determine if amendment or additions are necessary.
Energy dispersal.	No standard recommended. Acceptable levels of interference and/or power flux density limits are preferred.
Modulation methods.	No standard should be adopted. Acceptable levels of interference and/or PFD limits are preferred.
Acceptable levels of interference.	A basic sharing criterion. Further study required to recommend standard.
Space station:	
Stationkeeping	±0.1 degree limit recommended for East-West control. For North-South control, no limit is specified, however, ±0.1 degrees or the equivalent is suggested.
Satellite repositioning.	Capability to reposition recommended. However, limit maximum required excursion to ±10 degrees and keep the number of moves to a minimum.
Out-of-band emission limits.	No limit recommended at this time. A recommended limit on emissions to and from the systems in the 11.7–12.2 GHz band will be based on studies now in progress.

Candidate sharing criteria	*Result*
Cessation of emissions.	Capability to command is recommended.
Satellite spacing.	A basic sharing criterion. Further study required to recommend standard.
Power flux density limits.	A basic sharing criteria. Not recommended at this time. However, a limit will likely be required in the future.
Antenna pointing accuracy and antenna patterns.	No value recommended at this time. Control of antenna sidelobes or PFD limits outside service area may be preferable.
Earth station:	
Receiver interference rejection.	No standard recommended at this time for receiver selectivity. When limits are set for out-of-band emission by transmitters, a complementary limit should be established for receiver selectivity.
Antenna size and discrimination.	No limit on size recommended at this time. Reasonable sidelobe control is suggested.
Receiver noise temperature.	No standard recommended. PFD limit is preferred. Low noise systems should be protected from interference.
Antenna repointing and receiver retuning.	Capability is recommended, however, number of changes should be minimized.
Antenna pointing accuracy.	No standard recommended.

WG–C also recommends considerations of the following:

A. Unambiguous interpretations of the definitions of both the Fixed-Satellite and Broadcasting-Satellite Service should be developed. These interpretations should relate to the characteristics of the services to be provided in addition to postulated system characteristics and their associated technical parameters.

B. Comprehensive models of the technical characteristics of both Fixed-Satellite and Broadcasting-Satellite systems should be developed.

C. Detailed studies of candidate performance standards should be conducted accordingly for system cost effectiveness and orbit-spectrum utilization.

D. A procedure should be instituted to accommodate regional inputs to the study and planning function.

Adoption of specific performance standards should be preceded by the implementation and completion of the studies and definitions recommended above.

WG–D: Evolution and Requirements

32. The WG–D report summarizes as follows. The very complex television program distribution system described in this report has evolved largely through attempts of its various operators to provide a greater service to the ultimate consumer, the television viewer. The billions of dollars spent for transmitting and receiving equipment and for the generation of programs is the result of these attempts to serve the viewers' interests. This makes the program distribution system in the United States "unique" amongst all of the program distribution systems in the world. Probably the most "unique" characteristic of all is the service to local communities by locally-owned and operated television stations. Through the years this type of local service has been fostered by the FCC in its licensing policies and its rules and regulations. Ascertainment of community needs is a key factor in the licensing process. The dramatic increase in local advertising support for television underscores this emphasis on localism. Localism has historically been a part of the American scene. The Working Group D report further states that the U.S. has no national newspaper; national magazines are trending towards localizing; product distribution is through local outlets. Because Federal statutes prohibits the Federal Government from engaging in broadcasting, it appears that localism in television will continue in the United States. In view of the fact that high-power direct-to-the-home satellites may not be commercially viable at least in the near term (until the mid 1980's) and in view of the lack of any real need at present for such satellite service domestically, we suggest that the Commission maintain a position of flexibility, recognizing that options should be kept open for the introduction of such services by domestic satellites using "tomorrow's technology", assuming that these services are dictated by the national interest.

33. The report also directs the attention of the Commission to Dr. Wilmotte's comments contained in Technological Boundaries of Television (FCC/OCE CE74–01), December 1974:

> As the number of stations increases, the allocation process loses flexibility, the benefits of improved and new technology become more and more difficult to introduce even when it would significantly improve the efficient use of the spectrum. The FCC has provided flexibility by leaving certain portions of the spectrum partially vacant. But the pressure is continually growing to use up such space for a current need on the basis of today's technology, with only secondary consideration of tomorrow's.

WG–D believes that for the 11.7–12.2 GHz band, the public interest could best be served at this time by some plan to "opt" for allocations (spectrum), taking into full consiedration the overall need for services such as radio and television programming, but placing these in reserve until some time in the future when "tomorrow's technology" has arrived and there is a substantial public interest in their use.

34. There are strong indications of a need in the immediate future for a satellite service whose basic characteristics would be:

A. Medium EIRP/BW.

B. Relatively low-cost small earth terminals.

C. Easily and inexpensively co-locatable.

D. Including relatively inexpensive uplinks for interactive service at some locations.

E. Interconnecting with a variety of redistribution systems, typically covering a limited area.

F. Providing specialized social services to specific subgroups of the general public.

It is too early to be definite about exact system parameters, channel capacity requirements, markets and organizational arrangements, and other specifics, but research and experiments to clarify these issues are underway. High-power specialized social service distribution systems (for home reception) appear to have some probability of becoming a feasible and desirable service. Certainty is unachievable at present, but options for the development of such a service should be kept open for the coming decades.

WG–E: International Non-Technical Implications

35. The WG–E report can be summarized as follows: Over the past decade, the political, social and cultural aspects of direct broadcasting from satellites have been under intensive and repeated consideration by international organizations whose competences in their respective spheres are directly relevant to those aspects. Principally concerned since at least 1968 have been the United Nations General Assembly and its Committee on the Peaceful Uses of Outer Space (CPUOS) and within the latter the Working Group on Direct Broadcasting Satellites and the Legal Subcommittee. The matter of elaboration of principles on the subject continues on the agenda of the Legal Subcommittee for its 1976 session at least and its ultimate recommendation can be expected to be processed up through the CPUOS and the First Committee of the UN General Assembly to the General Assembly itself by the fall of 1977 at the earliest. The development of an international agreement or agreements based on the elaborated principles is anticipated for their agenda in the further future. Secondly, over the period from 1966 to 1972 the United Nations Educational, Scientific and Cultural Organization (UNESCO) developed and produced a Declaration on the subject, and its continued involvement in the matter is foreseen.

Thirdly, regional unions of broadcasters and two World Conferences of Broadcasting Organizations and a follow-up working group, all representing operating organizations most intimately concerned in the matter, have considered the subject extensively over the last five years and are continuing to do so and will be giving it further consideration at a Third World Conference of Broadcasters scheduled for Teheran in April of 1977. In an event, the ITU, and in particular the 1977 WARC, is not an appropriate forum in which to resolve the

political, social, and cultural problems being worked on elsewhere.

WG–F: PROCEDURES

36. Working Group F has reviewed the international Radio Regulations with respect to the administrative procedures that are required for the orderly use of the 12 GHz band and concludes that all interests are best served by revising Articles 9 and 9A (and related provisions) of the Radio Regulations where necessary to accommodate the development of the Broadcasting-Satellite Service. The interim procedures of Section A of Resolution No. Spa 2–3 are deemed adequate for the protection of existing terrestrial stations from space stations employing higher power flux densities than would be permitted in other portions of the spectrum, and it is therefore proposed that the procedures of Section A be incorporated into Article 9A. Often there would be a desire to protect receiving earth stations in the Broadcasting-Satellite Service from subsequent frequency assignments to other space systems and terrestrial stations. For this reason, it is recommended that these earth stations be coordinated and notified if such protection is desired. Further, since the number of these stations could become quite large, it is proposed that administrations have the option of either submitting notices no individual receiving earth stations or on a "typical" earth station. In the latter case, an administration would be required to specify the boundaries of the area in which these earth stations would be located.

37. WG–F has also considered the manner in which the sharing principles espoused in the WG–B report could be handled procedurally within the international Radio Regulations. One idea would be to develop a procedure that could be used by the IFRB when examining frequency assignment notices, and just how well an administration adhered to these principles would determine how good a finding they would receive when the assignment is entered into the international frequency register. It is also thought that the provisions of No. 639 AF of the Radio Regulations might be expanded to at least require administrations to consider these principles when planning a satellite network. In any event, the WG–F report advises that incorporation of these principles into the international Radio Regulations would need to be done with great care and careful consideration. At the full JI/GC meeting of June 24, 1976, the above items were considered. It was the general consensus of the Advisory Committee that a broad Radio Regulation in Article 7 for achieving efficient spectrum and orbit ultilization as described in the applicable documents of the CCIR be proposed. Additionally, some illustrative examples of methods to improve orbit spectrum utilization should be included in a proposed new Appendix 30 to the Radio Regulations. It was also generally felt that some modification to Article 9A should be proposed which would in some manner take into account the proposed Article 7 modification.

DISCUSSION

38. The Commission will now address the issues raised in the Second Notice of Inquiry in this proceeding, specifically as addressed in the Comments and Reply Comments, and provide conclusionary remarks and recommendations regarding U.S. proposals to the WARC–BS. The various topical areas have been addressed in a format which would generally follow the established agenda for the conference, namely—"sharing criteria," "plans," and "procedures." Several ancillary issues are also addressed following discussions of those areas related specifically to the conference agenda. Following is a brief synopsis of the Commission's position in the three conference agenda areas.

39. The Commission believes that certain minimal sharing criteria are essential to the efficient sharing the geostationary orbit in the frequency band in question. However, the sharing criteria to be recommended for inclusion into the Radio Regulations should be only those necessary to ensure efficient sharing without needlessly impeding the development of this new and expanding technology.

40. Regarding the development of "plans" for the establishment of the Broadcasting-Satellite Service in the band in question, the Commission envisions this band to be used in a multitude of various applications within Region 2. These may range anywhere from direct point-to-point services within the Fixed-Satellite Service to broadcast-satellite direct reception at individual homes. These applications have considered only the space services—the use of the three terrestrial services in this band within Region 2 are even less exactly defined. The use of terrestrial services in this band within the U.S. is limited to a small number of mobile systems operating on a secondary basis. No expansion of terrestrial use of this band within the U.S. is foreseen. The exact requirements for the use of this band within Region 2 can be forecast only in the vaguest general terms. It is for this reason, along with a desire not to needlessly hinder the development of technology in this area, that the Commission believes that the U.S. should put forth a position of flexibility in the development and implementation of services within this band. Such an approach has been labeled an "evolutionary plan" by various parties within the U.S. and the Commission suports this concept as a basis for the U.S. proposals for the "planning" of the Broadcasting-Satellite Service at the WARC–BS.

41. The "procedures" aspect of the conference agenda will of course be dependent upon the "plans" adopted. With the U.S. proposed evolutionary plan, the current procedures contained within Resolution Spa 2–3 can be very easily incorporated within the current Article 9A, which deals with all space services other than the Broadcasting-Satellite Service. The Commission is proposing that this course of action be adopted within the U.S. proposals.

42. A more detailed elaboration of the above items will now be presented.

SHARING CRITERIA

43. A number of sharing criteria have been proposed by various parties for inclusion in the Radio Regulations.

(a) Station Keeping (of space station): The JI/GC Working Group C has recommended a ±0.1 degree limit for East-West control and suggested a ±0.1 degree limit for North-South control. The PSSC and Comsat General support the above proposal. GTESC, SBS, and CPB oppose inclusion of any sharing criteria in the Radio Regulations. The SBS application proposes to use ±0.05 degree as East-West station keeping. The amount of additional fuel required to control the East-West excursion of a geostationary satellite is generally very small. Western Union, in its comments, points out that "... the limiting factor in stationkeeping capability may well be the precision and accuracy of the sensors required to estimate the positional error of the satellites." CCIR Doc. 11/256 (§ 5.7) states that it is considered feasible to achieve a satellite stationkeeping accuracy in both the N–S and E–W directions to less than ±0.1°. While calculating interference, the allowable satellite drift has to be added to the nominal separation. With ±0.1 degree East-West station keeping, the nominal orbital separation is to be reduced by 0.2 degree when calculating interference. For large satellite antenna pointing losses will be large or a tracking earth station antenna will be required. The Commission accepts the consensus and proposes a relevant Radio Regulation.

(b) Satellite Repositioning: The JI/GC Working Group C has recommended a satellite repositioning capability of ±10 degrees and to keep the number of repositionings to a minimum. Comsat General and the PSSC support the inclusion of this recommendation in the Radio Regulations. GTESC, SBS, WU and CPB oppose the inclusion of this principle in the Radio Regulations. Repositionings of fixed satellites, including changes of more than 10 degrees in longitude, have in fact been performed a number of times in both domestic and INTELSAT systems. For domestic satellite systems, the Commission reserved the right in Docket No. 16495 to change orbital locations during the lifetime of a satellite, and launch authorizations are conditioned to this effect. The SBS application[4] provides for a satellite repositioning capability. The repositioning capability for a fixed-satellite with a comparatively small number of earth terminals may not be an unacceptable burden on the system. However, for a broadcasting satellite, with a large number of individual type receiving earth stations, repointing of earth station an-

[4] (7–DSS–P–76 et al)

tennas resulting from the repositioning of satellites could be a severe burden on the users. CCIR Doc. 11/220 (Rev. 1) states (§ 3.2.8) that "the logistics and economics involved in repointing receiving antennas in the broadcasting satellite service for individual reception would generally make satellite repositioning unacceptable." Western Union, in its comments, states that "* * * the repositioning limit may be interpreted as a constraint on the maintenance of undegraded coverage of a given service area." Considering all factors, the Commission is submitting a U.S. proposal for a ±10° one-time repositioning capability of satellites operating in this band.

(c) Earth Station Receiver Returning Capability: The JI/GC Working Group C has recommended the retuning capability of the earth station receiver. Comsat General states that earth station receivers should have a tuning capability over the entire operating frequency band of the system. GTESC, SBS, WU and CPB oppose the inclusion of any sharing criteria in the Radio Regulations. Broadcasting-satellite earth station receivers for this band, designed in this country and abroad, cover the entire operating frequency band. The earth station receivers for the SBS system and most of the domestic satellite systems in the 6/4 GHz bands cover the entire operating frequency range. Retuning capability of earth station receivers could help resolution of interference problems, particularly during advance coordination procedures. For this reason the Commission proposes to adopt the recommendation of submitting a U.S. proposal on the retuning capability of receivers.

(d) Earth Station Antenna Repointing Capability: The JI/GC Working Group C has recommended the repointing capability of earth station antennas. Comsat General supports the recommendation. GTESC, SBS, WU and CPB oppose the inclusion of any sharing criteria in the Radio Regulations. This requirement for a large number of individual reception earth station antennas would entail considerable hardship. For fixed-satellite systems, however, this capability is generally available. In addition, the proposed Radio Regulation requiring repositioning of satellites would directly imply a repointing capability of earth station antennas. Considering all factors, the Commission is including a U.S. proposal for repointing earth station antennas operating in the 11.7–12.2 GHz (12.5 in Region 1) band.

(e) Emission Control: Comsat General has proposed a Radio Regulation for a capability to turn off emissions if the satellite deviates beyond prescribed station keeping limits. The PSSC supports this proposal. The GTESC, SBS and CPB oppose any Radio Regulation on sharing criteria. If the space station deviates from the designed parameters of operation, then harmful interference could occur to another network. Generally, this provision is available in most satellites. The Commission accepts this recommendation and does include this requirement in the U.S. proposal.

(f) Satellite Antenna Beam Pointing Accuracy: The JI/GC Working Group C has not recommended any value for the space station antenna beam pointing accuracy. This accuracy affects the unwanted signal level in an adjacent area, the signal level within the designed coverage area and also the interference level. Radio Regulation No. 470VF specifies a minimum of 0.5 degree for the pointing accuracy of antennas on geostationary satellites. Current state of the art can provide a lower pointing accuracy for the satellite antenna. For example, the U.S. domestic satellites in the 6/4 GHz band and INTELSAT–V design have a tolerance of 0.2 degree for the satellite antenna pointing accuracy. A less stringent value for the pointing accuracy would require a higher e.i.r.p. for the satellite because of the larger margin. It would also mean larger unwanted radiation into adjacent areas which may be under the jurisdiction of other administrations. Considering these factors, the Commission is proposing a Radio Regulation specifying a ±0.2 degree accuracy for the satellite antenna pointing error in the band under consideration.

(g) Out-of Band Emission Limitations: The Commission recognizes the need to protect the radio relay systems in the 10.7–11.7 GHz band from the emissions of 11.7–12.2 GHz band systems. AT&T has recommended that "the power flux density regulations in Radio Regulation 470NQ appears to be an ideal model for such regulatory structure. The values stated by 470NQ would have to be lowered by 20 dB from— $-150 dBW/m^2$ and $-140 dBW/m^2$ to $-170 dBW/m^2$." GTE SC has, in general, supported the AT&T position. The imposition of any regulation on adjacent band radiation has been opposed by SBS, COMSAT General, and JCET in their comments; by JI/GC Working Group C in their recommendations; and by CPB, SBS, and JCET in their reply comments to the Second Notice of Inquiry. AT&T stated that "a preliminary study on adjacent band emission compliance problems prepared by the Bell System in conjunction with the work of the Joint Industry/Government Committee Working Group C concluded that a 20 dB reduction in the values stated in 470NQ would not significantly burden the five representative fixed satellite and broadcast satellite systems used as the basis for the study." SBS commented that the "* * * conclusion, using the conservative value of 10 picowatts as the acceptable interference level, was that no power flux density limitations are necessary since first generation satellite operations in the 11.7–12.2 GHz band would not cause excessive interference to out-of-band terrestrial systems."

There is currently no universally applicable out-of-band radiation limitation in the Radio Regulations for any space service. There is no CCIR report or recommendation to support the AT&T proposal. Generally, a CCIR recommendation is desirable, if not essential to support a technical proposal of an administration. The subject of spurious radiation is discussed in Recommendation 329–2, CCIR Study Group 1, for frequencies up to 960 MHz. This document recommends specified levels of attenuation below the power of the fundamental emission. Even with an interference entry of 10 picowatts, the system designer will generally have to design a filter with specified attenuation values. This attenuation is generally a function of frequency. To overcome the shortcomings, if any, of the Commission suggested formula for the attenuation values of out-of-band emissions, required values of attenuation could also be specified as a function of the values of the satellite e.i.r.p. The Commission questions the wisdom of setting power flux density (PFD) limits, even outside the band, when the adjacent band radiation could be controlled or regulated by other methods.

The basic issue is to protect radio relay systems. The development of Radio Regulations is only one method in this process. Administrations could observe or disregard the provisions of the Radio Regulations. The only systems that could introduce interference into radio relay systems in the foreseeable future are either domestic or Canadian. The Commission has already sent to the Canadian Administration the comments of AT&T and GT&E. Canada has informed the Commission that the Telesat specifications for the F–4 spacecraft requires that emissions shall not exceed —60dBW/4KHz in the 10.77 to 11.7 GHz band. The Commission would as a matter of due course have bilateral discussions on the matter of out-of-band emissions with the Canadians or any other administration planning a satellite system in the band for the protection of U.S. radio relay systems. Under these circumstances, delaying the consideration of out-of-band emission limitations until the 1979 General WARC will result in no irreparable harm. Those who believe that provision should be made in the Radio Regulations for the limitation of out-of-band emissions should consider the advisability of preparation of CCIR documentation to support such a position. On balance, therefore, the Commission accepts the consensus that the inclusion of an out-of-band emission limitation provision in the Radio Regulations is premature and would be better considered during the preparations for the 1979 General World Administrative Radio Conference.

Receiver Design

44. On a related topic, AT&T has proposed that the Commission consider the "* * * need for suitable design of consumer product receivers." AT&T continues to state that "should such receivers not have sufficient selectivity they might be capable of receiving, along with the desired signals, signals from normal stations in the fixed service operating in the frequency band below 11.7 GHz even though those fixed service signals were

fully contained within the frequency band below 11.7 GHz." The Commission recognizes the problem. The Commission does not have available information to set technical standards on the receivers. At this stage, it will be beneficial for manufacturers and users to develop standards and the necessary data base. Interested parties should keep the Commission informed on technical requirements and other developments in this field. It is premature for the Commission to develop technical standards on receiver design. The interference between the adjacent band terrestrial transmitters and the broadcasting-satellite earth station receivers appears to be entirely a domestic issue and the proper forum to discuss this appears to be a domestic rule making procedure on the broadcasting-satellite service. The Commission is not persuaded that this is a topic for consideration of the 1977 broadcasting-satellite WARC.

ORBIT USE "PRINCIPLES"

45. The Commission is in favor of practical guidelines for efficient use of the orbit-spectrum. The JI/GC Working Group B report has recommended eight sharing "principles." There are discussions on some of these "principles", (i.e., polarization discrimination advantage, interleaved carriers, frequency re-use by means of narrow-beam satellite antennas), in CCIR Study Group 4 Report 453–1. Cross-polarization and frequency interleaving have been used in some U.S. domestic satellite systems. INTELSAT–V has proposed to use cross-polarization and "paired service areas." JCET, GTESC, and SBS endorse all the "principles."

46. The first principle enunciated by the JI/GC Working Group B is the maximum flexibility of system parameters. In the absence of any sharing regulations, it appears that systems should have complete flexibility. It is shown by the U.S. CCIR 4/15 paper and by the CCIR Study Group 4 Report 453–1, Section 6, page 196, that a homogeneous assembly of satellites is required to obtain the most efficient utilization of orbit-spectrum. CPB states, in their comments, that "* * * we believe that the proper balance between maximum flexibility and good orbit-spectrum utilization will be different for different functional services."[5]

47. Cross-polarization is the third principle recommended by the JI/GC Working Group B. The Commission encourages the use of cross-polarization for efficient orbit/spectrum utilization. The basic questions are (1) the amount of cross-polarization discrimination that can be achieved in the sidelobe region of the antenna radiation pattern and (2) the associated costs. Both AT&T and RCA satellites are designed to use cross-polarization. CCIR Study Group 4 Report 555 discusses polarization discrimination for frequencies below 10 GHz. Although a cross-polarization discrimination of 25 to 30 dB could be achieved in the main beam of well designed antennas, its value in the sidelobe regions in the 12 GHz band is not accurately known. Moreover, the depolarization effect due to precipitation, in this band, is not precisely known. There is some discussion on these limitations of cross-polarization discrimination in the JI/GC Working Group C report. Both Working Group B and C agree that "* * * there are some operational advantages in the use of circular polarization in the Broadcasting-Satellite Service * * *" Both these working groups prefer linear polarization "* * * because it affords greater discrimination in the sidelobes." For very small reflector antennas, proposed to be used for individual reception, the feed and its mount may produce significant blockage and may reduce the sidelobe cross-polarization discrimination even for linearly polarized systems. To effectively use the "principle" of cross-polarization, standardized reference directions for linear orthogonal polarizations would be essential. There are currently no agreed standardized reference directions, as recognized by the CCIR Study Group Report 453–1, Section 2.2, page 191, for linear orthogonal polarizations. WU, in its comments observes that "the cost of such standardization is unknown. Both AT&T and RCA Satellites currently use (or plan to use) different reference directions. Are these merely accidents of design or do their individual systems require a preferred direction of polarization?" PSSC states that there are practical difficulties in implementing this principle. CPB, in its comments, states that, "It has not yet been demonstrated that cross-polarization will be an effective technique in the Broadcasting-Satellite Service to increase orbit/spectrum utilization."

48. The fourth principle considered by the JI/GC Working Group B is frequency interleaving. Both cross-polarization and frequency interleaving schemes are currently used in U.S. domestic satellite systems. When transponders have equal bandwidth and each transponder has one carrier frequency, frequency interleaving is beneficial and easily implemented. The Commission, however, is uncertain about the bandwidth that would be used by different satellites operating in the 12th GHz band. SBS proposes to use all 54 MHz transponders. The INTELSAT V design proposes the use of 77, 72 and 241 MHz transponders. Telesat B–1 design proposes the use of 72 MHz transponders. In another satellite, a transponder may be completely filled with single-channel-per-carrier (SCPC) or other multi-carrier signals. PSSC, in its comments, states that there may be practical difficulties in implementing this principle. WU, in its comments, observes, "It is therefore unwarrantably restrictive to even consider the application of the frequency interleaving principle for orbit-spectrum utilization. Before such a principle is made a part of the Radio Regulations, the effect of actual inhomogeneities on the utility of this principle should be determined." CPB states, in its comments, that, "We agree with the comment in CCIR Report 453–1 concerning frequency interleaving; it is unlikely that such a plan can be implemented especially in a band shared between dissimilar space services such as the Broadcasting-Satellite Service and the Fixed-Satellite Service."

49. The fifth principle enunciated by the JI/GC Working Group B is "paired service area." This principle appears to be utilized in the proposed INTELSAT V for the east and west beams. Countries in the northern portion of Region 2 are physically larger and fewer in number than in the southern portion. There are more countries, many of which are smaller in physical size, in the central and southern portion of Region 2 than in the northern portion. The requirements of the fixed- and the broadcasting-satellite services for each of these areas are not precisely known. PSSC states that there are practical difficulties in implementing this principle. CPB states, in its comments, that "since the efficiency of these principles will depend on the area and shape of countries involved, the squint angle from the satellite as it affects the antenna footprint on the earth, and other factors, it is difficult to predict the effectiveness of these principles except in a very general way." The Commission believes that a realistic modeling study should be done before any quantitative advantage of using this "principle" could be forecast.

50. The sixth principle recommended by the JI/GC Working Group B is "crossed path geometry." There appears to be a similarity between this and a previous "principle"—one related to areas in the north-south direction, the other governing areas in the east-west directions. Working Group B admits the limitation of this principle in Region 2. PSSC states that there are practical difficulties in implementing this principle. In its comments, CPB states that "since the efficiency of these principles will depend on the area and shape of countries involved, the squint angle from the satellite as it affects the antenna footprint on the earth, and other factors, it is difficult to predict the effectiveness of these principles except in a very general way."

51. The seventh principle discussed by the JI/GC Working Group B is "clustering." When computing the orbit capacities, JI/GC Working Group B considered five, (not all at the same time), representative types of satellites in the 12 GHz band. Taking the case of a 75% broadcasting-satellite utilization of the orbit, 196 community type broadcasting-satellites could be accommodated. This number is reduced to 44 when the available arc is divided equally between the individual and community reception type satellites. Although not discussed in the working Group B report, if a third type of system were included, the number of satellites that could be accommodated would appear to be lower. The U.S. domestic satellite system in the 6/4 GHz bands is inhomogeneous. The earth station antenna diameters range from 4.5m to 30m and the transmitter powers range

[5] The second principle is treated in paragraph 51.

from 0.4 to 3 kW. In one case, a digital single channel per carrier system is used. In another, a 1200-voice channel FM system is used. The Commission would not be surprised if no two satellite systems operating in this band were to have very "similar" characteristics because of the dynamic nature of the field. The PSSC states that there are practical difficulties in implementing this principle. CPB states that "application of the clustering principle will depend upon the degree of inhomogeneity between the fixed-satellite sand the broadcasting-satellites, and will be complicated by the fact that this is a regional rather than a U.S.-only problem. Therefore, we would recommend that no attempt be made to adopt clustering configurations at this time." WU, in its comments, states that "* * * the assertion of the principle of clustering, which is equivalent to the assumption of homogeneity, would be the assertion of an unrealistic principle, which further would be made prescriptive for system design and service development." Discussing the second "principle," WU, in its comments, states that "the principle of maximum flexibility with respect to orbit apportionment does not require one to assert the principle of clustering. Conversely, clustering does not imply the principle of maximum flexibility with respect to orbital apportionment. (Clustering imposes the constraint of homogeneity of satellites—a possible reduction of flexibility in apportionment. Random assignments might provide maximum flexibility.) Hence, the two principles are independent and may be asserted independently." In the absence of restraining regulation, flexibility prevails. The Working Group B report discusses the redundancy of this principle.

52. The eighth principle recommended by JI/GC Working Group B is the equitable sharing of interference. The Working Group report points out the limitations of this principle. In its comments, the PSSC "contends that the sharing burden should be based upon economic measures. The total dollar cost of mutual interference avoidance should be minimized with appropriate sharing among affected parties." CPB states that "* * * the distinction between acceptable and harmful interference in the Broadcasting-Satellite Service has not yet been defined * * *" WU, in its comments, points out that "the entire problem of equitable burden sharing is in too early a state of development for it to be formalized in a regulatory principle at this time."

53. JCET has recommended the inclusion of these principles in the Radio Regulations. COMSAT General, SBS, and HEW have opposed the inclusion of these principles in the Radio Regulations. The PSSC states that there are difficulties in implementing several of these principles and goes on to say that "* * * if these principles are carried through the Radio Regulations, then they should be stated as principles to be invoked as needed" (emphasis added). CPB states, in its reply comments, that "* * * generally applicable orbit-spectrum utilization principles could be included in the Radio Regulations; but that utilization criterion are subject to change, based on operational experience and on technology advances, and for these reasons should not be included in the Radio Regulations." Western Union contends that "these principles should not be included in the International Radio Regulations. They base this on the fundamental apprehension that these "technological" principles are not ready to be adopted as "regulatory" principles. The "regulatory" body is responsible for the procedures, standards, and criteria and the specific rules required for the equitable and efficient utilization of the resource and as such should not influence the development of "principles" themselves. "Principles" are consequences of system models. System models are defined in terms of system characteristics, environment and service requirements. The requirements relate the characteristics to the service implementation (for example: coverage area, antenna design, transmitter power, modulation, etc.). Therefore systems (models) and requirements influence each other and have a constantly evolving characteristic. In this context, actions of a regulatory body can be judged by the fairness of its allocations and coordinatons and the degree of stimulation it provides for the development and growth of the "utilization of the resource" in the form of technically efficient systems to handle expanded service requirements. Therefore, any attempt to include the "guiding principles of orbit utilization" within the International Radio Regulations at this stage is not recommended." The basic principles have now been incorporated into CCIR Doc. 11/220 (Rev. 1).

54. In view of the difficulties associated with the implementation and limitations of these "principles," the Commission is proposing a broad Radio Regulation in Article 7 for achieving efficient spectrum and orbit utilization. Some illustrative examples of methods to improve orbit/spectrum utilization are included in a proposed new Appendix 30 to the Radio Regulations.

55. The JI/GC Working Group B has submitted a table of orbital capacities. Respondents to the Second Notice of Inquiry have not specifically addressed this table. The Working Group B has itself revised its original capacity estimates. For a 75% broadcasting satellite usage of the orbit the previous report estimated a less than optimum capacity of 439 broadcasting-satellites. The present report estimates a capacity of 196 broadcasting-satellites. The estimates appear to be based on the RAND report R-1463 analysis. The RAND program calculates the value of the Receiver Transfer Constant (RTC) or Interference Reduction Factor (IRF) as 27.2 dB for two 1200 FM signals compared to a figure of about 23.5 dB calculated by Bell Laboratories. The value of the modulation index used by the RAND program is different from the values used by Bell Laboratories and domestic satellite systems. The RAND program uses a worst case value of 10 dB cross-polarization ratio in the sidelobe region of the fixed-satellite earth station antennas as compared to 6–7.5 dB mentioned by the Working Group B report. The broadcasting satellite EIRP is taken as 58 dBW for individual reception and 52 dBW for community reception. There is no indication of the orbital capacity if satellite systems of other parameters are placed in the group such as the planned EIRP of about 60 dBW by EBU (CCIR Doc. Temp./102 JWP) and 66 dBW by the Germans.

56. Considerable emphasis has been placed on "satellite clustering." The word "similar" is not precise. There is a considerable amount of variation in the parameters of the present adjacent satellites, be it the INTELSAT series or be it the U.S. domestic satellite system.

57. Given the "maximum flexibility" of system parameters, it would not be surprising if there is a large variation in the parameters of the adjacent satellites in the 11.7–12.2 GHz band. For a general case, it may be useful to consider a group of satellites with varying parameters of earth station antenna sizes, transmitter powers, noise temperature of receivers, bandwidths, multiple access schemes, modulation schemes, satellite e.i.r.p. and satellite antenna beamwidths. The Commission is not aware of any calculation of interference being made by developing a model in which all satellites are placed in specific orbital locations with each pointing to an appropriate service area. The orbital capacity, submitted by Working Group B, appears to be theoretical. It appears that Working Group B is not absolutely certain about the actual orbital capacity since the Working Group extensively discusses cases where the capacity would be less than those mentioned in the report of that Group. The broadcasting-satellite advisory service working group for the 1979 GWARC has requested additional frequency allocations for the broadcasting-satellite service although the Commission has yet to identify sufficient domestic demand for this service to warrant an increased allocation, noting in particular that the orbital capacity estimates submitted by the Working Group B are very large. The Commission believes that there is sufficient orbital capacity to meet, with judicious use, the foreseeable demands of Region 2. The orbital capacity, submitted by Working Group B, appears to the Commission to be much larger than can be realized in practice.

58. The frequency band 14.0–14.5 GHz is generally considered to be the uplink associated with the 11.7–12.2 GHz band. The orbital capacity of the 11.7–12.2 GHz will be affected by the use of the 14.0–14.5 GHz band. To obtain the same orbit spectrum utilization, the same "principles" would have to be applied to both the up- and down-link frequencies. As a result, the uplink frequency of 14.0–14.5 GHz, whether used by INTELSAT, MAROTS or a broadcasting-satellite related operation, would have to be governed by the same "principles" as applied to the 11.7–12.2 GHz band. INTELSAT IV and IV–A satellites are assigned (FCC 76T–1, 39107, dated Jan. 29, 1976) to the following positions in the Atlantic

Ocean: 325.5° E, 330.5° E, 335.5° E, 340.5°, and 359° E with a nominal spacing 5°. INTELSAT–V applications may request the same orbital assignments. In addition, one has to consider the required spacing between the INTELSAT–V and the immediately adjacent satellite. As a result, a reasonable section of the arc, which could be used by Region 2, may thus contain a rather small number of satellites.

59. In the Second Notice of Inquiry in this proceeding, the Commission requested comments as to how satellite systems constructed prior to the Final Acts of the 1977 WARC–BS would fit into the framework of the "principles" recommended by the JI/GC Working Group B. SBS appears to have been the only responding party to have addressed this question. In doing so, SBS has referred to an application for a Fixed-Satellite system which it has submitted to the Commission. In describing this system, SBS has described various system characteristics which it believes would make the SBS system compatible with the Working Group B and C "principles" and "sharing criteria." However, all of those characteristics which relate strictly to the Working Group B "principles" would require that any subsequent system take into consideration the SBS system in order for the two systems to be compatible within the framework of the sharing principles. For example, with SBS's use of linear polarization in the vertical direction, a subsequent system would have to use the SBS system as a reference in planning its antenna reference; SBS suggests that systems serving different service areas be placed in adjacent positions to the SBS satellites; and that other fixed-satellites be clustered with the SBS satellites. It is to be noted that, in this connection, Canada has already entered into a contract with RCA for the construction of a satellite utilizing the 14/12 GHz band with a scheduled launch date of 1978 to mid 1979. The contract for the construction of INTELSAT–V, which also proposed to use the 14 GHz band, is currently under negotiation. SBS has no indicated in its comments how three (or more) such systems could be melded into the framework of a comprehensive overall utilization of the orbit-spectrum based on the sharing "principles." Thus, the primary question as to how a number of these systems, each independently conceived prior to the implementation of the Final Acts of the WARC/BS, could fit into the overall framework of the "principles" remains unanswered. With regard to the system characteristics described in the SBS application, as presented in the comments to the Second Notice of Inquiry, the Commission does not believe that this docket is the appropriate forum for such a discussion.

Procedures

Advance notification and coordination procedure

60. Resolution No. Spa 2–3, which is a product of the 1971 World Administrative Radio Conference on Space Telecommunications, sets forth the procedures relating to the bringing into use of space stations in the Broadcasting-Satellite Service. This Resolution states that the procedures contained therein shall be applied until agreements and associated plans pursuant to Resolution No. Spa 2–2 enter into force. Resolution No. Spa 2–2 resolves that stations in the Broadcasting-Satellite Service shall be established and operated in accordance with agreements and associated plans adopted by World or Regional Administrative Radio Conferences, and that the provisions of Resolution No. Spa 2–3 are to be in effect in the interim period. The Broadcasting-Satellite WARC for the 11.7–12.2 (12.5 in Region 1) GHz band was set up by the Administrative Council of the ITU in response to Resolution No. Spa 2–2. Whatever the final outcome of the Broadcasting-Satellite WARC, procedures for the bringing into use of broadcasting satellites in the bands in question will need to be adopted to replace those of Resolution No. Spa 2–3.

61. From all information available to th U.S., it appears likely that the European countries of Region 1 are favoring a predetermined orbit and frequency assignment plan for the Broadcasting-Satellite Service for Region 1. Such a plan would preclude the necessity for such detailed procedures as are contained in the present Resolution No. Spa 2-3 or Article 9A, at least for intra Region 1 considerations. However, as was discussed earlier in this docket, the U.S. favors an evolutionary approach to the development of this band within Region 2. As such, appropriate comprehensive procedures are required.

62. Working Group F of the JI/GC has recommended that Article 9A of the Radio Regulations be modified to include broadcasting-satellite operations in the band 11.7–12.2 GHz. This proposal has been supported by GTESC, HEW, and COMSAT General. If it is deemed appropriate at the 1979 General WARC, that conference could further modify Article 9A to include all of the Broadcasting-Satellite bands. In view of the preceding, the Commission is including appropriate modifications of Article 9A, so as to include the Broadcasting-Satellite Service in the band in question, in the U.S. proposals.

Miscellaneous Topics

ABC's petition for rule making on domestic satellites

63. In its comments[6], ABC has referenced its petition to the Commission, "* * * to institute a rule making proceeding to determine the overall uses of the 4/6 GHz and 14/12 GHz band * * *" ABC further stated[6] that, "In conformity with its preparatory work for the 1977 WARC, we urge the establishment of a broad domestic rulemaking proceeding to determine the overall design of domestic satellite allocations." CPB stated[7] that ". . . we cannot agree with the ABC position, that action on its petition for proposed rulemaking (RM–2614) can be completed in time to influence U.S. proposals for the WARC–77. Furthermore, in our opinion action on that petition constitutes detailed planning for U.S. utilization of the 4/6 and 14/12 GHz bands and is thus not a matter for consideration at the WARC–1977." All respondents agree that the U.S. position should be such that flexibility is retained for future United States utilization of the 11.7–12.2 GHz band. The Commission accepts this position. The Commission also agrees with the CPB position that the rulemaking procedure on the utilization of the satellite bands would take considerable time and as such would not be beneficial for the 1977 broadcasting-satellite conference. The Commission has already instituted an inquiry into the use of small diameter antenna earth stations in the Docket No. 20271. The Commission is studying the comments received on this subject. Any rulemaking on the use of domestic satellite system will include the subject of small earth terminals and many other complex topics. The Commission believes that the initiation of rulemaking on domestic satellite operations, as suggested by ABC, would not be beneficial to the 1977 WARC–BS conference preparations.

Service definition

64. The service definition has been discussed at length by various parties. There appears to be no controversy on the meaning of the definition of the individual reception which is configured on the definition of the terrestrial service. Although no requirement for news, or entertainment programs for individual reception has been thus far expressed, the Commission, however, will not accept the thesis[8] that "* * * satellite-to-home broadcasting in this country is not in the public interest * * *" without first having a thorough discussion of the subject through a domestic rulemaking proceeding. The phrases which appear to be contentious are the (1) "group of the general public" and the (2) "limited area." Network affiliates stated[8] that "The definition of 'community reception' * * * does not extend to specialized audiences such as medical personnel, business executives, and school children." HEW states[9] that "* * * options be maintained at WARC to provide high-powered satellite transmission for direct-to-home reception of specialized social and public services." JI/GC Working Group A States[10] that "* * * we concluded that community reception is a unique international classification, which includes services which will be regulated domestically as both broadcasting and fixed." The question of the service defini-

[6] ABC's comments on Second Notice of Inquiry in this docket.

[7] CPB's reply comments on Second Notice of Inquiry in this docket.

[8] Cmments by Network Affiliates on the Second Notice of Inquiry in this docket.

[9] HEW comments on the Second Notice of Inquiry in this docket.

[10] Final report of JI/GC Working Group A.

tion was discussed over a prolonged period of time in the 1971 WARC–ST. The present, rather loose, definition is the result of the compromised agreement reached at that conference. The Commission does not expect that a more precise definition could be developed in the 1977 WARC even if the conference were competent to do so. The Commission hereby admonishes all the members of the U.S. delegation to the 1977 WARC "* * * to be intimately familiar with the definitional issues as a vital background preparation for negotiation."[11] The Commission agrees with JCET statement[12] that "* * * applicability of these terms within the U.S. is subject to interpretation through the appropriate regulatory proceeding and that they are not pertinent for discussion at WARC 1977."

ADMINISTRATIVE MATTERS

65. This proceeding has served as the vehicle by which a major portion of the attached proposals were developed and refined to their present state. The proposals attached hereto are expected to constitute the formal and final proposals of the U.S.A. for consideration by the WARC–BS. However, they are not immutable or irrevocable if, between now and the convening of the WARC, good cause for change can be shown.

66. This Report and Order is issued pursuant to Section 403 of the Communications Act of 1934, as amended. Accordingly, this Report and Order is hereby adopted and it is ordered, noting the proviso in paragraph 65 above, That the proceedings in this docket are hereby terminated.

Adopted: July 15, 1976.

Released: August 6, 1976.

FEDERAL COMMUNICATIONS,
COMMISSION,
VINCENT J. MULLINS,
Secretary.

PROPOSALS OF THE UNITED STATES OF AMERICA FOR THE WORLD ADMINISTRATIVE RADIO CONFERENCE FOR PLANNING OF THE BROADCASTING-SATELLITE SERVICE IN THE 11.7–12.2 GHz BAND (11.7–12.5 GHz in Region 1) (GENEVA, 1977)

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[11] HEW comments on the Second Notice of Inquiry in this docket.
[12] Reply comments of JCET on the Second Notice of Inquiry in this docket.

PART A

INTRODUCTION

The United States of America (USA) reaffirms its intent to support, in cooperation with other nations, the International Telecommunication Union (ITU) in achieving the purposes of the Union. In keeping with the purposes stated in Article 4 of the ITU Convention, Malaga-Torremolinos 1973, the Union has a unique and vital role in harmonizing the actions of administrations in the utilization of telecommunications in the interests of mankind.

The objectives of these proposals to the 1977 ITU World Administrative Radio Conference for Planning of the Broadcasting-Satellite Service in the 11.7–12.2 GHz band are:

a. To establish criteria to ensure the proper development and fullest utilization of the 11.7–12.2 GHz band by the Broadcasting-Satellite Service within a framework of maximum flexibility in order that all countries may realize the benefits promised by this innovative and promising telecommunications concept and technology.

b. To establish a planning approach which will ensure the fullest utilization of the 11.7–12.2 GHz band by both the Broadcasting- and Fixed-Satellite Services in Region 2 on a co-equal basis.

The 1971 World Administrative Radio Conference on Space Telecommunications (WARC–ST) extended the current frequency allocation table from 40 GHz up to 275 GHz, and paved the way for the introduction of a number of space radiocommunication services. Among these was the Broadcasting-Satellite Service. The successful launching of geostationary satellites and the development of stabilized, directional, steerable, narrow beam antennas for satellite use has allowed this mode of communications to offer possibilities that can improve the lives of whole populations. The United States urges the beneficial development of satellite broadcasting, whereby man may be able to use this promising technology to lighten his burden and to share knowledge.

The Agenda adopted by the ITU Administrative Council at its 30th session provides for the planning of the Broadcasting-Satellite Service in the 11.7–12.2 GHz band (11.7–12.5 GHz in Region 1) and the establishment of sharing criteria between the Broadcasting-Satellite Service and the other services to which this band is allocated. The USA believes that the development of this band to the maximum benefit of all nations requires that maximum flexibility be maintained through all planning stages.

The USA has gained invaluable experience through the use of the Applications Technology Satellite programs, and is looking to an equally valuable experience with the Communications Technology Satellite, which will utilize the 11.7–12.2 GHz band and should produce much information and insight into the use of capabilities of this band for broadcasting satellites. Every reasonable effort should be made to assure the orderly and unencumbered development of this promising new technology.

In formulating regulatory proposals that ensure the opportunity of all countries to share in the utilization of the 12 GHz band, it should be recognized at the outset that Regional differences in allocations, geography, and service requirements make it unlikely that the same approach to planning the broadcasting-satellite service will be suitable for all Regions.

In Region 1, for example, the 12 GHz band provides 800 MHz of spectrum and the geostationary orbit in this band need accommodate only the broadcasting-satellite service. In Region 2, on the other hand, the allocated band contains only 500 MHz of spectrum and the geostationary orbit in this band must accommodate not only the broadcasting-satellite service, but the fixed-satellite service as well.

In Region 1 there are some 88 countries to be served and the problem of providing independent broadcasting-satellite coverage to each of them is complicated by the fact that many of the countries are geographically small and have common borders with several neighbors. In contrast, there are only about 30 countries in Region 2, but a number of them cover large areas and encompass as many as 7 time zones. Another geographic difference between Regions is that there is a common border between countries of Regions 1 and 3, whereas the boundaries between Regions 1 and 2 and between Regions 2 and 3 lie over water. Moreover, there is a much greater longitudinal overlap between Regions 1 and 3 than for the other pairs of Regions. These differences make it possible for Region 2 to follow a planning approach suitable for this Region.

Still another Regional difference, which has a major impact on the choice of a planning approach, is that in Region 1 there is a pressing need in certain countries to utilize their 12 GHz terrestrial allocations, whereas in Reigon 2 no such need appears to exist. Indeed, the U.S. and Canada have suppressed the terrestrial services from the 12 GHz band in their national tables (except for the secondary mobile service), and other Region 2 countries appear to have not yet fully utilized their terrestrial service allocations in technically more attractive bands at lower frequencies. In the absence of a Region 2 deemed for terrestrial services in the 12 GHz band, the broadcasting- and fixed-satellite services can be planned with much greater flexibility.

A Joint Working Party of several relevant CCIR Study Groups was convened during the 1976 Interim Meetings to consider the outputs of the CCIR with a view toward preparing a Summary Report to be submitted to the WARC–BS to serve as a vehicle for technical guidance to that conference. Bearing in mind the Summary Report of the JWP, it is believed that the proposals in the pages which follow set forth the international regulatory actions deemed necessary to meet the needs of the ITU member countries. It is believed that these proposals are supported by the CCIR Joint Working Party Summary Report.

PART B

REQUIREMENTS FOR SERVICES WITHIN THE BAND 11.7–12.2 GHZ

Although the 11.7–12.2 GHz band is allocated to both terrestrial and space radio services on a primary basis in Region 2 by Article 5 of the Radio Regulations, the United States has allocated this band domestically only to the Fixed and Broadcasting-Satellite Services on a primary basis. The reservation of this band domestically to only these space services is considered necessary to assure the development within the United States of innovative communications services in a manner that is unfettered by power flux density limits and the need for frequency coordination between earth stations and terrestrial radio facilities. Retention of the flexibility inherent in the present in-

ternational regulations governing the use of the 11.7–12.2 GHz band, as well as the associated uplink band, is vital to the development of both fixed and broadcasting satellites within the United States.

Fixed-Satellites operating in the 11.7–12.2 GHz band will be used within the United States in part to provide the same types of satellite communications services presently being provided by domestic satellites in the 4 and 6 GHz bands. These services include point-to-point long haul, high density voice links and high speed data channels, and point-to-multipoint program distribution services. An additional potential significance of the 11.7–12.2 GHz band to the United States is the feasibility of providing satellite communications, services, both fixed and broadcasting, between large numbers of inexpensive earth stations widely dispersed throughout the country. The types of communications services being planned would not be feasible by terrestrial means alone and would be operationally difficult to implement with satellite systems in frequency bands shared with terrestrial radio services.

Plans are already underway within the United States for one such domestic satellite system that would provide users with customized satellite networks in this band which are uniquely configured to satisfy their particular communications requirements. Voice, data and image communications would be provided through this system on an integrated basis by purely digital transmission techniques with a dynamic allocation of satellite capacity on a real-time basis within the system among the networks and user sites being served.

The successful experience being gained through the experiments being conducted over the ATS–6 and CTS satellites has demonstrated the importance of satellite communications in providing new and improved medical, educational and other social services to the people of the United States, particularly those located in remote areas of the country where access to such services is limited or nonexistent. The United States considers the 11.7–12.2 GHz band to be a prime candidate for operational satellite systems that will provide the low cost communications channels required to make the provision of such medical, educational and other social services feasible, particularly since such services could be initially provided over general purpose satellite systems operation in this band.

While the United States does not presently have firm plans for the implementation of a direct-to-home broadcasting-satellite system during the near future, the 11.7–12.2 GHz band is considered essential for the development of such a system. The determination of requirements of most countries is in a very preliminary stage at this time, which is one of the reasons why an evolutionary plan is being proposed.

In summary, the 11.7–12.2 GHz band is vital to the development of the domestic telecommunications network within the countries of Region 2, particularly with respect to the multitude of specialized fixed and broadcasting services which can be provided most efficiently and economically by satellite system operation in this band, together with the associated uplink band. Such systems must, of course, be designed from the outset in a manner that insures the efficient utilization of this orbit-spectrum resource. The wide variety of communications services and networks planned to be established in this band, as well as the evolutionary stages that operational systems in this band will progress through before reaching maturity, requires that the Radio Regulations reflect the flexibility needed in this band to insure its efficient development for the benefit of all of the peoples of Region 2.

PART C

SHARING IN THE BAND 11.7–12.2 GHZ IN REGION 2:

As stated earlier, the band 11.7–12.2 GHz is shared on a co-equal basis between the Broadcasting- and Fixed-Satellite Services in Region 2 (as well as the Fixed, Mobile, and Broadcasting Services). This makes Region 2 the only region which must share this band between two space services. This situation raises several questions as to the manner in which the limited geostationary orbit/spectrum resource is to be shared in this region. With regard to the space services, two apparent, general approaches are possible. The first would be to divide the available spectrum between the two space services and allow each access to the total available service arc of the geostationary orbit. The second approach would be to allow each space service access to the total available spectrum allocated and to divide the available service arc between the services. The primary disadvantage with division of the spectrum between the two space services, aside from the difficulty at this stage of choosing the appropriate division, is the fact that for a given traffic flow, once that flow exceeds the amount that can be accommodated by the assigned share of the band, another satellite becomes necessary. Thus a significant economic penalty may be imposed upon the system user and operator. It is largely for this economic reason, coupled with the fact that studies have indicated an equally high or higher orbit-spectrum utilization capability, that the United States concurs with CCIR Doc. 11/242 that the second, or orbit-division approach, is to be preferred.

Upon examination of the orbit division approach to sharing of the band between the space services, there appear to be several various methods of implementing this type of sharing arrangement. The first would be an approach of no advance planning, whereby systems would be accommodated on a "first come, first served" basis based merely on interference potential to existing systems, be they space or terrestrial. At the antithesis of this approach would be a detailed plan of allotted orbit positions, which would of necessity need to specify well in advance of operational systems most or all of those technical characteristics which would affect sharing of the geostationary orbit-spectrum resource. The United States, in view of the technological infancy of the Broadcasting-Satellite Service, as well as the fact that this band is co-equally shared with the Fixed-Satellite Service in Region 2, does not believe that either of these approaches would be in the best interest of Region 2 administrations. The enormous potential for these services within Region 2, and the valuable resource of the geostationary orbit itself, should not be needlessly encumbered with premature restrictions. Let us continue to examine the potential of this resource, allow science and technology to develop in this area so as to provide economically viable and technologically advanced systems for the maximum benefit of all users of this resource in Region 2.

The United States believes that this can be accomplished through a third approach to the sharing of the geostationary orbit between 11.7–12.2 GHz (in Region 2). This approach the U.S. would refer to as "evolutionary planning." This approach would have system designers take advantage of various "sharing principles" in the planning of their satellite systems in this band. Through the judicious application of these principles wherever possible the capacity of the geostationary orbit should be considerably increased over the situation where no advanced planning occurs, yet the technological encumbrances of a detailed orbit allotment plan could be avoided. The only constraint of any major consequence in this approach would be a requirement that satellites be capable of modest repositioning in order to accommodate later entries. It appears that the "evolutionary planning" approach should be adopted in principle for Region 2 because it provides the maximum flexibility to system designers while preserving access to the geostationary orbit for later entries. It does not force premature decision and in fact permits an orderly evolution of implementations as they naturally arise. The possible penalties which are associated with the repositioning requirement seem in just proportion to the advantages, and in practice will likely have to be rarely incurred by any particular network. Additionally, this approach is compatible with efficient utilization of the spectrum-orbit resource since the proper relative positioning of satellites is the major consideration in achieving this efficiency.

The United States has examined a number of possible sharing principles which could be utilized under an "evolutionary planning" approach. In this regard the CCIR has adopted several documents which will enable a study of these principles to be made with regard to their actual effect on the capacity of the geostationary orbit, and so that an examination of the problems associated with implementation of the principles can also be made. In summary, the evolutionary approach to planning is favored for Region 2 for the following reasons:

1. The requirements for the use of the 11.7–12.2 GHz (12.5 GHz is Region 1) band have not been clearly identified in most countries.

2. The allocations in this band, the geography, and the potential requirements of Region 2 are unique and require a unique approach.

3. The evolutionary approach maintains a high degree of flexibility for incorporation of unforeseen scientific and technological developments in the future and provides for adapting to changing operational needs.

4. With judicious use, which is an essential ingredient of the evolutionary approach, the capacity of the band will be sufficient to meet the requirements of all countries.

5. Experiments are now going on with the ATS–6 and CTS satellites. Further experiments are planned in Japan. In addition, many studies are continuing on relevant topics. The results of all these efforts, some of which will be available for the 1979 WARC, would greatly affect future planning. The evolutionary approach will allow incorporation and utilization of these results, as well as operational experience as they become available.

In this regard the U.S. is proposing an addition to Article 7 of the Radio Regulations which would urge the efficient utilization of the orbit/spectrum resource in the 11.7–12.2 GHz band by taking into account all relevant CCIR documents which deal with the sharing of the geostationary orbit in this frequency band.

The United States is also proposing that several sharing criteria be adopted which will facilitate the sharing of the 11.7–12.2 GHz band among the various services. However, in keeping with the United States' position of allowing maximum possible flexibility of system designers, only those criteria which are viewed as immediately essential to sharing are being proposed at this time. Such criteria will include satellite stationkeeping tolerances, satellite repositioning capability, satellite antenna pointing accuracy requirements, and the capability for retuning of earth station receivers.

It is believed that the above mentioned proposals are supported by relevant CCIR documentation, and in particular by the

Summary Report of the CCIR Joint Working Party.

PART D

NOTIFICATION AND REGISTRATION PROCEDURES FOR ASSIGNMENTS IN THE BAND 11.7-12.2 GHZ

This World Administrative Radio Conference has been charged in part, with the planning, and establishment of procedures to govern the use of the 11.7–12.2 GHz band in Region 2 and 3 and the 11.7–12.5 GHz band in Region 1 for the Broadcasting-Satellite Service. As espoused in Part C of the U.S. proposals, the U.S. envisions an "evolutionary planning" of the Broadcasting- and Fixed-Satellite Services in Region 2 in the band 11.7–12.2 GHz. The provisions of Article 9A currently prescribe the manner in which Fixed-Satellite stations are to be co-ordinated and notified. Resolution No. Spa 2–3 currently deals with the bringing into use of space stations in the Broadcasting-Satellite Service, prior to the entry into force of agreements and associated plans for the Broadcasting-Satellite Service. The United States believes that procedures similar to those contained in Resolution Spa 2–3 will be adequate to ensure a co-ordination and notification procedure which will be compatible with our "evolutionary planning" approach to the use of the 11.7–12.2 GHz band in Region 2. The United States therefore has proposed appropriate modifications to Article 9A of the Radio Regulations so as to include those salient portions of Resolution Spa 2–3 so as to accommodate the Broadcasting-Satellite Service in the band 11.7–12.2 GHz in Region 2. Included in the proposed modifications to Article 9A would be provision to afford international protection to receive only earth stations in the Broadcasting-Satellite Service through the notification of a "typical" receive station and specification of a given geographical area within which such a station is to be afforded protection.

The United States recognizes that the requirements of Region 1 and 3 may differ substantially from those of Region 2—especially in view of the differing allocations for the spectrum in question. Regardless of which approach to the efficient use of the geostationary orbit is adopted by Region 1 and 3 administrations, the United States is prepared to actively participate in developing appropriate provisions to the Radio Regulations which will accommodate any interface problems between differing Regional approaches which may develop, bearing in mind that all countries have equal rights in the use of both the radio frequencies allocated to various space radiocommunication services and the geostationary orbit.

Through the adoption of the proposals above the United States believes that the concept of an "evolutionary planning" approach can best be realized within Region 2, and the full sharing of the 11.7–12.2 GHz band can be accomplished.

PART E

Proposed Amendments of the Radio Regulations

SECTION 1. METHOD OF PRESENTATION

1. Numbers shown are the international Radio Regulation numbers;
2. Italics indicates new text;
3. ADD means an addition to the current provisions;
4. Dashes through the text indicate existing text which is being deleted;
5. MOD means a modification of the current provisions;
6. SUP means to suppress the current provisions;
7. NOC means no change in the current provisions;
8. In view of the action taken by the Final Acts of the 1971 Space Conference all frequencies should be expressed in hertz instead of cycles per second.

SECTION 2. PROPOSED CHANGES TO ARTICLE 7

ADD *470V (bis)*

In the frequency band 11.7–12.2 GHz (11.7–12.5 GHz in Region 1), space stations in the broadcasting- and the fixed-satellite services shall have the capability to insure immediate cessation of emission if the space station deviates from the designated parameters of operation such that harmful interference is reported to be caused by the subject space station.

Reason: This regulation is necessary to prevent interference being caused to a network by the malfunction of a space station.

MOD 470VB

§ 26. Space stations on geostationary *satellites.*[1]

470VB.1

[1] *This regulation applies to all space stations on geostationary satellites except satellites operating in the frequency range 11.7–12.2 GHz (11.7–12.5 GHz in Region 1)*

ADD *470VEA*

Station keeping of space stations on geostationary satellites operating in the 11.7–12.2 GHz band (11.7–12.5 GHz in Region 1).

ADD *470VEB*

Space stations on geostationary satellites operating in the 11.7–12.2 GHz (11.7–12.5 GHz in Region 1) band.

ADD *470VEC*

—shall have the capability of maintaining their position within ±0.1 degree of the longitude of their nominal positions.

ADD *470VED*

—shall maintain their positions within ±0.1 degree of the longitude of their nominal position; but

ADD *470VEE*

—need not comply with No. 470VED as long as the satellite network, to which the space station belongs, does not produce an unacceptable level of interference[1] *into other satellite networks whose space stations comply with the limits given in No. 470VED*

ADD *470VEE.1*

Reason: In the interest of more efficient orbit-spectrum utilization, it is considered necessary to maintain a closer station-keeping tolerance of ±0.1 degree in longitude. This minimizes the loss in receiving antenna gain and aids in reducing the potential for interference.

MOD 470VF

§ 27. The pointing direction of maximum radiation of any earthward beam of antennae on geostationary *satellites*[2] shall be capable of being maintained within:

ADD *470VF.2*

ADD *470VFA*

The pointing direction of maximum radiation of the earthward beam of antennae on geostationary satellites operating in the 11.7–12.2 GHz (11.7–12.5 GHz in Region 1) band shall be capable of being maintained within: 0.2 degrees relative to the nominal pointing direction.

This accuracy shall be maintained only if it is required to avoid unacceptable interference to other systems.*

ADD *470VFA.1*

**The level of unacceptable interference shall be fixed by agreement between the administrations concerned, using the relevant C.C.I.R. Recommendations as a guide.*

Reason: These regulations are proposed to minimize the spillover outside the intended coverage area and to take maximum advantage of frequency re-use when pencil beams are used. It is necessary to maintain the highest possible beam-pointing accuracy.

ADD

Repointing Capability of Earth Station Antennae

ADD 470VFB

The direction of maximum gain of any earth station antenna, operating the 11.7–12.2 GHz (12.5 GHz in Region 1) band, shall be capable of being changed to accommodate any satellite repositioning in accordance with No. 470VGB.

Reason: This regulation will provide better orbit-spectrum utilization, particularly in case of interference and during the Article 9A coordination procedure by retaining the flexibility of repointing antennae to a repositioned satellite.

ADD

Returning of Earth Station Receivers

ADD *470VGA*

Each earth station receiving system, in the 11.7–12.2 GHz band (11.7–12.5 GHz in Region 1), shall have a capability of retuning over the entire operating frequency range of the satellite network.

Reason: This regulation will provide better orbit-spectrum utilization particularly in case of interference and during Article 9A coordination procedure by retaining the flexibility of altering the frequency of operation.

ADD

Satellite Repositioning

ADD *470VGB*

In the 11.7–12.2 GHz band (11.7–12.5 GHz in Region 1) geostationary space stations shall have one time repositioning capability of ±10 degrees.

Reason: This will improve the orbit-spectrum utilization by providing the flexibility of moving an early entry satellite network to accommodate a late entry satellite network without causing harmful interference.

ADD

Efficiency of Spectrum and Orbit Utilization

ADD *470W*

When planning space stations on geostationary satellites in the 11.7–12.2 GHz band (11.7–12.5 GHz in Region 1), all available techniques shall be used for achieving efficient spectrum and orbit utilization with particular attention being given to the methods[1] *described in the applicable CCIR documents.*

ADD *470W.1*

Reason: This Radio Regulation is proposed to make the geostationary orbit available as and when needed.

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[1] *The level of unacceptable interference shall be fixed by agreement between the administrations concerned, using the relevant C.C.I.R. Recommendations as a guide.*

[2] *The regulation 470VF is not applicable to satellite services operating in the 11.7–12.2 GHz (11.7–12.5 GHz in Region 1) band.*

[1] *For illustrative purposes only, a number of methods are described in Appendix 30.*

SECTION 3. PROPOSED CHANGES TO ARTICLE 9A

Article 9A

MOD

Co-ordination, Notification and Recording in the Master International Frequency Register of Frequency Assignments[1] to Radio Astronomy and Space Radiocommunication Stations except Stations in the Broadcasting-Satellite Service *in other than the bands 11.7–12.5 GHz in Region 1 and 11.7–12.2 GHz in Regions 2 and 3.*

MOD 639AD

(4) If, after studying the information published under No. 639AC, any administration is of the opinion that interference, which may be unacceptable, may be caused to its existing or planned space radiocommunication *services,*[1] it shall within ninety days after the weekly circular publishing the information listed in Appendix 1B, send its comments to the administration concerned. A copy of these comments shall also be send to the Board. If no such comments are received from an administration within the period mentioned above, it may be assumed that that administration has no basic objections to the planned satellite network(s) of that system on which details have been published.

ADD *639ADA*

When applying the provisions of No. 639 AD in the band 11.7–12.2 GHz (11.7–12.5 GHz in Region 1), if an administration is also of the opinion that additional consideration can be given to efficient utilization of spectrum and orbit, such comments should be supplied to the administration concerned and the Board.

ADD *639AD.1*

[1] *or terrestrial radiocommunication services in the bands 11.7–12.5 GHz in Region 1 and 11.7–12.2 GHz in Regions 2 and 3.*

ADD *639AJA*

Before an administration notifies to the Board or brings into use any frequency assignment to a space station in the 11.7–12.5 GHz band in Region 1 or the 11.7–12.2 GHz band in Regions 2 and 3, where this frequency band is allocated, with equal rights, to the space and terrestrial radiocommunication services, either in the same Region or in different Regions, it shall co-ordinate the use of this assignment with any other administration whose terrestrial radiocommunication services may be affected. For this purpose, the administration requesting co-ordination shall send to any other administration the information listed in Appendix 1A.[2]

ADD *639AJA.2*

[2] *The technical data to be used in effecting co-ordination should be based on the most recent C.C.I.R. Recomendations. In the absence of relevant C.C.I.R. Recommendations, the technical data to be used in effecting co-ordination shall be determined by agreement among the administrations concerned.*

MOD 639AL

An administration initiating the co-ordination procedure referred to in No. 639AJ *or 639AJA* shall at the same time send to the Board a copy of the request for co-ordination, with the information listed in Appendix 1A and the name(s) of the administration(s) with which co-ordination is sought. The Board shall publish this information in a special section of its weekly circular, together with a reference to the weekly circular in which details of the satellite system were published in accordance with Section I of this Article. When the weekly circular contains such information, the Board shall so inform all administrations by circular telegram.

MOD 639AM

(4) An administration believing that it should have been included in the co-ordination procedure under No. 639AJ *or 639AJA* shall have the right to request that it be brought into the co-ordination procedure.

ADD *639APA*

An administration with which co-ordination is sought under No. 639AJA shall acknowledge receipt of the co-ordination data immediately by telegram. If no acknowledgement is received within fifteen days of dispatch of the co-ordination data, the administration seeking co-ordination shall dispatch a telegram requesting acknowledgement, to which the receiving administration shall reply within a further period of fifteen days. Upon receipt of the co-ordination data an administration shall, having regard to the proposed date of bringing into use of the assignment for which co-ordination was requested, promptly examine the matter with regard to interference[1] *which would be caused to the service rendered by its terrestrial radiocommunication stations operating in accordance with the Convention and these Regulations, or to be so operated prior to the planned date of bringing the space station assignment into service, or within the next three years, whichever is the longer. The administration with which co-ordination is sought shall then, within sixty days from dispatch of the co-ordination data, notify the administration requesting co-ordination of its agreement. If the administration with which co-ordination is sought does not agree it shall, within the same period, send to the administration seeking co-ordination all the data on which its comments are based, and make such suggestions as it may be able to offer with a view to a satisfactory solution of the problem.*

ADD *639APA.1*

[1] *The criteria to be employed in evaluating interference levels shall be based upon relevant C.C.I.R. Recommendations or, in the absence of such Recommendations, shall be agreed between the administrations concerned.*

MOD 639AQ

(4) When the administration with which co-ordination is sought sends to the administration seeking co-ordination the information mentioned in No. 639AP *or 639APA*, a copy thereof shall also be sent to the Board. The Board shall consider as notifications in accordance with Section I of Article 9, only that information relating to existing terrestrial radiocommunication stations or to those to be brought into use within the next three years.

MOD 639AR

d) to operate a receiving earth station in the broadcasting-satellite service in the 11.7–12.5 GHz band in Region 1 and the 11.7–12.2 GHz band in Regions 2 and 3. However, if the co-ordination area associated with the operation of such a receiving earth station, in a frequency band referred to in No. 639 AN, includes any of the territory of another country, it is recommended that the administrations concerned reach agreement with a view toward avoiding harmful interference to earth stations in the broadcasting-satellite service. This agreement shall apply to the characteristics of the earth station(s), or to the characteristics of a typical earth station; and in the latter case, it shall apply to a specified service area.

MOD 639AS

An administration seeking co-ordination may request the Board to endeavour to effect co-ordination in those cases where:

a) an administration with which coordination is sought under No. 639AJ fails to acknowledge receipt, under No. 639AO, within sixty days after the date of the weekly circular publishing the information relating to the request for co-ordination;

b) an administration with which co-ordination is sought under No. 639AN *or 639AJA* fails to acknowledge receipt, under No. 639AP *or 639APA, respectively,* within thirty days of dispatch of the coordination data:

c) An administration has acknowledged receipt under No. 639AO, but fails to give a decision within ninety days from the date of the relevant weekly circular;

d) an administration has acknowledged receipt under No. 639AP *or 639 APA* but fails to give a decision within sixty days from dispatch of the co-ordination date;

MOD 639AW

(5) Where the Board receives a request under No. 639AS f), it shall endeavour to effect co-ordination in accordance with the provisions of Nos. 639AJ, *639AJA* and 639AN, as appropriate. The Board shall also, where appropriate, act in accordance with No. 639 AL. Where the Board receives no acknowledgement to its request for co-ordination within the periods specified in No. 639AO, or 639AP, *or 639APA* as appropriate, it shall act in accordance with No. 639AU.

ADD *639BDA*

A notice submitted in accordance with No. 639BA or 639BB and relating to frequency assignment to a receiving earth station in the broadcasting-satellite service in the 11.7–12.5 GHz band in Region 1 and the 11.7–12.2 GHz band in Regions 2 and 3 shall include the technical characteristics of each earth station or of a typical earth station. In the latter case, a diagram indicating the boundary of the service area within which a typical station is to be located shall also be provided.

MOD 639BE

§ 7. For any notification under No. 639BA, 639BB, 639BC, 639BD *or 639BDA*, an individual notice for each frequency assignment shall be drawn up as prescribed in Appendix 1A, the various Sections of which * * *

MOD 639BO

where appropriate, with respect to its conformity with the provisions of No. *639AJA or* 639AN relating to the co-ordination of the use of the frequency assignment with the other administrations concerned vis-a-vis terrestrial radiocommunication stations;

MOD 639CH

(6) Where the notifying administration resubmits the notice with a request that the Board effect the required co-ordination under No. 639AJ, *639AJA* or 639AN, it shall be treated in accordance with the provisions of No. 639CE. However, in any subsequent recording of the assignment, the date of receipt by the Board of the resubmitted notice shall be entered in the Remarks Column.

SECTION 4. PROPOSED CHANGES TO APPENDIX 1A

MOD

Appendix 1A, Section D, Item 13 Co-ordination.

Give the name of any administration or group of administrations with which the use of the satellite network to which the space station belongs has been successfully co-ordinated in accordance with Nos. 639AJ *and 639AJA.*

SECTION 5. PROPOSED NEW APPENDIX 30

Appendix 30

ADD

Examples of Methods for Improving Efficient Use of spectrum and orbit in the 11.7–12.2 GHz Band (11.7–12.5 GHz in Region 1). (See RR 470W of Article 7)

Radio Regulation 470W urges efficient use of spectrum and orbit on the geostationary satellites in the 11.7–12.2 GHz band. In this regard, the following methods are described as examples and for purposes of illustration only. The practical applicability, advantages and limitations of these or other methods are discussed in CCIR documents. Use of these methods should be governed by Numbers 130 and 131 of the Convention.

(a) Such advantages as may be obtainable from polarization discrimination could be used.

(b) Transponder channelization may be chosen to take advantage of frequency interleaving.

(c) Consideration may be given to planning such that nearby or adjacent satellites serve widely separated service areas and not adjacent or overlapping areas.

(d) Satellites, with equal susceptibility to and with equal generating potential for interference, could be placed together in the same portion of the geostationary orbit.

[FR Doc.76–23529 Filed 8–11–76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RI76–29]

EXXON CORP.

Order Denying Applications for Rehearing

AUGUST 5, 1976.

On June 17, 1976, Exxon Corporation (Exxon) and Michigan Wisconsin Pipe Line (Michigan Wisconsin) filed applications for rehearing of the Commission's May 18, 1976 order responding to a petition for declaratory order in the above docket. On June 21, 1976, Cities Service Oil Company (Cities Service) filed for rehearing adopting the arguments by Exxon in its rehearing application. The Commission's May 18 order responded to questions raised by Exxon with reference to pending litigation between Exxon and certain lessors on the treatment of royalty payments. Citing *Mobil Oil Corporation* v. *F.P.C.*, 463 F. 3d 256 (D.C. Cir. 1972), *cert. den'd* 406 U.S. 976 (1976), we concluded that we were without authority to determine the rate utilized in computing royalty payments by the lessee to the royalty owner except upon proper reference from the appropriate court. Exxon argues in its application that the *Mobil* decision permits a producer to file for declaration of federal ceiling to the FPC, while leaving to the court the resolution of contract issue.

We believe that Exxon misinterprets the court's language in Mobil. The court's suggestion that a producer could file for a declaration of ceiling (Mobil at 266, footnote 25) clearly has reference to a filing to the court, not to this Commission, as we noted in our May 18 order (Order Responding to Petition at 2). To construe it otherwise would lead to the preposterous result of our responding to the question upon reference by the producer without any determination by the court handling the contract issue as to whether such determination was appropriate or necessary.

Exxon states that it has now filed a motion for reference to us of this issue with the court handling the pending litigation. This we deem is the procedure contemplated by Mobil. Should the court elect to refer the matter of "federal ceiling" to this Commission, we shall take appropriate action at that time. Since the court itself may choose to decide the issue, we reject Exxon's suggestion that we grant rehearing solely for purposes of further consideration pending referral of the issue.

Michigan Wisconsin, on the other hand, argues that the Mobil court did not rule on other possible bases for Commission jurisdiction over royalty payments; specifically, whether we have jurisdiction on the basis of royalty payments' interference with interstate commerce and the federal regulatory scheme. But, the court in Mobil rejected the Commission's secondary argument that it had jurisdiction over royalties on the basis of burden on interstate commerce. The Court there said that,

> [I]f an interpretative ruling stretching the Act as written to cover leases by landowners is to be countenanced on the score of necessity, and we do not say this will be possible, the underlying record must be more comprehensive * * * than the findings and analysis presented on this record (*Mobil* at 263–264) (Emphasis supplied).

Later, the Court went on to say:

> In any event we are not persuaded that the maintenance in either state or federal courts of contract (lease) controversies between royalty owners and lesses will undercut the Federal regulatory system (Mobil at 265).

Moreover, even assuming arguendo that we had jurisdiction on the "burden" theory, as Michigan Wisconsin suggests, it would hardly be possible to construct a record based on such theory—at least until the Exxon Royalty owner litigation has been completed. As the Mobil court again noted:

> As to the problem of economic burden and higher prices for consumers, although the record contains evidence and findings concerning different forms of industry contracts * * * we have no findings concerning the extent or significance of market price contracts (Mobil at 264).[1]

Exxon further asserts that our discussion in the May 18 order of Opinion No. 753 does not answer its question related to whether the flow-through of incremental royalty amounts would be permitted were there a judgment ordering payments on a basis higher than the just and reasonable rates. In Opinion No. 753 we dealt with the treatment of royalty flow-through in the context of an actual settlement proposal. In the instant case we have no such proposal nor do we have the benefit of a final court judgment. In the absence of the latter, no further discussion of this issue is warranted.

The Commission orders: (A) The applications for rehearing filed by Exxon, Michigan Wisconsin and Cities Service are denied.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76–23820 Filed 8–13–76;8:45 am]

[1] *Cf. J. M. Huber Corporation* v. *Denman*, 367 F.2d 104, 110 (5th Cir. 1966) wherein amounts claimed by the royalty owner were discussed.

FEDERAL RESERVE SYSTEM

EVANS INSURANCE AGENCY, INC.

Acquisition of Bank

Evans Insurance Agency, Inc., Billings, Oklahoma, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842 (a)(3)) to retain 18.7 per cent of the voting shares of First State Bank in Billings, Billings, Oklahoma. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 9, 1976.

Board of Governors of the Federal Reserve System, August 10, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76–23833 Filed 8–13–76;8:45 am]

[Reg. C; Docket No. R–0052]

HOME MORTGAGE DISCLOSURE ACT OF 1975

Application for Exemption

The Commonwealth of Massachusetts, through the Commissioner of Banks for the Commonwealth of Massachusetts, has applied to the Board for an exemption from the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801–2809) for State-chartered banks and credit unions with main offices in the Boston Standard Metropolitan Statistical Area and deposits of at least $20,000,000 on the ground that such banks and credit unions are subject to mortgage loan disclosure directives issued by the Commissioner of Banks for the Commonwealth of Massachusetts which impose requirements substantially similar to those imposed under the Home Mortgage Disclosure Act of 1975 and that there are adequate provisions for enforcement of the State requirements. The Commissioner of Banks for the Commonwealth of Massachusetts lists the following depository institutions as the subject of the application:

Cambridge Savings Bank
Beverly Savings Bank
Concord Co-operative Bank
Brookline Savings Bank
East Cambridge Savings Bank
Union Warren Savings Bank
Heritage Co-operative Bank
Warren Five Cents Savings Bank
Reliance Co-operative Bank
Equitable Co-operative Bank
Medford Savings Bank
Beverly Co-operative Bank
Coolidge Corner Co-operative Bank
Wakefield Co-operative Bank
Medford Co-operative Bank
Central Co-operative Bank
Woburn Co-operative Bank
Stoneham Co-operative Bank
George Peabody Co-operative Bank
Waverly Co-operative Bank
Meeting House Hill Co-operative Bank
Norwood Co-operative Bank
Brighton Co-operative Bank
Volunteer Co-operative Bank
Home Savings Bank
Salem Savings Bank
West Newton Savings Bank
Lynn Five Cents Savings Bank
Mutual Bank for Savings
Salem Five Cents Savings Bank
Framingham Savings Bank
Elliot Savings Bank
Arlington Five Cents Savings Bank
Lexington Savings Bank
Everett Savings Bank
Suffolk Franklin Savings Bank
Boston Five Cents Savings Bank
Abington Savings Bank
Dorchester Savings Bank
South Boston Savings Bank
Cambridgeport Savings Bank
Dedham Institution for Savings
Haymarket Co-operative Bank
Melrose Savings Bank
Workingmens Co-operative Bank
South Weymouth Savings Bank
Provident Institution for Savings
Winchester Savings Bank
East Boston Savings Bank
Lynn Institution for Savings
Watertown Savings Bank
Charlestown Savings Bank
Waltham Savings Bank
Wakefield Savings Bank
Braintree Savings Bank
Weymouth Savings Bank
Benjamin Franklin Savings Bank
Danvers Savings Bank
Stoneham Savings Bank
Middlesex Institution for Savings
Natick Five Cents Savings Bank
Milton Savings Bank
Atlantic Savings Bank
Winthrop Savings Bank
Merchants Co-operative Bank
Randolph Savings Bank
Malden Savings Bank
Hingham Institution for Savings
Malden Co-operative Bank
Everett Co-operative Bank
Framingham Co-operative Bank
Hibernia Savings Bank
Somerville Savings Bank
Rockland Credit Union
Suburban Credit Union
Hyde Park Savings Bank
Needham Co-operative Bank
East Weymouth Savings Bank
Pioneer Co-operative Bank
Woburn Five Cents Savings Bank
Rockland Savings Bank
Reading Savings Bank
Braintree Co-operative Bank
Quincy Savings Bank
Chestnut Hill Co-operative Bank
Arlington Co-operative Bank
Newton Co-operative Bank
Belmont Savings Bank
Blue Hill Credit Union
Marblehead Savings Bank
Grove Hall Savings Bank
Somerset Savings Bank
Quincy Co-operative Bank
Walpole Co-operative Bank
Bay Bank and Trust Company
Brookline Trust Company
Cambridge Trust Company
Capitol Bank and Trust Company
Century Bank and Trust Company
City Bank and Trust Company
Commonwealth Bank and Trust Company
Coolidge Bank and Trust Company
Essex County Bank and Trust Company
Framingham Trust Company
Guaranty-First Trust Company
Hancock Bank and Trust Company
Harvard Trust Company
Lincoln Trust Company
Malden Trust Company
Naumkeag Trust Company
Newton-Waltham Bank and Trust Company
Norfolk County Bank and Trust Company
Rockland Trust Company
Saugus Bank and Trust Company
Shawmut Melrose-Wakefield Bank and Trust Co.
United States Trust Company
State Street Bank
First National Bank of Boston
New England Merchants National Bank
National Shawmut Bank of Boston
University Bank and Trust Company

The application was filed pursuant to section 306(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2805 (b)) and § 203.3(a)(3) of Federal Reserve Regulation C (12 CFR 203.3(a)(3)).

The application is available for inspection and copying at the offices of the Board of Governors of the Federal Reserve System and at the Federal Reserve Bank of Boston.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 16, 1976. Such material will be made available for inspection and copying upon request except as provided in § 261.6(a) of the Federal Reserve Rules Regarding Availability of Information (12 CFR 261.6(a)).

Board of Governors of the Federal Reserve System, August 10, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-23837 Filed 8-13-76;8:45 am]

PHILADELPHIA NATIONAL CORP.

Proposed Acquisition of Congress Factors Corporation

Philadelphia National Corporation, Philadelphia, Pennsylvania, has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire additional voting shares of Congress Factors Corporation, Philadelphia, Pennsylvania. Notice of the application was published on July 8, 1976 in *The Philadelphia Daily News*, a newspaper circulated in Philadelphia, Pennsylvania; on July 10, 1976 in El Mundo, a newspaper circulated in San Juan, Puerto Rico; on July 13, 1976 in The New York Times, a newspaper circulated in New York, New York; and on July 16, 1976 in The Miami Herald, a newspaper circulated in Miami, Florida.

Applicant states that the subsidiary would continue to engage in the activities of purchasing accounts receivable and of making loans secured by accounts receivable, inventory, machinery and equipment and generally in the factoring and commercial finance business. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 9, 1976.

Board of Governors of the Federal Reserve System, August 10, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-23834 Filed 8-13-76;8:45 am]

TRUST COMPANY OF GEORGIA

Acquisition of Bank

Trust Company of Georgia, Atlanta, Georgia, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Security National Bank, Smyrna, Georgia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washing-

ton, D.C. 20551, to be received not later than September 9, 1976.

Board of Governors of the Federal Reserve System, August 10, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-23835 Filed 8-13-76;8:45 am]

UNION TRUST BANCORP

Order Approving Acquisition of Nonbank Assets

Union Trust Bancorp, Baltimore, Maryland ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to acquire all of the assets of Fidelity Finance Company, Elkins, West Virginia ("Company"), through Landmark Finance Corporation of West Virginia, a wholly-owned subsidiary of Applicant's direct subsidiary, Landmark Financial Services, Inc., Silver Spring, Maryland. Company is engaged in the activity of making installment loans to individuals for personal, family or household purposes under a small loan license issued by the State of West Virginia. It also acts as agent in the sale of credit life insurance directly related to its extensions of credit. In addition, Applicant proposes that Company would engage de novo in the activities of purchasing sales finance contracts executed in connection with the sale of personal, family or household goods or services; and acting as agent in the sale of credit accident and health insurance related to its extensions of credit and insurance protecting collateral held against such extensions of credit. Such activities have been determined by the Board to be closely related to banking (12 CFR § 225.4(a)(1) and (9)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors has been duly published (41 F.R. 23486). The time for filing comments and views has expired and the Board has considered the application and all comments received in light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)).

Applicant, the fifth largest banking organization in Maryland, controls a bank with total deposits of approximately $700 million,[1] representing 8.0 per cent of total bank deposits in the State.

Company is a consumer finance company, operating one office in Elkins, West Virginia. Company has total net receivables or approximately $166,000, which represents 24.6 per cent of the total loans originated by consumer finance companies in the relevant market[2] and ranks as the smaller of two such companies operating in the market. Applicant's subsidiary, Landmark Financial Services, Inc. ("Landmark"), is also a consumer finance company operating 48 offices in nine southeastern states, including two offices in West Virginia. The office of Landmark closest to Company is located 84 miles away in Keyser, West Virginia. It appears that no business is derived by Applicant or its subsidiaries from Company's market area and that Company derives no business from the market areas of Applicant and its subsidiaries. Therefore, consummation of the proposed acquisition would not result in the elimination of any existing competition between Applicant and Company. Nor would any significant potential competition between the two be eliminated by approval of the proposal, since it appears unlikely that Applicant would enter the relevant market on a de novo basis.

Acquisition of Company by Applicant should provide Company with access to a larger and more stable source of funds, thereby enabling it to become a more effective competitor. In addition, Applicant proposes to expand the loan services offered by Company and provide, as agent, additional credit-related insurance services de novo. Moreover, there is no evidence in the record indicating that consummation of the proposed transaction would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices or other adverse effects on the public interest.

Based on the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8) of the Act, that consummation of the proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y (12 CFR § 225.4(c)) and to the authority of the Board to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board may find necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations or orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not 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 Richmond, pursuant to authority hereby delegated.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective August 9, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-23836 Filed 8-13-76;8:45 am]

[1] All banking and financial data are as of December 31, 1975, and reflect holding company formations and acquisitions approved by the Board through June 30, 1976.

[2] The relevant geographic market for purposes of analyzing the anticompetitive effects of the subject proposal is approximated by an area within a ten mile radius of Elkins, West Virginia.

FEDERAL TRADE COMMISSION

LINE OF BUSINESS REPORTING PROGRAM

Amendment to "Confidentiality Rules and Procedures for the 1975/1976 Reporting Years"

This notice amends the Federal Trade Commission Line of Business (LB) Reporting Program's "Confidentiality Rules and Procedures for 1975/1976 Reporting Year," which were published in the July 8, 1976 FEDERAL REGISTER at pages 28041 and 28042. The amendment is made to include reference to a portion of Pub. L. 94-362, the act which provides Commission appropriations for fiscal year 1977. The referred to passage, which the Commission interprets as prohibiting disclosure of LB Reports to any person outside the agency, is the same as that in Pub. L. 94-121, the act which provides Commission appropriations for fiscal year 1976. As a result of making this reference, the first line following *Confidentiality of LB Reports With Respect to Persons Outside the Commission* (page 28041, column 1) should now read:

Pub. L. 94-121 and Pub. L. 94-362, which provide Federal Trade Commission appropriations for the fiscal years 1976 and 1977, state in part that:

By direction of the Commission, dated August 4, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-23830 Filed 8-13-76;8:45 am]

NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

THE ADVISORY COMMITTEE ON NATIONAL GROWTH POLICY PROCESSES

Meeting

Notice is hereby given, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 10(a), that the Advisory Committee on National Growth Policy Processes to the National Commission on Supplies and Shortages will conduct a public meeting on August 27, 1976, in Room 2010 of the New Executive Office Building located at 17th and H Streets N.W., Washington, D.C. The meeting will begin at 9:30 A.M.

The objectives and scope of activities of the Advisory Committee on National Growth Policy Processes is " * * * to develop recommendations as to the establishment of a policy-making process and structure within the Executive and Legislative branches of the Federal Government as a means to integrate the study of supplies and shortages of resources and commodities into the total problem of balanced national growth and development, and a system for coordinating these efforts with appropriate multi-state, regional and state governmental jurisdictions."

The summarized agenda for the meeting is as follows:

1. Reports by the Chairman and Executive Director.

2. Review of preliminary committee recommendations and report language regarding the Executive Branch; the establishment of a new public policy board; and, intergovernmental coordination and decision-sharing.

3. Review of preliminary committee recommendations and report language regarding materials and commodity issues.

4. Discussion of data needs and analytical capability study groups issues and proposals.

5. General discussion of Congressional issues and proposals.

6. Presentation of foreign experience study group findings.

In the event the Committee does not complete its consideration of the items on the agenda on August 27, 1976, the meeting may be continued on the following day or until the agenda is completed.

The meeting is open to the public. The Chairman of the Committee will conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public that wishes to file a written statement with the Committee should mail a copy of the statement to the Advisory Committee on National Growth Policy Processes, 1750 K Street, N.W., 8th floor, Washington, D.C. 20006, at least five days before the meeting. Members of the public that wish to make oral statements should inform Katherine Soaper, telephone (202) 254-6836, at least five days before the meeting, and reasonable provisions will be made for their appearance on the agenda.

The Advisory Committee is maintaining a list of persons interested in the operations of the Committee and will mail notice of its meetings to those persons. Interested persons may have their names placed on this list by writing James E. Thornton, Executive Director, The Advisory Committee on National Growth Policy Processes, 1750 K Street, N.W., 8th Floor, Washington, D.C. 20006.

ARNOLD A. SALTZMAN,
Chairman, The Advisory Committee on National Growth Policy Processes.

AUGUST 11, 1976.

[FR Doc.76-23828 Filed 8-13-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE DIABLO CANYON NUCLEAR POWER STATION UNITS 1 AND 2

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on the Diablo Canyon Nuclear Power Station, Units 1 and 2, will hold a meeting on August 31, 1976 in Dickens Square, Room B, Sheraton Inn, Los Angeles Airport, 9750 Airport Boulevard, Los Angeles, CA. The purpose of this meeting is to continue the review of the application of the Pacific Gas and Electric Company for a license to operate Units 1 and 2.

The agenda for the subject meeting shall be as follows:

Tuesday, August 31, 1976, 8:30 a.m. The Subcommittee will meet in closed Executive Session, with any of its consultants who may be present, to exchange opinions and discuss preliminary views and recommendations relating to the above review.

9:00 a.m. until the conclusion of business. The Subcommittee will meet in open session to hear presentations by members of the NRC Staff, the Pacific Gas and Electric Company, and their consultants, and will hold discussions with these groups pertinent to its review.

At the conclusion of the open session, the Subcommittee may caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered and whether the project is ready for review by the full Committee. During the session Subcommittee members and consultants will discuss their opinions and recommendations on these matters. Upon conclusion of this caucus, the Subcommittee may meet again in brief open session to announce its determination.

In addition to these closed deliberative sessions, it may be necessary for the Subcommittee to hold one or more closed sessions with the NRC Staff and Applicant for the purpose of discussing proprietary information.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Subcommittee's deliberative process (5 U.S.C. 552(b)(5)) and to protect proprietary information (5 U.S.C. 552(b)(4)). Separation of factual material from individuals' advice, opinions, and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical consderations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 24, 1976 to Mr. John C. McKinley, ACRS, NRC, Washington, DC 20555 will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555 and at the San Luis Obispo County Free Library, San Luis Obispo, CA, 93406.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed ,whether the meeting has been cancelled or rescheduled the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 30, 1976 to the Office of the Executive Director of the Committee (telephone 202/634-1374, Attn: Mr. John C. McKinley) between 8:15 a.m. and 5:00 p.m., edt.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. John C. McKinley of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion of the meeting will be available for inspection on or after September 9, 1976 at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 and at the San Luis Obispo County Free Library, San Luis Obispo, CA 93406.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 after December 1, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: August 12, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76-23969 Filed 8-13-76;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON EMERGENCY CORE COOLING SYSTEMS

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232, b.), the ACRS Subcommittee on Emergency Core Cooling Systems (ECCS) will hold a meeting on September 2, 1976 in Room 1046, 1717 H Street, NW, Washington, DC 20555. The purpose of this meeting is to discuss the effects of upper head injection (UHI) on the Westinghouse Electric Corporation's analytical models formulated to meet current ECCS criterions.

The agenda for the subject meeting shall be as follows:

Thursday, September 2, 1976, at 8:30 a.m. until the conclusion of business. The Subcommittee with any of its consultants who may be present will meet in open session to hear presentations by the NRC Staff and by representatives of the Westinghouse Electric Corporation.

At the conclusion of the open session, the Subcommittee may caucus in a brief, closed session to determine whether the matters discussed have been adequately covered and whether the Subcommittee should recommend to the full Committee further ACRS consideration. During the session Subcommittee members and consultants will discuss their opinions and recommendations. Upon conclusion of this caucus, the Subcommittee may meet again in brief open session to announce its determination.

In addition to this closed deliberative session, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring with the NRC Staff and participants matters involving proprietary information.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Subcommittee's deliberative process (5 U.S.C. 552(b)(5)) and to protect confidential proprietary information (5 U.S.C. 552(b)(4)). Separation of factual material from individuals' advice, opinions, and recommendations while the closed Executive Session is in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 26, 1976 to Mr. T. G. McCreless, ACRS, NRC, Washington, DC 20555 will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 1, 1976 to the Office of the Executive Director of the Committee (telephone 202/634-1374, Attn: Mr. T. G. McCreless) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executive agreement should be provided to Mr. T. G. McCreless, of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion of the meeting will be available for inspection on or after September 10, 1976 at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555. Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555 after December 2, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: August 12, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76-23968 Filed 8-13-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-332]

ALLIED-GENERAL NUCLEAR SERVICES, ET AL.

Draft Supplement to Final Environmental Statement Extension of Comment Period

Availability of Draft Supplement No. 1 to the Final Environmental Statement for the Barnwell Nuclear Fuel Plant was published in the FEDERAL REGISTER June 28, 1976 (41 FR 26615) with comments due by August 23, 1976. By request from an interested member of the public the comment period is hereby extended to September 7, 1976.

Dated at Bethesda, Maryland, this 5th day of August 1976.

For the Nuclear Regulatory Commission.

ROBERT M. BERNERO,
Chief, Fuel Reprocessing and Recycle Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.76-23576 Filed 8-13-76;8:45 am]

[Docket No. 50-317]

BALTIMORE GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. DPR-53, issued to Baltimore Gas and Electric Company (the licensee), which revised Technical Specifications

for operation of the Calvert Cliffs Nuclear Power Plant Unit No. 1 (the facility) located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

The amendment modifies the Environmental Technical Specifications for the facility during Special Studies by temporarily extending the duration of special studies from 100 hours to about 3½ months. The purpose of the special studies is to determine the effects of condenser cooling water temperature on organisms.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revisions to the Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the proposed action other than that which has already been predicted and described in the Commission's Final Environmental Statement issued April 1973 for the facility (published on April 6, 1973 in the FEDERAL REGISTER—38 F.R. 8759).

For further details with respect to this action, see (1) the application for amendment dated June 21, 1976, (2) Amendment No. 16 to License No. DPR-53, and (3) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland 20678. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 5th day of August, 1976.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.76-23577 Filed 8-13-76;8:45 am]

[Docket No. 50-70]

GENERAL ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 8 to Facility Operating License No. TR-1 issued to General Electric Company (the licensee), which revised license conditions for operation of the General Electric Test Reactor, located in Pleasanton, California. The amendment is effective as of its date of issuance.

The amendment changes certain license provisions to increase the amount of (SNM) the licensee is authorized to receive, possess and use from 170 kilograms of contained uranium 235 to 250 kilograms.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 15, 1975, (2) Amendment No. 8 to License No. TR-1, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 3rd day of August 1976.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.76-23578 Filed 8-13-76;8:45 am]

[Docket Nos. STN 50-553 and 50-554]

TENNESSEE VALLEY AUTHORITY

Availability of Draft Environmental Statement for Phipps Bend Nuclear Plant, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed Phipps Bend Nuclear Plant, Units 1 and 2, to be constructed by the Tennessee Valley Authority in Hawkins County, Tennessee, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and in the Kingsport Public Library, Broad and New Streets, Kingsport, Tennessee. The Draft Statement (NUREG-0098) is also being made available at the Office of Urban and Federal Affairs, 108 Parkway Towers, 404 James Roberton Parkway, Nashville, Tennessee, and at the First Tennessee-Virginia Development District, Eastern Tennessee State University, Johnson City Tennessee. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Director, Division of Site Safety and Environmental Analysis.

The Applicant's Environmental Report, as supplemented, submitted by the Tennessee Valley Authority is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on April 19, 1976 (41 FR 16522).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by October 4, 1976. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Kingsport Public Library, Broad and New Streets, Kingsport, Tennessee. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Rockville, Maryland, this 6th day of August 1976.

For the Nuclear Regulatory Commission.

JAN A. NORRIS,
Acting Chief, Environmental Projects Branch, Division of Site Safety and Environmental Analysis.

[FR Doc.76-23579 Filed 8-13-76;8:45 am]

[Dockets Nos. 50-280 and 50-281]

VIRGINIA ELECTRIC AND POWER CO.

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 23 to Facility Operating Licenses Nos. DPR-32 and DPR-37 issued to Virginia Electric & Power Company which revised Technical Specifications for operation of the Surry Power Station, Units Nos. 1 and 2, located in Surry County, Virginia. The amendments are effective as of the date of issuance.

The amendments revise the effluent release monitoring requirements in the Technical Specifications.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 19, 1976, (2) Amendments No. 23 to Licenses Nos. DPR-32 and DPR-37, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Swem Library, College of William and Mary, Williamsburg, Virginia.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 27th day of July 1976.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.76-23580 Filed 8-13-76;8:45 am]

[Docket Nos. 50-502 and 50-503]

WISCONSIN ELECTRIC POWER CO., ET AL.

Availability of NRC Draft Environmental Statement for the Koshkonong Nuclear Plant, Unit Nos. 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed construction of the Koshkonong Nuclear Plant, Unit Nos. 1 and 2, in Jefferson County, Wisconsin, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., the Dwight-Foster Public Library, P.O. Box 88, Fort Atkinson, Wisconsin 53538, and the Madison Public Library, Room 103-B, City-County Building, Madison, Wisconsin 53709. The Draft Environmental Statement is also being made available at the Bureau of Planning and Budget, Wisconsin Department of Administration, 1 West Wilson Street, State Office Building, Madison, Wisconsin 53701. Copies of the Commission's Draft Environmental Statement may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

The Applicant's Environmental Report, as supplemented, submitted by Wisconsin Electric Power Company, Wisconsin Power & Light Company, Wisconsin Public Service Corporation, and Madison Gas and Electric Company is also available for public inspection at the above designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on November 1, 1974 (39 FR 38701).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement. Other interested persons or local agencies may obtain these documents upon request. Comments are due by October 4, 1976. Comments from Federal, State, and local officials, or other persons, received by the Commission, will be made available for public inspection in the Commission's Public Document Room, 1717 H Street NW, Washington, D.C., the Dwight-Foster Public Library, P.O. Box 88, Fort Atkinson, Wisconsin 53538, and the Madison Public Library, Room 103-B, City-County Building, Madison, Wisconsin 53709. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Rockville, Maryland, this 6th day of August 1976.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc.76-23971 Filed 8-13-76;8:45 am]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

Correction

In FR Doc. 76-21940 appearing at page 31622 in the issue for Thursday, July 29, 1976, in the third column, the first line of the first full paragraph, the designation of "Safety Guide SG-QAS" should have read "Safety Guide SG-QA3".

[Docket RM-50-3]

ENVIRONMENTAL EFFECTS OF THE URANIUM FUEL CYCLE

General Statement of Policy

Two recent decisions by the United States Court of Appeals for the District of Columbia Circuit raise significant questions regarding the future course of Commission licensing activities over the coming months. The decisions are *Natural Resources Defense Council, et al.* v. *NRC*, Nos. 74-1385 and 74-1586; and *Aeschliman, et al.* v. *NRC*, Nos. 73-1776 and 73-1867 (July 21, 1976). The purpose of this policy statement is to indicate how the Commission intends to conduct its licensing activities pending resolution of the several legal questions raised by the decisions. This statement is not intended to resolve, or indicate any resolution of, the question whether the particular licenses before the court in these cases are to be continued, modified, or suspended during the proceedings called for; since the court refused an explicit request to set aside these licenses, the Commission's view is that the court expects it to resolve this question in formal proceedings, in light of the facts and the applicable law. Nor is this statement intended to reflect any position the Commission may take in further litigation in these cases.

As this statement was in the final stages of preparation, the Commission received a proposal for rulemaking from the Natural Resources Defense Council concerning many of the issues discussed herein. Comments on that proposal are solicited in a coordinate FEDERAL REGISTER notice, also published today. Initial consideration of the petition indicates that it varies in several respects from this policy statement. Some of these variations (notably, rules proposed for existing construction permits, LWA's and operating licenses) may reflect differing legal interpretations; however, in general, publication of the present policy statement will not irretrievably commit the Commission or others to a course inconsistent with the proposals made. The

Commission believes that the need for immediate guidance to its staff and licensing boards, and to the interested public, requires publication of the present statement. The Commission will carefully consider the suggestions of the NRDC and, indeed, is aware that others should have the opportunity to comment on these proposals and to offer suggestions for implementing the recent court of appeals decisions.

While other questions were decided, the principal impact of the court's opinions on Commission actions arises from holdings on three related points:

1. A rule adopted by the former AEC in 1974 to codify the environmental effects of the uranium fuel cycle for individual light-water nuclear power reactors, 10 CFR 51.20(e), was inadequately supported insofar as it treated the reprocessing of spent fuel and of radioactive wastes;

2. The National Environmental Policy Act of 1969 requires analysis of these reprocessing and waste issues, either through rulemaking or in individual licensing proceedings, as a prerequisite to Commission licensing of a nuclear power plant;

3. If the Commission wishes to revise its rule, it must do so by procedures more demanding than the notice-and-comment procedures required for informal rulemaking by the Administrative Procedure Act. (The court divided 2-1 on the question of further procedures, Judge Tamm stating that notice-and-comment procedures would suffice.)

Even though review of one or more of these rulings may be sought, prudent and responsible regulation requires immediate steps to further analyze the reprocessing and waste disposal issues. Accordingly, the Commission's staff has been directed to review the existing literature thoroughly and to produce on an expedited basis a revised and adequately documented environmental survey on the probable contribution to the environmental costs of licensing a nuclear power reactor that is attributable to the reprocessing and waste management stages of the uranium fuel cycle. It is expected that this statement will be ready on or about September 30, 1976.

The Commission intends to reopen the rulemaking proceeding on the Environmental Effects of the Uranium Fuel Cycle, Docket RM-50-3 for the limited purposes of:

1. Supplementing the record on the reprocessing and waste management issues; and

2. Determining whether or not on the basis of the supplemented record, Table S-3 of 10 CFR 51.20(d) should be amended and, if so, in what respect.

The revised environmental survey just described, together with any amendments to Table S-3 that may be proposed as a consequence of that analysis, will be the basis for these reopened proceedings. We understand the court to regard the procedures originally used as capable of fully ventilating the issues involved, permitting a reasoned Commission discussion and producing a valid rule.[1] These procedures, which included an oral hearing and questioning of witnesses by the presiding panel, are set forth at 38 Fed. Reg. 50, January 30, 1973. Alternative procedures, modeled on those to be employed by the Commission in its forthcoming GESMO hearings, have been suggested by the Natural Resources Defense Council in the petition for rulemaking referenced above. An election of procedures to be followed will be made in a forthcoming notice of hearing, following the comment period on that petition, which closes August 31, 1976.

While the extended rulemaking is in progress, the Commission and its licensing boards will be called upon to decide whether nuclear reactor licenses can issue, and whether previously granted licenses should be suspended, modified, or set aside.

In view of the court's recent decisions, the Commission has concluded that no new full-power operating license, construction permit or limited work authorization should be issued pending the developments to be described below. This conclusion is based on recognition that the grant of each of those authorizations, permits, or licenses is premised upon the completion of an adequate environmental impact statement, and that under the subject decisions, absent an acceptable substitute for those portions of Table S-3 which the court has found inadequately supported, the basis for a complete environmental impact statement will not be in place.

The Commission recognizes that this conclusion may have significant impacts on the availability and costs of nuclear power facilities. At present, two nuclear power plants are at the stage where an operating license might otherwise have been issued imminently; two plants will reach that stage within the next four months. Additionally, a decision on whether to issue construction permits for five power plants would in all probability have been reached by the end of the year. The number of plants affected by a cessation of licensing grows with time, and there are obvious costs incurred when plants stand idle. Since existing concepts for reprocessing and waste technology do not vary significantly with the design of nuclear power generating facilities, it is extremely unlikely that the revised environmental survey will result in any modification of these facilities. Only the possibility of discontinuing their construction or use is likely to be at issue.

The Commission does not believe that the licensing constraints here announced must necessarily continue until a rulemaking employing oral hearing procedures has been completed, a process which could take fully a year. If the revised environmental survey justifies, notice and comment rulemaking can provide the basis for an interim rule which would be an adequate substitute for Table S-3 pending issuance of the final rule. In addition to the revised environmental survey, the basis for such an interim rule would include an evaluation of the environmental impact of using that interim rule as a basis for licensing until the final rule is in place, and an assessment of the impact of a suspension of further licensing during that time period. The Commission has directed its staff to develop this information by September 30, 1976. Since interim rulemaking would be accomplished through notice and comment procedures only, an interim rule might be promulgated as early as December 1976, providing a basis for licensing at that time.

The Commission also has under consideration the possibility of a future request to the court of appeals for a stay of its mandate, such a request to be explicitly supported by an appraisal of the likely impact of the court's decision and of granting the stay. If granted, a stay so supported might also provide the basis for resumed licensing.

Finally, some Commission licensing actions do not require preparation of an environmental impact statement, depending upon the circumstances. See 10 CFR 51.5(b). In these instances, which may include authorizations for fuel loading, low-power testing, or amending a construction permit, the Commission's regulations require that an environmental impact appraisal be undertaken in order to determine whether an environmental impact statement must be prepared. 10 CFR 51.5(c). The absence of an effective Table S-3 would not preclude licensing that is not dependent upon an environmental impact statement. Consequently the Commission is instructing its staff and licensing boards that they may continue to take such actions where an environmental impact assessment has been made and has resulted in a determination that no environmental impact statement need be prepared. See 10 CFR 51.5, 51.7.

In all other instances, the staff and the licensing boards shall continue to process applications and hold hearings up to the point of, but not including, licensing. However, in any contested proceeding, reprocessing and waste management issues should be deferred pending completion of the interim rulemaking, unless the evidentiary record on those issues has already been completed and is adequate for decision. The Commission wishes to avoid the needless duplication which proceeding both by rulemaking and in individual contested

[1] The court understood, as do we, that any such rule would be but one step in national planning for radioactive waste management. The Energy Research and Development Administration has undertaken a comprehensive environmental impact statement, now scheduled for issuance in draft form in April, 1977. A variety of other measures, including this agency's development of goals, objectives, and general environmental criteria for waste management, are also under way. As the Commission then proceeds to develop its regulatory framework for waste management, appropriate environmental impact statements will be prepared. Obviously, areas of uncertainty which may be developed by the persent study will help to shape these efforts.

licensing hearings would entail and the overall delay that would result. Where a proceeding is uncontested, licensing shall nevertheless be deferred until the Commission has published the revised environmental survey, documenting the probable contribution to the environmental costs of licensing a nuclear power reactor which is attributable to the reprocessing and waste management stages of the uranium fuel cycle. These values may then be used in reaching a NEPA cost/benefit assessment prerequisite to licensing. Similarly, where a license has been issued, but the action has not become final within the Commission because of pending appeal or possible Commission review, final action or review should be deferred pending publication of the environmental survey; other issues, including as appropriate the issue of suspending activity under the license in question, may be resolved in the interim.

With regard to the Vermont Yankee and Midland licenses at issue in the two court of appeals cases, we agree with the view expressed by the Commission's staff that questions of modification or suspension should be resolved in formal proceedings in light of the facts and the applicable law. Since we have decided that reprocessing and waste management issues should be treated generically by rulemaking rather than on a case-by-case basis, the initial question on remand of the Vermont Yankee and Midland orders will be whether the licenses should be continued, modified, or suspended until an interim rule has been made effective. In resolving this question, the Commission intends to assign the matter to licensing boards with instructions to call for briefs from the parties followed by evidentiary hearings if necessary.[2] The same question would arise on a request for a show cause order seeking the suspension or modification on fuel cycle rule grounds of any other nuclear power plant license.

It is the Commission's understanding that resolution of this question turns on equitable factors well established in prior practice and case law. Such factors include whether it is likely that significant adverse impact will occur until a new interim fuel cycle rule is in place; whether reasonable alternatives will be foreclosed by continued construction or operation; the effect of delay; and the possibility that the cost/benefit balance will be tilted through increased investment. See *Coalition for Safe Nuclear Power* v. *AEC*, 463 F.2d 954 (D.C. Cir. 1972); San Onofre, Units 2 and 3, 7 AEC 986, 996–97 (June 1974). General public policy concerns, the need for the project, the extent of the NEPA violation, and the timeliness of objections are also among the pertinent considerations. See, e.g., *Conservation Society of Southern Vermont Inc.* v. *Secretary of Transportation*, 408 F.2d 927, 933934 (2d Cir. 1974), vacated on other grounds and remanded, 423 U.S. 809 (1975); *Greene County Planning Board* v. *FPC*, 455 F.2d 412, 424–425 (2d Cir.), cert. denied, 409 U.S. 849 (1972); *City of New York* v. *United States*, 337 F. Supp. 150, 163 (E.D.N.Y.) (three-judge court).[3]

[2] An evidentiary hearing on other issues will be required in Midland, barring further review. That hearing, however, should not be commenced until the Midland decision has become final.

[3] In its petition for rulemaking, noticed today, the Natural Resources Defense Council suggests that the appropriate course for the interim period concerning facilities which hold effective licenses should be as follows:

Facilities which received operating licenses before July 21, 1976. NRC will order suspension of the operating license for any such facilities unless the licensee can establish that:

(1) Continued operation of the plant is essential to maintain a reliable supply of energy to the reliability region of which the plant is a part, taking into account alternative available sources of supply (including purchase power), historical reserve requirements, and available interconnections for transmitting power; –

(2) Continued operation of the facility will provide adequate protection for the public health and safety, taking into account the health and safety problems associated with production, storage, transportation, reprocessing, if any, and management or disposal of all nuclear fuel required for the plant and all nuclear wastes produced by the plant;

(3) Continued operation of the facility will not tend to foreclose, now or in the future, implementation of alternatives to the operation of his facility or to the design, construction or operation of other facilities which may be considered following completion of the review required by 10 CFR Section ____; and

(4) Continued operation of the facility will not tend to irretrievably commit resources to the producion of nuclear fuel or the storage, reprocessing, if any, management or disposal of any nuclear wastes.

Facilities which received construction permits or LWA's prior to July 21, 1976. NRC will order suspension of the LWA or the construction permit unless the license can establish that:

(1) Continued construction of the plant is essential to maintain a reliable supply of energy to the reliability region of which the plant is a part, taking into account alternative available sources of supply (including purchase power), historical reserve requirements and available interconnections for transmitting power;

(2) Continued construction will not tend to foreclose, now or in the future, implementation of alternatives to the design, construction or operation of this or other facilities which alternatives may be considered following completion of the review required by 10 CFR ____; and

(3) Continued construction will not tend to irretrievably commit resources to the facility.

As noted in the text immediately following this note, we believe the appropriate time for NRC consideration of sua sponte, across-the-board initiation of show cause proceedings to be when it has received from its staff its revised and documented assessment of the reprocessing and waste management issues. While the issues of reprocessing and waste management fully warrant serious and timely attention, no information now at hand calls for so drastic a step in the brief period before this analysis will be available. Also, while the individual factors NRDC suggests are among those relevant to be addressed in seeking a show cause order or in any show cause proceeding, the Commission cannot accept the suggestion that these factors are cumulative and must each be satisfied; its own approved prior practice and established judicial precedent permit balancing of these factors to determine where the equities of each particular case lie.

In adopting this approach, one inconsistent with the NRDC petition, the Commission is aware that neither NRDC nor other concerned parties have been formally heard. In commenting on the NRDC petition, any party interested to do so (including NRDC) may file comments addressed to the point.

Finally, even if no request for suspension of modification of an LWA, CP, or OL is received, the Commission will nevertheless determine whether it should sua sponte initiate show cause proceedings based upon information the Commission receives in the revised environmental survey. As noted earlier, this information should be in hand by September 30. The Commisison's determination whether or not to reopen all licenses will then be issued.

Dated at Washington, D.C., this 13th day of August 1976.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-24103 Filed 8-13-76;10:25 am]

[Docket No. PRM-51-3]

NATURAL RESOURCES DEFENSE COUNCIL

Filing of Petition for Rule Making

Notice is hereby given that Anthony Z. Roisman, 1712 N Street, NW., Washington, D.C. and J. Gustave Speth, 917 15th Street, NW., Washington, D.C. have filed with the Nuclear Regulatory Commission a petition for rule making dated August 10, 1976 on behalf of the Natural Resources Defense Council.

Petitioners are requesting adoption of rules for implementation of the July 21, 1976 decision of the United States Court of Appeals for the District of Columbia in *Natural Resources Defense Counvil* v. *Nuclear Regulatory Commission* (Docket Nos. 74–1385 and 74–1586.)

All interested persons who desire to submit written comments or suggestions concerning the petition should send their comments to the Secretary of the Commission, Attention: Docketing and Service Section, United States Nuclear Regulatory Commission, Washington, D.C. 20555, on or before August 31, 1976.

A copy of the petition is available for public inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. However, in view of the short comment period afforded, the complete text of the petition is set forth below.

Dated at Washington, D.C., this 13th day of August 1976.

SAMUEL J. CHILK,
Secretary of the Commission.

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

NATURAL RESOURCES DEFENSE COUNCIL PETITION FOR RULEMAKING

Pursuant to § 2.802, the Natural Resources Defense Council (NRDC) hereby requests that the Nuclear Regulatory Commission adopt the following rules for implementation of the decision of the United States Court of Appeals for the District of Columbia in *Natural Resources Defense Council* v. *Nuclear Regulatory Commission* (Docket Nos. 74–1385 and 74–1586), decided July 21, 1976. These rules represent the minimum requirements necessary to comply with the Court's order and with the mandates of the National Environmental Policy Act.

Because of the importance of the Court decisions and the substantive importance of the issues in the uranium fuel cycle which need further analysis, we urge the Commission to extensively study these proposals, including informal or formal consultations with interested parties, and to act expeditiously on the proposals.

Respectfully submitted.

Anthony Z. Roisman, Roisman Kessler & Cashdan, 1712 N Street, N.W., Washington, D.C. 20036; J. Gustave Speth, Richard E. Ayes, Natural Resources Defense Council, 917 15th Street, NW., Washington, D.C. 20005.—Counsel for Natural Resources Defense Council.

Dated: August 10, 1976.

INTRODUCTION TO RULES IMPLEMENTING "NATURAL RESOURCES DEFENSE COUNCIL V. NUCLEAR REGULATORY COMMISSION" (D.C. CIR. NOS. 74–1385 AND 74–1586, DECIDED JULY 21, 1976)

The recent decision of the United States Court of Appeals for the District of Columbia in *Natural Resources Defense Council* v. *Nuclear Regulatory Commission* (Docket Nos. 74–1385 and 74–1586), decided July 21, 1976, requires a reanalysis of the environmental impact of the uranium fuel cycle and prohibits further issuance of construction permits, limited work authorizations or operating licenses for nuclear facilities until such a review has been completed either on a case-by-case basis or in a rulemaking. The decision also declares illegal the Commission's past practice of issuing licenses without considering fuel cycle impacts or considering them only by reference to the inadequate S–3 Table rule. Thus the decision calls into question the validity of any construction permit, limited work authorization and operating license issued subsequent to January 1, 1970, since all of those licenses were either issued without any consideration of the fuel cycle impacts or with reliance upon the S–3 Table.

This decision is strikingly similar to the *Calvert Cliffs* decision decided five years earlier. In both cases the Commission's implementation of NEPA was declared illegal. In both cases the decision impacted all licenses already issued as well as all pending applications. Following the *Calvert Cliffs* decision, the Commission determined that prompt and full compliance with the Court's decision would minimize the inevitable upheavals and better serve the overall objective of NEPA and the public interest. The Commission's *Calvert Cliffs'* rules (10 CFR Part 50, Appendix D, which has now been replaced by 10 CFR Part 51) were modeled on two principles. First, pending applications would have to be held until the legally-required NEPA obligations had been met.[1] Second, construction permits and operating licenses that had been issued after January 1, 1970, were subject to immediate suspension and ultimate modification or revocation following completion of the legally-required NEPA reviews. The portion of these *Calvert Cliffs'* rules allowing, under certain circumstances, continued construction or operation of facilities pursuant to already-issued licenses pending completion of the NEPA review were sustained in *Coalition for Safe Nuclear Power* v. *A.E.C.*, 463 F.2d 954 (D.C. Cir. 1972).

The attached proposed rules follow the *Calvert Cliffs* precedent, allowing under special circumstances continued construction and operation of nuclear facilities and holding in abeyance further issuance of licenses pending completion of the legally-required NEPA and safety reviews.[2] Adherence to these principles is crucial because the problems, uncertainties and potential impacts of the nuclear fuel cycle in general and waste disposal in particular are so central to the nuclear licensing action that their analysis and resolution could determine the acceptability of the nuclear reactor as a viable component of the utilities' electric supply system.

RULES FOR APPLICATION OF COURT DECISION ON ENVIRONMENTAL IMPACTS OF NUCLEAR FUEL CYCLE TO APPLICATIONS FOR AND ALREADY ISSUED CONSTRUCTION PERMITS, LWA'S AND OPERATING LICENSES

1. No decision on issuance of construction permits, LWA's or operating licenses of any kind shall be made until the NRC has completed the review required by 10 CFR ____, has issued a DES or a supplemental DES and an FES or supplemental FES which incorporates the appropriate portions of that review, reanalyzed the costs and benefits of the facility and alternatives to it in light of that review, restruck the cost-benefit analyses and rendered an initial decision.

2. Facilities which received operating licenses before July 21, 1976:

NRC will order suspension of the operating license for any such facilities unless the licensee can establish that:

(1) Continued operation of the plant is essential to maintain a reliable supply of energy to the reliability region of which the plant is a part, taking into account alternative available sources of supply (including purchase power), historical reserve requirements, and available interconnections for transmitting power;

(2) Continued operation of the facility will provide adequate protection for the public health and safety, taking into account the health and safety problems associated with production, storage, transportation, reprocessing, if any, and management or disposal of all nuclear fuel required for the plant and all nuclear wastes produced by the plant;

(3) Continued operation of the facility will not tend to foreclose, now or in the future, implementation of alternatives to the operation of this facility or to the design, construction or operation of other facilities which may be considered following completion of the review required by 10 CFR Section ____; and

(4) Continued operation of the facility will not tend to irretrievably commit resources to the production of nuclear fuel or the storage, reprocessing, if any, management or disposal of any nuclear wastes.

3. Facilities which received construction permits or LWA's prior to July 21, 1976:

NRC will order suspension of the LWA or the construction permit unless the licensee can establish that:

(1) Continued construction of the plant is essential to maintain a reliable supply of energy to the reliability region of which the plant is a part, taking into account alternative available sources of supply (including purchase power), historical reserve requirements and available interconnections for transmitting power;

(2) Continued construction will not tend to foreclose, now or in the future, implementation of alternatives to the design, construction or operation of this or other facilities which alternatives may be considered following completion of the review required by 10 CFR ——; and

(3) Continued construction will not tend to irretrievably commit resources to the facility.

4. The Commission shall publish in the Federal Register its intent to suspend the operating license, LWA or construction permit for all facilities which received such licenses, authorizations, or permits on or after January 1, 1970. Such notice shall afford any interested party an opportunity for hearing on the relevant factors identified above. The hearings shall be conducted pursuant to the requirements of 10 CFR Part 2 and the Licensing Boards appointed for such hearings shall, consistent with the objectives of a full development of the record, conduct the hearing expeditiously so that an early decision can be reached on suspension of the license.

RULES FOR TREATMENT OF FUEL CYCLE ISSUES IN LICENSING PROCEEDINGS

1. The NRC will reopen its rulemaking proceeding for the purpose of establishing the environmental impact of its nuclear fuel cycle activities required for 1,000 Mw BWR and PWR nuclear reactors. The rules for that proceeding and the issues to be considered are set forth in 10 CFR ——.

2. Every construction permit, LWA and operating license of any kind issued subsequent to January 1, 1970, and still in effect shall be subject to the following procedures:

(a) Upon completion of the rulemaking proceeding referred to in (a) above, a notice shall be published in the FEDERAL REGISTER and as prescribed by 10 CFR § 2.104–(e), which shall state:

(1) The proceeding which resulted in issuance of the order authorizing the license or permit is reopened;

(2) Persons wishing to participate in the reopened proceeding may do so by filing a petition to intervene within 30 days of publication in the FEDERAL REGISTER;

(3) The subject of the reopened hearing will be to determine whether:

a. There is reasonable assurance of adequate protection for the public health and safety with respect to production of fuel for and generation of waste by the subject facility;

b. The issuance of the license or permit will be in accordance with 10 CFR Part 51 with respect to the environmental impact of production of fuel for and generation of waste by the subject facility, alternatives to

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[1] A narrow exception for interim operation of some facilities, principally to permit testing, was included in the rules. When the Commission wanted to expand this authorization, it sought legislative approval and P.L. 92–307 (Section 192 of the Atomic Energy Act) was enacted which authorized temporary operating licenses prior to completion of all hearings but only after preparation of the Final EIS and the holding of a limited adjudicatory hearing.

[2] Unlike the more generalized rules which were attacked in *Calvert Cliffs*, the rules which were successfully attacked here were specific and related to a problem—nuclear wastes—which was inevitable with the operation of any plant. Thus allowing even interim operation of plants which have not yet begun to operate creates and exacerbates the very environmental problem which the Court declared has never been adequately analyzed.

the proposed action, and the ultimate cost/benefit analysis;

c. Any party to the proceeding, upon a showing of substantial changed circumstances with respect to any issue which was or could have been determined previously in authorizing the license or permit, may seek and shall be granted a reopening of the the hearing as to that issue. Any party, upon a showing of compliance with the requirements of 10 CFR § 50.100 with respect to any issue, may have the hearing reopened as to that issue.

RULES FOR CONDUCT OF HEARING ON ENVIRONMENTAL EFFECTS OF THE URANIUM FUEL CYCLE

1. *Scope and Purpose of Hearing.* The hearing will be conducted for the purpose of evaluating the environmental impact of the nuclear fuel cycle. The hearing board will supervise completion of all relevant data which will then be referred to the Commission for its determination.

2. *Presiding Officer and Basic Hearing Format.*

(a) The identity of the members of the hearing board will be the subject of a supplemental notice that will be published in the FEDERAL REGISTER. Except as may otherwise be provided by the Commission in accordance with paragraph 11 below, the hearing will be conducted as a legislative-type hearing. The provisions of Subpart G, "Rules of General Applicability," of 10 CFR Part 2 will not be applicable except as specifically provided in this notice.

(b) A majority of the board shall constitute a quorum, if one member of the majority is qualified in the conduct of administrative proceedings.

3. *Participation in the Hearing and Consolidation.*

(a) Persons or organizations who wish to participate in the hearing may do so in either of two ways:

(1) Limited participation—they may participate by making an oral or written statement of position on the issues. Such a limited participant may not otherwise participate in the hearing. The Commission will give due consideration to all such oral or written statements of position in making its final decision on the merits; or

(2) Full participation—they may participate in the conduct of the hearing as a full participant. Subject to the conditions and limitations set forth in this notice, full participants may obtain discovery as provided in paragraph 9 below, present direct and rebuttal testimony, suggests questions to the hearing board, file concluding statements of position for the Commission's consideration, and request cross-examination on particular issues following completion of the legislative-type hearing.

(b) The following persons or organizations who participated in the original hearings on the environmental impact of the nuclear fuel cycle are admitted as full participants in the hearings: (insert.) If any of those persons or organizations wish to withdraw as a full participant or participate on a limited basis, written notice to this effect should be filed with the Secretary of the Commission as soon as possible.

(c) If any other person or organization wishes to participate as a full participant, written notice should be filed with the Secretary of the Commission on or before _____. Such notice should indicate the name and address of the person or organization. Untimely requests to become a full participant will not be granted by the hearing board unless warranted based upon consideration of (1) the extent to which the requestor's full participation will delay the proceeding, (2) the extent to which the requestor's interest will be represented by other participants or may be served by limited participation, (3) the extent to which the requestor's full participation may reasonably be expected to contribute to informed decision-making, (4) whether the requestor can demonstrate good cause for failure to file on time.

(d) Any other person or organization who wishes to participate on a limited basis by making an oral statement at the hearing, is requested to notify the Secretary of the Commission on or before _____. Oral statements will be received at the hearing subject to such limits and conditions as may be fixed by the hearing board at its discretion. Any person or organization who wishes to participate on a limited basis by filing a written statement may do so by filing the statement with the hearing board at any time prior to the conclusion of the hearing without requesting special permission of the hearing board.

(e) The hearing board may, on its own initiative or on request, order any full participants who have substantially the same interests and who raise or seek to raise substantially the same questions, to consolidate their requests for discovery, presentation of evidence, suggestion of questions to the hearing board, concluding statements of position, and requests for cross-examination on particular issues following completion of the legislative-type hearing. Consolidation may be for all purposes of the hearing, all issues of the hearing, or with respect to any one or more issues thereof. No consolidation will be ordered that would prejudice the rights of any full participant.

4. *Responsibilities and Authorities of the Hearing Board.* The hearing board shall have the duty to conduct a fair and impartial hearing and develop a record that will contribute to informed decision-making by the Commission. It shall have the power to take appropriate action to avoid unnecessary delay and maintain order, with the objective of completing the legislative-type hearings in a timely maner consistent with the overall objective of development of a full and complete record. Within the framework of this notice, the hearing board shall have all power necessary to these ends, including the power to:

(a) Rule on offers of proof and receive evidence;

(b) Dispose of procedural requests or similar matters;

(c) Ask questions of witnesses as provided in paragraph 5(a);

(d) Order consolidation of full participants as provided in paragraph 3(e);

(e) Establish an order of presentation by the full participants which, if appropriate, may provide for an order of presentation on the basis of subject matter;

(f) Hold conferences before or during the hearing for consolidation of full participants, establishing an order of presentation, or any other proper purpose;

(g) Establish reasonable time limits for the conduct of the proceeding;

(h) Entertain suggestions from full participants as to questions which the board should ask of witnesses for one or more of the other full participants as provided in paragraph 5(a);

(i) Limit the number of witnesses for full participants whose testimony may be cumulative;

(j) Strike cumulative or irrelevant evidence of full participants;

(k) Certify questions or refer rulings to the Commission for its determination, on its own initiative, or in its discretion on request by a full participant, or on direction of the Commission;

(l) Rule on discovery matters as provided in paragraph 9;

(m) Rule on additional requests to become a limited or full participant; and

(n) Regulate the course of the hearing and the conduct of the participants.

5. *Evidence and Representation.*

(a) All full participants will be permitted to present evidence at the hearing on matters relevant to the determination, described above. Except as provided below, full participants' witnesses will be subject to questioning by the hearing board either orally at the hearing or in writing, or both. Questions may be addressed either to individual witnesses or to panels of witnesses. In addition, full participants may submit questions to the board which they would like to have answered by witnesses for other full participants; the board may, in its discretion, refer the questions to the witnesses for response and/or conduct its own examination of the witnesses in the subject areas. Suppoenas will be granted for attendance and testimony of witnesses or for the production of evidence upon a showing that the subpoena is reasonably necessary for full development of the factual issues. Any request by a full participant for a subpoena shall be in the form of a motion under paragraph 7, but shall be addressed to the Commission. The hearing board may, for good cause, receive into evidence on behalf of a full participant the written testimony of a person who is unable to appear at the hearing. In such cases, the hearing board may request (but not order) that the person respond to written questions by the Board.

(b) All direct testimony on behalf of full participants shall be filed in writing 14 days in advance of the hearing, or within such greater or lesser time as may be fixed by the hearing board. The hearing board is authorized to require that rebuttal testimony on behalf of full participants be filed in writing in advance. Written testimony will be received into evidence in exhibit form.

(c) The board may, upon request, permit a qualified individual who has scientific or technical training or experience to participate in the hearing on behalf of a full participant where the board finds that this would contribute to informed decision-making by the Commission.

7. *Motions or Requests.* Except as provided in paragraphs 5 and 11, all motions and requests shall be addressed to the hearing board. All written motions or requests shall be filed with the Secretary of the Commission and served on full participants to the hearing. Service shall be as provided in 10 CFR § 2.712. Within 5 days after service of a written motion, or such other time as may be fixed by the hearing board, any full participant may file a written answer in support of or in opposition to the motion or requests. However, the NRC Staff may file such an answer within 10 days after service. Computation of time shall be as provided in 10 CFR § 2.710.

8. *Interlocutory Appeals; Effect of Motions, Certifications, and Referrals.* No interlocutory appeal may be taken to the Commission from a ruling of the hearing board. When in the judgment of the board prompt decision is necessary to prevent detriment to the public interest or unusual delay or expense, the board may on its own initiative, or in its discretion on request by a full participant, refer the ruling or certify the question promptly to the Commission, and notify the full participants either by announcement on the hearing record or by written notice if the hearing is not in session. Unless otherwise ordered, neither the filing of a motion nor the certification of a question or referral of a ruling shall stay any aspect of the proceeding or extend the time for the performance of any act.

9. *Discovery.* The following rules regarding discovery shall apply:

(a) Except as provided in subparagraph (b) below, there shall be no discovery by

document production or otherwise. The NRC Staff will make available for public inspection and copying, in a timely fashion, documents which are not privileged and which were relied upon in the preparation of the environmental survey. Full participants are encouraged to confer informally for the purpose of exchanging information and documents relied upon in the preparation of their testimony.

(b) Full participants seeking Commission documents[1] which they deem relevant but which have not been made publicly available for inspection and copying pursuant to subparagraph (a) may seek discovery pursuant to this paragraph. Requests for production of any such additional documents may be served on the NRC Staff without leave of the hearing board. Such production of Commission documents shall be governed by the relevant provisions of 10 CFR §§ 2.740(c), 2.740(e), 2.744(a)–(f), and 2.744(h). Full participants' requests for interrogatories or depositions, or requests for documents from persons or organizations other than the Commission, will be allowed if the board finds that it is reasonably necessary for full development of the factual issues. Requests for leave to undertake such additional discovery should be addressed to the board in the form of a motion under paragraph 7. However, any request for a document of the type specified in 10 CFR § 2.790(a)(1) or (2) shall be immediately certified to the Commission.

(c) No discovery shall be granted once the pertinent portion of the hearing has commenced, except for good cause.

10. *Filing of Documents; Docket; Transcripts, Public Notice of Hearing.* Filing of documents in this proceeding by full participants shall be as provided in 10 CFR § 2.701 (only proof of service on full participants need be provided.) A docket for the proceeding shall be maintained as provided in 10 CFR § 2.702, and the provisions of 10 CFR §§ 2.750 and 2.751 regarding official reporter, transcript, and public nature of the hearing shall apply.

11. *Requests for Additional Hearings To Permit Cross-Examination.* It may be that some factual issues in this proceeding cannot be resolved adequately on the basis of a record developed in the manner provided above. If any full participant, after completion of the legislative-type hearing, makes a threshold showing that cross-examination is needed on one or more factual issues because the legislative procedures have been inadequate for full development of the factual issues, a written request for additional hearings to permit cross-examination should be filed with the Commission within 30 days after completion of the legislative-type hearing, or within such greater or lesser time as may be fixed by the Commission. Such requests should specify with particularity the factual issue or issues as to which cross-examination is requested, the identity of the witness or witnesses involved, and demonstrate why in the full participant's view the legislative-type procedures have not proved adequate with respect to the particular issue and testimony. No such request will be granted unless the full participant making the request has participated fully in the conduct of the legislative-type hearing on the particular aspect of the testimony that is the subject of the request, including submission of relevant questions for referral or examination by the board. Other full participants may file written responses to such requests within 15 days after service, or within such greater or lesser time as may be fixed by the Commission. Such request will be granted if the participant has made a threshold showing that cross-examination is needed on one or more factual issues because the legislative procedures have been inadequate for full development of the factual issues. Should any such request be granted by the Commission, a supplemental notice of hearing which identifies the factual issue(s) and any necessary additional procedures will be issued by the Commission.

12. *Certification of Record; Concluding Statements of Position:*

(a) Following completion of the hearing (including any hearing provided under paragraph 11), the hearing board will certify the hearing record to the Commission for decision without rendering any decision or making any recommendations of its own with regard thereto. The board shall identify the pertinent issues developed on the record and the portions of the record which are relevant to those issues.

(b) Within 45 days after completion of the hearing (including any hearing provided under paragraph 11), or within such greater or lesser time as may be fixed by the Commission, the full participants shall file with the Commission a written concluding statement of position. Full participants who are only interested in one or more aspects of the proceeding may confine their concluding statements to such aspects. Concluding statements shall include appropriate citations to the transcript of record and exhibits in support thereof.

13. *Oral Argument.* The Commission will hear oral argument from the full participants prior to rendering its final decision on the merits. Notice of the time and place of argument and the procedures therefor will be given later.

14. *Record and Commission Decision.* The hearing record shall include the transcript of testimony and exhibits, the transcript of oral statements by limited participants, written statements by limited participants, and all papers and requests filed in the proceeding. If at the conclusion of the hearing (including any hearing provided under paragraph 11), the Commission should find it necessary for a sound decision on any disputed issues of material fact to rely on a fact or opinion not contained in the hearing record, the full participants will be advised of the substance of the fact or opinion, and afforded an appropriate opportunity to controvert it prior to the final Commission decision. The Commission may base its decision on other issues, such as issues of law or policy, on matters not contained in the hearing record without prior disclosure to the full participants, although substantial weight will be accorded to material in the hearing record.

15. *Financial Assistance.* The Commission will provide financial assistance to any participant which either:

(a) Demonstrates in advance of the hearing that it is likely to make a significant contribution to development of a legal or factual record and that unless funds are provided in advance, its ability to make such a contribution will be severely limited, or

(b) Demonstrates after the hearing that it has made a significant contribution to development of a legal or factual record and that it is in need of financial assistance to meet its obligations incurred in the hearings.

The total financial assistance to be provided to all participants shall not exceed $150,000.

[FR Doc.76–21404 Filed 8–13–76;10:25 am]

[1] Commission documents shall have the same meaning as "Record" in 10 CFR § 9.32 (b).

NATIONAL SCIENCE FOUNDATION

COMPREHENSIVE ASSISTANCE TO UNDERGRADUATE SCIENCE EDUCATION

Project Directors' Meeting

A project directors' meeting will be held from 7:30 p.m. to 10:00 p.m. on Thursday, September 9, 1976, and from 8:30 a.m. to 5:00 p.m. on Friday, September 10, 1976, at the Sheraton Park Hotel, 2660 Woodley Road NW., Washington, D.C.

The purpose of this meeting is to give project directors of the Comprehensive Assistance to Undergraduate Science Education (CAUSE) program an opportunity to become better informed regarding appropriate methods for conducting internal project evaluation and to allow the CAUSE staff to set into motion mechanisms for monitoring of projects.

While this project directors' meeting is not considered to be a meeting of an "advisory committee" as that term is defined in Section 3 of the Federal Advisory Committee Act (Pub. L. 92–463) the meeting is believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open for public attendance and participation.

The meeting will be chaired by Dr. John A. Maccini. Any member of the public who wishes to attend this meeting should call 202/282–7763.

M. REBECCA WINKLER,
Acting Committee Management Officer.

AUGUST 11, 1976.

[FR Doc.76–23889 Filed 8–13–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–12698; File No. SR–MSRB–76–9]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on August 9, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change filed by the Municipal Securities Rulemaking Board (the "Board") would require brokers, dealers, and municipal securities dealers to send written confirmations of municipal securities transactions to customers and would prescribe the type of information to be provided on the confirmations.

Under the proposed rule change, a customer confirmation would contain information concerning the identity of the parties to the transaction, a description

of the securities, the trade date, the settlement date, the yield to maturity or dollar price and other specified details. In addition to the information required to be shown on every confirmation, certain other information, such as whether the securities have been "called" or "prerefunded," would be shown, if applicable.

The Board believes it is important that the proposed rule change would provide specific requirements with respect to the content of customer confirmations for municipal securities transactions. Among other reasons, the Board is of the opinion that customers should have sufficient information on confirmations to enable them to verify for themselves the identity and nature of the security which they purchase (*e.g.*, a general obligation bond as opposed to a revenue bond). In addition, the Board believes that this approach is most likely to provide the necessary guidance for the firms subject to regulations, as well as the regulatory organizations charged with enforcement of Board rules, and will thus promote equal regulation of the municipal securities industry.

Statement of Basis and Purpose

Purpose of Proposed Rule Change

The purpose of the proposed rule change is to require brokers, dealers, and municipal securities dealers to send written confirmations of municipal securities transactions to customers, containing certain specified information of a material nature.

Basis Under the Act for Proposed Rule Change

The Board has adopted the proposed rule change pursuant to the provisions of section 15B(b)(2)(C) of the Securities Exchange Act of 1934 (the "Act"), which directs the Board to propose and adopt rules

> * * * designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.* * *

Comments Received From Members, Participants or Others on Proposed Rule Change

The Board received letters of comment on its exposure draft relating to the proposed rule change from the following:

Bank of America
Bremer Services Co., Inc. ("Bremer")
CUSIP Service Bureau
Dealer Bank Association (the "DBA")
Deposit Guaranty National Bank ("Deposit Guaranty")
Dupree & Company Inc. ("Dupree")
First Southwest Company ("First Southwest")
Gerwin and Company ("Gerwin")
Hugo Marx & Co. ("Hugo Marx")
Lebenthal & Co., Inc. ("Lebenthal")
Liberty National Bank and Trust Company ("Liberty Bank")
Merchantile Trust Company NA ("Mercantile Trust")
The Merchants National Bank of Mobile ("Merchants National")
National Association of Securities Dealers, Inc. ("NASD")
John Nuveen & Co. Incorporated ("Nuveen")
Shearson Hayden Stone Inc. ("Shearson")
UMIC, Inc. ("UMIC")
Willard B. Vadman ("Vadman")
Wauterlek & Brown, Inc. ("Wauterlek")
Wells Fargo Bank ("Wells Fargo")

The DBA, Dupree and Lebenthal each pointed out that the requirement to describe on a customer confirmation the type of revenue in the case of revenue bonds presented problems because the possible sources of revenue may be numerous. Dupree recommended that this requirement be deleted; Lebenthal recommended that the type of revenue be required to be shown only if easily available or essential to the description. The Board modified this requirement to provide that the type of revenue must be noted if necessary for a materially complete description of the securities.

Gerwin and Shearson suggested that the reference to "advance refunding" in the description of securities would create confusion and, in any event, was unnecessary since there was no need to single out this type of issue. The Board has deleted from the proposed rule reference to "advance refunding" in the description of the securities.

Gerwin, Nuveen and Vadman objected to permitting dollar price to be shown only in the case of securities "normally traded" on the basis of dollar price. Gerwin stated that it was industry practice to permit either yield or dollar price to be shown, depending on the terms of the particular trade. Nuveen stated that occasionally securities that are normally traded on a yield basis are traded on a dollar basis and only dollar price is shown. Nuveen represented that it would have to undertake an extensive reprogramming of its computer system at great cost in order to derive yield from dollar price in such circumstances. Vadman stated that the requirement was unnecessary. The Board modified the provision to permit dollar price to be shown when securities are traded on the basis of dollar price or sold at par.

A number of comments were addressed to the question of whether the time of execution of an agency transaction should be shown on customer confirmations or made available to customers upon request:

DBA—The precise time of a transaction has no particular significance for the customer and ought not to be required on the confirmation. There is no reason of public policy to extend the requirements of Commission rule 15c1–4 to bank dealers. The result would be an unnecessary burden to banks.

Deposit Guaranty—There is no need for incorporating the time requirement of Commission rule 15c1–4 into draft rule G–15. There is little correlation between the time an order is executed and the price in the municipal securities area.

First Southwest—The date of trade is sufficient for municipal securities transactions, but First Southwest would have no objection to time-stamping its confirmations.

Hugo Marx—The inclusion on a customer confirmation of the time of the execution of an agency transaction in municipal securities serves no useful purpose. The way the municipal securities market is structured makes it impossible to obtain exact pricing for comparative purposes on an hourly basis.

Lebenthal—The internal procedure of Lebenthal would permit it to comply with a requirement to disclose the time of execution. The Board should specify the form of notice on the confirmation relating to disclosure of time and contra party.

Merchants National—A record of the date of a transaction should be sufficient. Merchants National would have a "strong objection" to recording the time of a transaction in municipal securities.

Mercantile Trust—The time that a transaction is executed is not significant and a requirement to keep records of such time would cause considerable difficulty as well as waste trader time.

UMIC, Inc.—The requirement to show on confirmations the time of execution of the agency transaction is unnecessary. UMIC, however, would not object to including a statement on the confirmations that the information is available upon request.

Vadman—It is a rare occasion, if at all, that time of execution has any bearing. It should not be required, and if it is required, it should "only apply to trading transactions in fluctuating markets and not to original issues or ordinary secondary offerings which constitute a majority of the trades."

Wauterlek—Unlike the exchange and other corporate markets, the time requirement does not serve a necessary or appropriate purpose in municipal securities transactions. Because of the decentralization and fragmentation of the municipal markets, the time of receipt of an order compared to its ultimate execution has no particular relevance and cannot be verified.

Wells Fargo—No purpose would be served by recording or offering to furnish the time of execution in the case of municipal transactions. The Board has omitted from the proposed rule change a requirement that the time of execution be noted on customer confirmations.

The DBA, Liberty, and Merchants National objected to the requirement of disclosure on customer confirmations of "the source and amount of any remuneration received." The DBA pointed out that Commission rule 15c1–4 does not require such disclosures of a bank dealer. Also, the DBA noted that the effect of the rule would be to require disclosure of a concession received by a bank dealer when a securities firm that acted as principal would have no comparable obligation, although in economic terms the transactions were indistinguishable from the customer's viewpoint. Liberty stated that the source and amount of commis-

sion should be required to be disclosed only if the amount of concession exceeds one percent of the par value of the securities covered by the confirmation.

CUSIP Service Bureau and Mercantile recommended that the use of CUSIP numbers be encouraged. However, the Board believes that at the present time their use should not be mandatory.

The following additional comments were submitted:

The Bank of America stated that (1) the provision requiring the identification of the capacity in which a firm acts is unclear and (2) provision should be made for a category to cover the situation where a firm acts as principal in an original distribution of securities. The Bank of America also questioned how a firm should describe the capacity in which it is acting when it sells securities for a joint account. The Board is of the view that the language of the rule is sufficiently clear with respect to identifying the capacities in which firms effect transactions and, therefore, no change in language is necessary. The Board also believes that the language of the proposed rule change indicates that a firm would be acting as a principal for its own account when it sells securities for a joint account of which it is a member.

The DBA suggested that: (1) the term "customer" should be defined as it is in the Board's proposed rule G-8 on recordkeeping, (2) information as to registration should be required only if the securities are in fact to be registered at the time of delivery and not if they are just registerable, (3) the rule should be clarified as to whether a second confirmation is required in connection with a "when, as and if issued" transaction, and (4) the phrases "including at a minimum the name of the issuer, * * *." and "such other information as may be necessary to ensure that the parties agree to the details of the transaction" should be deleted because they are ambiguous.

The only substantive difference between the definitions of "customer" in the proposed rule change and the Board's proposed rule G-8 on recordkeeping is that in the latter rule issuers of securities which are the subject of the transaction in question are excluded from the definition of customer. The Board determined that such an exclusion would be inappropriate in its rule on customer confirmations since it believes that such issuers are entitled to confirmations. With respect to the second suggestion, the Board intends that the proposed rule change apply only to securities traded as registered securities and believes that the language so indicates. With respect to confirmations in connection with "when, as and if issued" transactions, the proposed rule change contemplates that if a confirmation for such a transaction is sent before all the required information is available, a second confirmation would be sent "at or before the completion of [the] transaction" with the additional information. The Board believes that the phrases cited by the DBA in its fourth comment are necessary and appropriate to effect the Board's intention that all material information be shown on a customer confirmation.

Deposit Guaranty suggested that in the case of revenue bonds the corporate obligor should also be identified on the customer confirmation.

Dupree recommended that the "call premium" be required to be shown on customer confirmations for securities which have been called or pre-refunded. The Board has modified the proposed rule change to require information as to the amount of the call price.

Mercantile Trust suggested that a time limit be established for the generation of a confirmation.

The NASD suggested that the provisions of proposed rule G-8 relating to callable bonds should require, at a minimum, disclosure of the call feature, the dollar price based on yield to maturity, the yield to maturity and the yield to the first call date. The Board believes that subparagraph (c) (iii) and the footnote to subparagraph (a) (viii) provide sufficient disclosure with respect to callable bonds.

BURDEN ON COMPETITION

The Board does not believe that the proposed rule change will impose any burden on competition in the municipal securities industry inasmuch as the proposed rule change will be equally applicable to all participants in the industry.

On or before September 20, 1976 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 15, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 9, 1976.

TEXT OF PROPOSED RULE CHANGE

RULE G-15. CUSTOMER CONFIRMATIONS

(a) At or before the completion of a transaction in municipal securities with or for the account of a customer, each broker, dealer or municipal securities dealer shall give or send to the customer a written confirmation of the transaction containing the following information:

(i) Name, address, and telephone number of the broker, dealer, or municipal securities dealer;

(ii) Name of customer;

(iii) Designation of whether the transaction was a purchase from or sale to the customer;

(iv) Par value of the securities;

(v) Description of the securities, including at a minimum the name of the issuer, interest rate, maturity date, and if the securities are limited tax, subject to redemption prior to maturity (callable), or revenue bonds, an indication to such effect, including the type of revenue in the case of revenue bonds if necessary for a materially complete description of the securities;

(vi) Trade date;

(vii) Settlement date;

(viii) Yield to maturity [1] and resulting dollar price, except in the case of securities which are traded on the basis of dollar price or securities sold at par, in which event only dollar price need be shown;

(ix) Amount of accrued interest;

(x) Extended principal amount;

(xi) Total dollar amount of transaction;

(xii) The capacity in which the broker, dealer or municipal securities dealer effected the transaction, whether

(A) As a principal for its own account,

(B) As an agent for the customer,

(C) As an agent for a person other than the customer, or

(D) As an agent for both the customer and another person; and

(xiii) Instructions, if available, regarding receipt or delivery of securities, and form of payment, if other than as usual and customary between the parties.

(b) If the broker, dealer or municipal securities dealer is effecting a transaction as agent for the customer or as agent for both the customer and another person, the confirmation shall set forth (i) either the name of the person from whom the securities were purchased or to whom the securities were sold for the customer or a statement that this information will be furnished upon request of the customer, and (ii) the source and amount of any commission or other remuneration received or to be received by the broker, dealer or municipal securities dealer in connection with the transaction.

(c) In addition to the information required by paragraphs (a) and (b) above, each confirmation to a customer shall contain the following information, if applicable:

(i) The dated date if it affects the price or interest calculation, and the first interest payment date if other than semi-annual;

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[1] In cases in which securities are priced to call, this must be stated; where a transaction is effected on a yield basis, the calculation of dollar price shall be to the lower of price to call or price to maturity.

(ii) If the securities are "fully registered" or "registered as to principal only," a designation to such effect;

(iii) If the securities are "called" or "pre-refunded," a designation to such effect, the date of maturity which has been fixed by the call notice, and the amount of the call price;

(iv) Denominations, if other than the following:

(A) for bearer bonds, denominations of $1,000 or $5,000 par value.

(B) For registered bonds, denominations which are multiples of $1,000 par value, up to $100,000 par value, and

(C) For notes, denominations which are multiples of $5,000 par value, up to $100,000 par value;

(v) Any special instructions or qualifications, or factors affecting payment of principal or interest, such as (A) "ex legal," or (B) if the securities are traded without interest, "flat," or (C) if the securities are in default as to the payment of interest or principal, "in default," and

(vi) Such other information as may be necessary to ensure that the parties agree to the details of the transaction.

(d) The initial confirmation for a "when, as and if issued" transaction shall not be required to contain the information specified in subparagraphs (vii), (ix), (x), (xi) and (xiii) of paragraph (a) or the resulting dollar price as specified in subparagraph (viii).

(e) For purposes of this rule, the term "customer" shall mean any person other than a broker, dealer or municipal securities dealer acting in its capacity as such.

[FR Doc.76-23845 Filed 8-13-76;8:45 am]

[Release No. 34-12696; File No. SR-MSRB-76-8]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 5, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a propesed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The proposed rule changes filed by the Municipal Securities Rulemaking Board (the "Board") would prohibit the dissemination by any means of a quotation relating to municipal securities unless the quotation represents a bona fide bid for, or offer of, securities. A quotation would be deemed to be "bona fide" if the firm on whose behalf the quotation is made is prepared to purchase or sell the municipal securities at the price stated in the quotation and under the conditions, if any, specified at the time the quotation is made. The requirement that all quotations be bona fide would not prohibit requests for bids or offers.

The proposed rule changes would also prohibit (1) a firm from entering a quotation on behalf of another broker, dealer, or municipal securities dealer if the firm entering the quotation has any reason to believe that the quotation does not represent a bona fide bid for, or offer of, municipal securities and (2) participants in a joint account from entering quotations relating to municipal securities which are the subject of the joint account, if such quotations indicate more than one market exists for the same securities.

The proposed rule changes would require that the price stated in a quotation for municipal securities be based on the best judgment of the person making the quotation as to the fair market value of such securities at the time the quotation is made. The proposed rule changes woud make clear that any quotation, unless otherwise indicated at the time the quotation is made, is subject to prior purchase or sale and to change in price.

Under the proposed rule changes, a firm would not be permitted to distribute or publish any report of a purchase or sale of municipal securities unless it has reason to believe that the purchase or sale has been effected and has no reason to believe that the reported transaction is fictitious or in furtherance of any fraudulent, deceptive, or manipulative purpose.

STATEMENT OF BASIS AND PURPOSE

PURPOSE OF PROPOSED RULE CHANGES

The purpose of the proposed rule changes is to establish uniform rules applicable to all participants in the municipal securities industry with respect to the dissemination of quotations relating to municipal securities and reports of municipal securities transactions. More specifically, the purposes of proposed rule G-13 are (1) to require persons making quotations to be prepared to honor them, (2) to prevent a firm from entering a quotation on behalf of another broker, dealer, or municipal securities dealer, if the firm entering the quotation has any reason to believe that the quotation does not represent a bona fide bid for, or offer of, municipal securities, (3) to require that a quotation be based on the best judgment of the person making the quotation as to the fair market value of the securities at the time the quotation is made, and (4) to impose a requirement on members of joint accounts to indicate clearly when quotations represent multiple expressions of the same market. The purpose of proposed rule G-14 is to require that, if a firm distributes or publishes, or causes to be distributed or published, a report of a purchase or sale of municipal securities, such firm know or have reason to believe that the purchase or sale was actually effected and have no reason to believe that the reported transaction was fictitious or in furtherance of any fraudulent, deceptive, or manipulative purpose.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The Board has adopted proposed rule G-13 pursuant to section 15B(b)(2)(F) of the Securities Exchange Act of 1934, as amended (the "Act"), which authorizes and directs the Board to include in its rules

> * * * provisions governing the form and content of quotations relating to municipal securities which may be distributed or published by any municipal securities broker, municipal securities dealer or person associated with such municipal securities broker or municipal securities dealer, and the persons to whom such quotations may be supplied. Such rules relating to quotations shall be designed to produce fair and informative quotations, to prevent fictitious or misleading quotations and to promote orderly procedures for collecting, distributing, and publishing quotations.

Proposed Rule G-14 was adopted pursuant to section 15B(b)(2)(C) of the Act, which vests the Board with the general authority to prescribe rules which are designed, among other things, "to prevent fraudulent and manipulative acts and practice * * * [and] to protect investors and the public interest."

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGES

The Board received letters of comment on its exposure draft relating to the proposed rule changes from the following:

Dealer Bank Association (the "DBA")
National Association of Securities Dealers, Inc. (the "NASD")
Salomon Brothers
Shearson Hayden Stone Inc. ("Shearson")
UMIC, Inc. ("UMIC")
Wells Fargo Bank ("Wells Fargo")

The DBA, Salomon Brothers, and Wells Fargo each commented on subparagraph (b)(ii) of proposed rule G-13 which provides that the price stated in a quotation must "be based on the best judgment [of the dealer] of the fair market value of the securities which are the subject of the quotation." The DBA objected to the inclusion of this provision on several grounds, including (1) it may be a "trap for the unwary" because a dealer's "best judgment" can be second-guessed, (2) it is unclair whether "based on" means "identical to" and, if not, the rule does not provide criteria for determining compliance with this provision, and (3) the provision is unnecessary because of the anti-fraud rules of the Securities and Exchange Commission (the "Commission"), Commission rule 15c1-8, which prohibits improper representations to the effect that securities are being offered "at the market" and subparagraph (b)(iii) of proposed rule G-13. Salomon Brothers expressed approval of this provision, but suggested that the discussion of it in the introduction to the exposure draft was ambiguous and inconsistent with the language of the provision. Wells Fargo stated that the intent of the provision should be clarified.

The Board recognizes that in the municipal securities area, with its frag-

mented and decentralized market system, there may be more than one "fair market value" for a particular municipal security at any point in time, *i.e.*, there may be a range of prices for a municipal security, reflecting legitimate differences of opinion of participants in the market as to such value. The Board also recognizes that the bid or offer price for a municipal security generally takes into account other factors besides fair market value, including a firm's current inventory position, overall and in respect of the particular security, a firm's anticipation of the direction of the movement of the market and other relevant circumstances. Accordingly, the Board does not intend to require by subparagraph (b)(iii) of proposed rule G–13 that the price stated in a quotation represent only the fair market value of the securities for which the quotation is made. Rather, the Board intends to require only that the price stated in a quotation have a reasonable relationship to the fair market value of the securities, taking into account all relevant circumstances. The Board believes that the inclusion of this provision is appropriate in order to assure fair and informative quotations and that quotations not be misleading.

The NASD suggested that the provision relating to quotations for securities which are the subject of a joint account be clarified because it may be interpreted as prohibiting the existence of secondary joint accounts within a syndicate. The Board does not intend such a result or believe that the language of the provision can be interpreted to require such a result.

Shearson suggested that the terms "bid" and "offer" be substituted for the term "quotation" in proposed rule G–13, stating that a request for a "bid" or "offer" is a much more specific procedure implying the intention to execute an order. The Board has defined the term "quotation" to mean "any bid for, or offer of, municipal securities." Nominal quotations are defined as indications of price given solely for informational purposes and are excluded from the requirement that quotations represent bona fide bids or offers.

Shearson also made the following additional suggestions with respect to proposed rule G–13: (1) substitute the term "quote" for "nominal quotation," (2) explain the meaning of "subject to . . . a subsequent change in price" and (3) make clear that the provision relating to quotations for securities in a joint account applies only to securities identical in maturity and coupon. The Board is of the view that the language of the proposed rule is sufficiently clear on these points and, therefore, no change in language is necessary.

The comments of UMIC were presented as a series of inquiries: (1) Do proposed rules G–13 and G–14 apply to quotations and reports between all professionals, including bank dealers? (2) How does a quotation made by a dealer affect the dealer's obligation in terms of quantity? (3) How does proposed rule G–14 affect the reporting of short sales? (4) Is a dealer required to report all sales and purchases? (5) If a sale to another dealer is reported, is it required that the report include the concession?

The proposed rule changes apply to all quotations and reports with respect to municipal securities transactions, including transactions between professionals. Under proposed rule G–13, a quotation need not be for a specified quantity of securities, but the price quoted might be affected by the quantity involved. While no specification of quantity is required, the proposed rule contemplates that a person may enter a quotation subject to certain conditions, including conditions pertaining to quantity. Under proposed rule G–14, short sales may be reported as such. However, the proposed rule does not require the reporting of all sales and purchases: it does require any such report to be accurate and not misleading. If a sale to another dealer is reported under proposed rule G–14, the report of the sale should be accurate and not misleading. This would not necessarily require that the concession be stated.

UMIC also stated that if there is no quoted market for a security, it appears that proposed rules G–13 and G–14 would not apply. This is not the Board's intention. Rather, any quotation or report of a transaction would, under the proposed rule changes, be required to be fair and informative, and not misleading.

Wells Fargo suggested that proposed rule G–14 should provide that only reports of sales involving customers may be distributed or published because reports of sales by an underwriting syndicate to its members or to a secondary account may be misleading. This view appears to be based on the presumption that reports of all sales are required by the proposed rule, which is not the case.

BURDEN ON COMPETITION

The Board does not believe that the proposed rule changes will impose any burden on competition in the municipal securities industry inasmuch as such rules will be equally applicable to all participants in the industry.

On or before September 20, 1976 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will: (A) by order approve such proposed rule change, or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 30 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 6, 1976.

The text of the proposed rule changes is as follows:

Rule G–13. Quotations relating to municipal securities

(a) *General.* The provisions of this rule shall apply to all quotations relating to municipal securities which are distributed or published, or caused to be distributed or published, by any municipal securities broker or municipal securities dealer or any person associated with and acting on behalf of a municipal securities broker or municipal securities dealer. For purposes of this rule, the term "quotation" shall mean any bid for, or offer of, municipal securities, or any reqest for bids for or offers of municipal securities, including indications of "bid wanted" or "offer wanted." The terms "distributed" or "published" shall mean the dissemination of quotations by any means of communication. Reference in this rule to a municipal securities broker or municipal securities dealer shall be deemed to include reference to any person associated with a municipal securities broker or municipal securities dealer.

(b) *Bona Fide Quotations.* (i) No municipal securities broker or municipal securities dealer shall distribute or publish, or cause to be distributed or published, any quotation relating to municipal securities, unless the quotation represents a bona fide bid for, or offer of, municipal securities by such municipal securities broker or municipal securities dealer, provided, however, that all quotations, unless otherwise indicated at the time made, shall be subject to prior purchase or sale and to subsequent change in price. If such municipal securities broker or municipal securities dealer is distributing or publishing the quotation on behalf of another broker, dealer, or municipal securities dealer, such municipal securities broker or municipal securities dealer shall have no reason to believe that such quotation does not represent a bona fide bid for, or offer of, municipal securities. Nothing in this paragraph shall be construed to prohibit requests for bids or offers, including indications of "bid wanted" or "offer wanted," or shall be construed to prohibit nominal quotations, if such quotations are, at the time made, clearly stated or indicated to be such. For purposes of this paragraph, a "nominal quotation" shall mean an indication of the price given solely for informational purposes.

(ii) No municipal securities broker or municipal securities dealer shall distribute or publish, or cause to be distributed or published, any quotation relating to municipal securities, unless the price stated in the quotation is based on its best judgment of the fair market value of the securities which are the subject of the quotation at the time the quotation is made.

(iii) For purposes of subparagraph (i), a quotation shall be deemed to represent a "bona fide bid for, or offer of, municipal securities" if the municipal securities broker or municipal securities dealer making the quotation is prepared to purchase or sell the security which is the subject of the quotation at the price stated in the quotation and under such conditions, if any, as are specified at the time the quotation is made.

(c) *Multiple Markets in the Same Securities.* No municipal securities broker or municipal securities dealer participating in a joint account shall, together with one or more other participants in such account, distribute or publish, or cause to be distributed or published, quotations relating to the municipal securities which are the subject of such account if such quotations indicate more than one market for the same securities.

Rule G–14. Reports of sales or purchases

No municipal securities broker or municipal securities dealer or person associated with a municipal securities broker or municipal securities dealer shall distribute or publish, or cause to be distributed or published, any report of a purchase or sale of municipal securities, unless such municipal securities broker or municipal securities dealer or associated person knows or has reason to believe that the purchase or sale was actually effected and has no reason to believe that the reported transaction is fictitious or in furtherance of any fraudulent, deceptive or manipulative purpose. For purposes of this rule, the terms "distributed" or "published" shall mean the dissemination of a report by any means of communication.

[FR Doc.76–23846 Filed 8–13–76;8:45 am]

[Release No. 34–12699; File No. SR–PSE–76–29]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on August 9, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change amends Sections 39 and 84 of Rule VI of the Pacific Stock Exchange Incorporated to enable an Options Floor Official to impose fines not exceeding $1000 for conduct on the Options Trading Floor of the Exchange in violation of the Rules and Policies of the Exchange, and to provide that such fines can be appealed pursuant to the provisions of Section 84.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

The proposed rule change is desigend to simplify and facilitate the administration of disciplinary sanctions for offenses occurring on the Options Trading Floor of the Exchange. By enabling a single floor official to administer a fine, the proposed rule change would enable the Exchange to administer discipline more rapidly, and thus to maintain better control of conduct on the Options Trading Floor. The ability of members adversely affected by such a fine to appeal the fine pursuant to the procedures of Section 84 provides necessary due process guarantees.

The proposed rule change, by enabling the Exchange to administer and enforce its rules more effectively, contributes to the protection of investors and of the public interest.

The Options Floor Trading Committee discussed and approved the proposed rule change. Except for the comments received from the members of this Committee, comments were not solicited from members or participants in the Exchange, and no such comments were received.

The proposed rule change does not impose any burden on competition.

The foregoing proposed rule change has been filed with the Securities and Exchange Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934. On or before September 20, 1976 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549.

Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 10, 1976.

[FR Doc.76–23844 Filed 8–13–76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 118]

ASSIGNMENT OF HEARINGS

AUGUST 11, 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 interestsed parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141709, West Bros., Inc., now assigned September 21, 1976, at Kansas City, Mo. will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 136375 (Sub-No. 11), Donco Carriers, Inc., now assigned September 22, 1976, at Kansas City, Mo. will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 128273 (Sub-No. 215), Midwestern Distribution, Inc., now assigned September 23, 1976, at Kansas City, MO. will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC-C-8959 Kraftours Corporation, DBA Kraftours and Allan S. Kraft, DBA Universal Travel Service-Investigation of Operations and Revocation of Certificate and License, now assigned September 27, 1976, at Kansas City, Mo. will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 120781 (Sub-No. 5), Kraftours Corporation Extension-Special Operations, now assigned September 27, 1976, at Kansas City, Mo. will be held in Room 609, Federal Building, 911 Walnut Street.

MC 22179 (Sub-No. 18), Freeman Truck Line, Inc., application dismissed.

MC 123765 (Sub-No. 5), Barry Transfer and Storage Co., Inc., application dismissed.

MC 141932, Polar Transport, Inc., application dismissed. MC 141641 (Sub-No. 1), Wilson Certified Express, Inc., now assigned September 1, 1976, at Washington, D.C. is canceled and application dismissed.

MC-F 12809, Ryder System, Inc.—Control—Jamesville Auto Transport Company, and MC 119612 Sub 4, Jamesville Auto Transport Company now being asisgned September 21, 1976, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 138253 (Sub-No. 2), Monfort Transportation Company, now assigned September 27, 1976 at Denver, Colorado; will be held in Room 158 U.S. Customs House, 721 19th Street.

MC 123407 (Sub-No. 286), Sawyer Transport, Inc., now assigned September 28, 1976 at Denver, Colorado; will be held in Room 158 U.S. Customs House, 721 19th Street.

MC-C-7393, Scott Truck Line, Inc.—Investigation and Revocation of Certificates, now assigned September 30, 1976 at Denver, Colorado; will be held in Room 158 U.S. Customs House, 721 19th Street.

MC 140024 (Sub-No. 62), J. B. Montgomery, Inc., now assigned October 4, 1976 at Denver, Colorado; will be held in Room 158 U.S. Customs House, 721 19th Street.

MC 140829 (Sub-No. 6), Cargo Contract Carrier Corp., now assigned October 6, 1976 at Denver, Colorado; will be held in Room 158 U.S. Customs House, 721 19th Street and on October 8, 1976 will be held in Court Room 4, Bankruptcy Court, U.S. Court House, 1929 Stout Street.

MC-C-8830, Browning Freight Lines, Inc., et al. V. Warberg Brothers Company, et al., MC-F-12484, IML Freight, Inc.—Purchase (Portion)—Delbert H. Stephens and Ferdinand A. Klein, dba Spokane-St Maries Auto Freight and Warberg Brothers Company and MC 33641 (Sub-No. 119), IML Freight, Inc., now assigned September 13, 1976, at Salt Lake City, Utah, will be held in Room 4220, Federal Building, 125 South State Street instead of Room 1423.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-23892 Filed 8-13-76;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 11, 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 August 31, 1976.

FSA No. 43211—*Iron and Steel Articles Between Illinois Central Gulf Stations, Chicago, Illinois, and Kansas City, Missouri-Kansas and Points Grouped Therewith.* Filed by Illinois Central Gulf Railroad Company, (No. 76-2). Rates on iron and steel articles, in carloads, as described in the application, between Chicago, Illinois and points grouped therewith, and Kansas City, Missouri-Kansas and points grouped therewith.

Grounds for relief—Carrier competition.

Tariff—Supplement 1 to Illinois Central Gulf Railroad Company tariff 835, I.C.C. No. 52. Rates are published to become effective on September 17, 1976.

FSA No. 43212—*Liquefied Petroleum Gas to Brampton, Ontario, Canada.* Filed by Southwestern Freight Bureau, Agent, (No. B-616), for interested rail carriers. Rates on liquefied petroleum gas, in tank-car loads, as described in the application, from points in Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas, to Brampton, Ontario, Canada.

Grounds for relief—Rate relationship.

Tariff—Supplement 75 to Southwestern Freight Bureau, Agent, tariff SW/E-133-K, I.C.C. No. 5106. Rates are published to become effective on September 18, 1976.

FSA No. 43213—*Barley, Oats, Wheat and Wheat Products from Points in Montana and North Dakota on the Soo Line Railroad Company.* Filed by Trans-Continental Freight Bureau, Agent No. 507), for interested rail carriers. Rates on barley, oats, wheat and wheat products, in carloads, as described in the application, from specified points in Montana and North Dakota on the Soo Line Railroad Company, to points in California, Idaho, Montana, Oregon, and Washington, also Alberta and British Columbia, Canada, on the BN, MILW, and UP RR, on domestic and export traffic.

Grounds for relief—Market competition.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-23893 Filed 8-13-76;8:45 am]

[Notice No. 103]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 11, 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 C.F.R. 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.

MOTOR CARRIERS OF PROPERTY

No. MC 107295 (Sub-No. 822TA) filed August 3, 1976. Applicant: PRE-FAB TRANSIT CO., 100 South Main St., Farmer City, Ill. 61842. Applicant's representative: Duane Zehr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, roofing materials, and siding* (except iron or steel and commodities in bulk), from the plantsite and warehouse facilities of Masonite Corporation, Roofing Division, located at Little Rock, Ark., to points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Support shipper: Tommy Strickland, Material Control & Traffic Manager, Masonite Corp., Roofing Division, P.O. Box 1300, 2500 E. Roosevelt Road, Little Rock, Ark. 72203. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 111170 (Sub-No. 231TA) filed July 22, 1976. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, 2811 N. West Ave., El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl bromide*, in bulk, from Ethyl Plant at Magnolia, Ark., to Williamsburg, Va., for 180 days. Supporting shipper: Dow Chemical U.S.A., Eastern Division, P.O. Box 36000, Strongsville, Ohio 44136. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 112713 (Sub-No. 194TA) filed August 2, 1976. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10900 Roe Ave., Shawnee Mission, Kans. 66207. Applicant's representative: John M. Records (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the plantsite of the Tennessee Valley Authority near Hartsville, Tenn., as an off-route point in connection with applicant's otherwise authorized regular route operations. Applicant intends to interline with other carriers at various points throughout applicant's system for through movement of shipments to and from offline points, for 180 days. Supporting shipper: Tennessee Valley Authority, Chattanooga, Tenn. 37401. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 113106 (Sub-No. 43TA) (Amendment) filed July 20, 1976, published in the FEDERAL REGISTER issue of July 30, 1976, and republished as amended this issue. Applicant: THE BLUE DIAMOND COMPANY, 4401 E. Fairmont Ave., Baltimore, Md. 21224. Applicant's representative: Chester A. Zyblut, 1030 15th St., NW., Washington,

D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite of Union Camp, at Franklin, Va., to points in Maryland, New York (except New York, N.Y., and its commercial zone, and points in Nassau and Suffolk Counties, N.Y.), Pennsylvania and the District of Columbia, for 180 days. Supporting shipper: Wade P. Wagner, Senior Traffic Spec., Union Camp Corporation, 1600 Valley Road, Wayne, N.J. 07470. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814–B Federal Bldg., Baltimore, Md. 21201. The purpose of this republication is to amend the territorial description in this proceeding.

No. MC 114290 (Sub-No. 81TA), filed August 2, 1976. Applicant: EXLEY EXPRESS, INC., 210 S.E. 8th Ave., Portland, Oreg. 97202. Applicant's representative: James T. Johnson, 1610 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juices and fruit flavored drinks*, in paper cartons, from Anaheim, Calif., to points in Oregon and Washington, for 180 days. Supporting shipper: The Coca Cola Company, P.O. Box 2079, Houston, Tex. 77001. Send protests to: W. J. Huetig, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 115331 (Sub-No. 415TA) filed August 3, 1976. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Ave., East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granular clay*, in bulk, in tank vehicles, from Oran, Mo., to Charles City, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lowe's, Inc., N. Edward St., Cassopolis, Mich. 49031. Send protests to: J. P. Werthmann, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 116300 (Sub-No. 26TA) filed August 2, 1976. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, Miss. 39635. Applicant's representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid bleach and fabric finish* (except in bulk), from Marion, Ala., to Lafayette and New Orleans, La., and Canton, Jackson and Natchez, Miss., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ames Packaging Corporation, Box 670, South Washington St., Marion, Ala. 36756. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Bldg., Jackson, Miss. 39201.

No. MC 118142 (Sub-No. 129TA), filed August 4, 1976, Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kansas. 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared frozen food and dehydated potatoes*, from the plantsite of Inland Storage Distribution, Kansas City, Kans., to Mobile and Florence, Ala.; Helena, Ark.; Atlanta, Decatur, Columbus, Macon, Augusta, and Tifton, Ga.; Indianapolis, Richmond and South Bend, Ind.; Lexington and Owensboro, Ky.; Landover, Hagerstown, Frederick, and Silver Spring, Md.; Atlantic City, Wildwood, Elmer, Beach Haven, Seccaucus, Edison, McCutcheon and Jersey City, N.J.; Avon, Buffalo, New York City and Jericho, N.Y.; Charlotte, Kinston, Mount Airy, Rocky Mount, Greenville, Warsaw and Durham, N.C.; Cincinnati, Akron, Columbus, Lodi, Portsmouth, Jackson, Springfield and Mansfield, Ohio; Philadelphia, Scranton, Pittsburgh, Reading, Stroudsburg, Wilkes-Barre, Swoyersville, Northumberland, Williamsport, and Chaddsford, Pa.; Columbia and Florence, S.C.; Paris, Nashville, Goodlettsville, Chattanooga, Cookeville and Memphis, Tenn.; Norfolk, Portsmouth, and Virginia Beach, Va.; Parkersburgh and Daniel, W. Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Inland Storage Distribution, P.O. Box 2249, Kansas City, Kans. 61110. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 121664 (Sub-No. 14TA) filed August 3, 1976. Applicant: HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Monroeville, Ala. 36460. Applicant's representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement, lime and mortar mix*, from the facilities of National Cement Company, Inc., at or near Ragland, Ala., and the facilities of Martin Marietta Cement, Southern Division ,at or near Roberta, Ala., to points in Florida, Georgia, Mississippi, Louisiana, Tennessee, North Carolina and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Cement Co., Inc., 110 Office Park Drive, P.O. Box 7348, Mountain Brook Station, Birmingham, Ala. 35223. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 129032 (Sub-No. 24TA), filed August 2, 1976. Applicant: TOM INMAN TRUCKING, INC., 6015 S. 40th West Ave., Tulsa, Okla. 74107. Applicant's representative: Martin J. Rosen, 256 Montgomery St., 5th Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the plantsite and storage facilities of Midland Glass Co., Inc., located at or near Henryetta, Okla., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee, and Texas, for 180 days. Supporting shipper: Midland Glass Co., Inc., P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 138954 (Sub-No. 5TA), filed August 3, 1976. Applicant: G. L. CREECH, doing business as TRUCK SERVICE HAULING AND RENTAL, P.O. Box 15891, 1748 Sherwood Forest Blvd., Baton Rouge, La. 70185. Applicant's representative: James B. Thompson, III, 666 South Foster Drive, Baton Rouge, La. 70806. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel reinforcing rods*, from Baton Rouge, La., to construction sites or storage sites in Mississippi, Alabama and that part of Florida west of U.S. Highway 231, under a continuing contract with Armco Steel Corporation, for 180 days. Supporting Shipper: Armco Steel Corporation, 24 N. Main St., Middletown, Ohio 45043. Send portests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Ave., 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 141033 (Sub-No. 14TA), filed July 28, 1976. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Ave., P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: James I. Mendenhall (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies* utilized in the installation of floor coverings and floors; floor mats and runners; adhesives; cove base; carpet binding accessories; maintenance equipment and products; and materials, equipment and supplies utilized in the manufacture, sale and distribution of the commodities described above, from Piqua, Ohio and Klamazoo, Mich., to (1) points in the United States in and east of the states of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (except Ohio); and (2) City of Industry, Calif., and Vancouver, Wash., restricted against the transportation of commodities in bulk and those which by reason of size of weight, require the use of special equipment and further restricted to the transporation of traffic originating at the plantsites of Roberts Consolidated Industries, Inc., for 180 days. Supporting shipper: Roberts Consolidated Industries, 600 North Baldwin Park Blvd., City of Industry, Calif. 91749. Send protests to: Mary A. Francy, Transportation Assistant, Interstate Commerce Commis-

sion, Bureau of Operations, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 142006 (Sub-No. 1TA), filed August 3, 1976. Applicant: LYNBROOK SALVAGE CORP., 170 Mapes Ave., Newark, N.J. 07112. Applicant's representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated roofing, and siding*, from Jersey City, N.J., to points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, and Washington, D.C., and (2) *materials and supplies* used in the manufacturing of roofing and siding (except in bulk and tank vehicles), from the above destination states, to Jersey City, N.J., under a continuing contract with Corrugated Metals, Inc., Jersey City, N.J., for 180 days. Supporting shipper: Corrugated Metals, Inc., 94 First St., Box 465, Jersey City, N.J. 07303. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 142254 (Sub-No. 1TA), filed August 3, 1976. Applicant: FRIEDL FUEL & CARTAGE, INC., 417 West Whitewater St., Whitewater, Wis. 53190. Applicant's representative: Michael J. Wyngaard, 329 West Wilson St., Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Castings, foundry products and fasteners*, from Palmyra and Whitewater, Wis., to points in Iowa (on and east of U.S. Highway 169), Illinois (on and north of U.S. Highway 36 from the Illinois-Missouri border to the Illinois-Indiana border), and Anoka, Chisago, Ramsey, Washington, Hennepin, Dakota, Goodhue, and Wabasha Counties, Minn.; and (2) *Materials, equipment and supplies* used or useful in the manufacture, sale, installation or distribution of the commodities named in part (1) above, from points in Iowa (on and east of U.S. Highway 169), Illinois (on and north of U.S. Highway 36 from the Illinois-Missouri border to the Illinois-Indiana border), and Anoka, Chisago, Ramsey, Washington, Hennepin, Dakota, Goodhue, and Wabasha Counties, Minn., to Palmyra and Whitewater, Wis., for 180 days. Supporting shipper: Alpha-Cast, Inc., 520 North Jefferson St., Whitewater, Wis. 53190. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 142303TA (Correction), filed July 23, 1976, published in the FEDERAL REGISTER issue of August 6, 1976, as MC 139568 (Sub-No. 1TA), and republished as corrected this issue. Applicant: CUTLER & LEE, INC., Route 73 & Regent Ave., Maple Shade, N.J. 08052. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vehicles*, for salvage, from points in New York, Connecticut, Pennsylvania, Delaware and Maryland, to South Plainfield, N.J., under a continuing contract with Fireman's Fund Customer Service Center, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fireman's Fund Customer Service Center, 3333 California St., San Francisco, Calif. 94119. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State St., Room 204, Trenton, N.J. 08608. The purpose of this republication is to change docket No. MC 142303TA in lieu of MC 139568 (Sub-No. 1TA).

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-23894 Filed 8-13-76;8:45 am]

[Section 5b Application No. 2]

WESTERN RAILROAD TRAFFIC ASSOCIATION

Agreement

AUGUST 4, 1976.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of Section 5b of the Interstate Commerce Act.

Filed May 28, 1976 by:

J. M. Souby, Western Railroad Traffic Association, Suite 1200, 222 S. Riverside Plaza, Chicago, IL 60606. (Attorney-in-Fact).

J. D. Feeney and R. T. Opal, Suite 1200, 222 S. Riverside Plaza, Chicago, IL 60606. (Counsel for Applicants).

Agreement involves: Organization, practices, and procedures between and among rail common carrier members of the Western Railroad Traffic Association for the joint consideration, initiation, or establishment of rates, classifications, divisions, allowances, charges, and rules, regulations and practices pertaining thereto, applicable to the transportation of property, in interstate or foreign commerce, from, to, and between points in western territory.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before September 15, 1976. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application, without further or formal hearing.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-23895 Filed 8-13-76;8:45 am]

federal register

MONDAY, AUGUST 16, 1976

PART II:

ENVIRONMENTAL PROTECTION AGENCY

■

CONTROL OF AIR POLLUTION FROM AIRCRAFT AND AIRCRAFT ENGINES

Supersonic Aircraft

Title 40—Protection of the Environment

CHAPTER 1—ENVIRONMENTAL PROTECTION AGENCY

[FRL 595-2]

PART 87—CONTROL OF AIR POLLUTION FROM AIRCRAFT AND AIRCRAFT ENGINES

Supersonic Aircraft

Section 231 of the Clean Air Act, as amended by Pub. L. 91-604, directs the Administrator of the Environmental Protection Agency to establish "standards applicable to emissions of any air pollutant from any class or classes of aircraft or aircraft engines which in his judgment cause or contribute to or are likely to cause or contribute to air pollution which endangers the public health or welfare." Regulations ensuring compliance with these standards are required to be issued by the Secretary of Transportation in accordance with section 232 of the Act.

Standards were promulgated on July 17, 1973 (38 FR 19088) which specified limits on emissions from classes of new and inuse subsonic aircraft engines. In addition, the preamble to those regulations stated: "A separate class has been established for engines which power supersonic aircraft. Exhaust emission standards for this class will be based on the best available combustor design technology expected in 1979 and later, but with due consideration for the inherently higher emission characteristics of supersonic aircraft engines under landing/takeoff cycle conditions. These standards will represent the same level of emissions reduction from current supersonic aircraft, through application of the same types of combustor design technology as will be required of subsonic aircraft, though the absolute hydrocarbon and carbon monoxide levels will be several times higher."

On July 22, 1974, a notice of proposed rule making was published in the FEDERAL REGISTER (39 FR 26653) which described standards limiting emissions from supersonic aircraft engines. The NPRM proposed a range of standards applicable to newly manufactured engines effective January 1, 1979. This range of values reflected differences in estimates of technical feasibility among the government engineers who had reviewed advanced drafts of these regulations. The preamble to the NPRM went on to state: "The level of the standards to be ultimately adopted may be more or less stringent than the range of values proposed, depending on data presented by interested parties during the public comment period and at the public hearing on these proposals."

The final standards established herein fall within or above the range proposed for each pollutant and are levels which one of the manufacturers of the engines which power the Concorde, Rolls Royce Ltd., has testified could be met. The other manufacturer, SNECMA, testified that comparable emissions levels were achieveable (allowing for differences in measurement methodology) but that additional time should be permitted before compliance. Accordingly, the implementation date for the standards applicable to newly manufactured engines has been shifted from January 1, 1979, as proposed, to January 1, 1980. These standards are believed to be the most stringent that can be imposed by that date. They reflect the emission control technology currently under development and expected to be available to the SST engine manufacturers. The standards established here for newly certified SST engines reflect the best technology expected for subsonic engines, which is transferable to the T5 class. With regard to the oxides of nitrogen standard for newly certified engines, careful evaluation has led EPA to the conclusion that such a level is attainable without reliance upon water injection. Due to the time required to incorporate the necessary technology into T5 class engines, the date of implementation for the standards applicable to newly certified engines has been postponed to January 1, 1984.

A report, "Alternative Derivations of the Standards for T5 (Supersonic Transport) Class Gas Turbine Aircraft Engines," AC-76-01, which describes the derivation of the standards promulgated, is available for inspection and copying at the EPA Public Information Reference Unit.

The basic justification for emissions standards applicable to aircraft was stated in the preamble to the standards promulgated on July 17, 1973, (38 FR 19088) as follows:

> In judging the need for the regulations, the Administrator has determined (1) that the public health and welfare is endangered in several air quality control regions by violation of one or more of the national ambient air quality standards for carbon monoxide, hydrocarbons, nitrogen oxides, and photochemical oxidants, and that the public welfare is likely to be endangered by smoke emissions; (2) that airports and aircraft are now, or are projected to be, significant sources of emissions of carbon monoxide, hydrocarbons, and nitrogen oxides in some of the air quality control regions in which the national ambient air quality standards are being violated, as well as being significant sources of smoke; and therefore (3) that maintenance of the national ambient air quality standards and reduced impact of smoke emissions requires that aircraft and aircraft engines be subject to a program of control compatible with their significance as pollution sources. Accordingly, the Administrator has determined that emissions from aircraft and aircraft engines should be reduced to the extent practicable with present and developing technology.

Therefore, the environmental benefits of this amendment to the basic standards will be to contribute to the maintenance of air quality in and around the major air terminals for international routes which could be served by SST aircraft. Currently, the John F. Kennedy Airport in New York has the most international operations among major United States air terminals. The projected SST operations at JFK in 1990 (assuming that unrestricted use of SSTs is eventually permitted) are approximately 50 landing/takeoff cycles per day, based on an estimated total SST population of 150 (this can be compared to a total of approximately 800 landing/take-off cycles per day for all aircraft). Of these 150 SSTs, it is assumed that 40 would be unregulated, 70 would be subject to the 1980 standards, and 40 would be subject to the 1984 standards. The estimated emissions reductions attributable to the standards applicable to both subsonic and SST aircraft are shown in Table I. The analysis by which this estimate was made is reported in "SST Emissions Projection," AC-76-03, which is available at the EPA Public Information Reference Unit.

EPA projects that the technology capable of reducing emissions from current supersonic (SST) power plants will be essentially the same as that developed for subsonic power plants. Therefore, the research already in progress by engine builders and directed primarily at subsonic aircraft will form the major basis for achieving the standards promulgated herein, supplemented by more advanced research supported by government agencies such as the NASA, U.S. Air Force, and the British National Gas Turbine Establishment. It follows that much of the technology development costs applicable for meeting these standards is already absorbed in the costs estimated for meeting the standards applicable to subsonic aircraft.

TABLE I.—*Emissions impact of supersonic transport aircraft at John F. Kennedy Airport in 1990*

[Tons per year]

	HC	CO	NOx
Uncontrolled subsonic aircraft emissions	3,300	7,950	3,200
Uncontrolled supersonic aircraft emissions	2,100	7,850	1,050
Total uncontrolled aircraft emissions	5,400	15,800	4,250
Reduction in aircraft emissions due to standards for subsonic aircraft only	1,900	3,700	950
Percent reduction from uncontrolled fleet	35	23	22
Reduction in aircraft emissions due to standards for supersonic aircraft only	1,300	3,950	150
Percent reduction from uncontrolled fleet	24	25	4
Reduction in aircraft emissions due to standards for both subsonic and supersonic aircraft	3,200	7,650	1,100
Percent reduction from uncontrolled fleet	59	48	26

NOTE.—(1) Estimate: 150 SST aircraft in world fleet; 50 LTO's per day at JFK; (2) JFK taxi-in and taxi-out modes are 9 minutes and 20 minutes respectively.

EPA estimates that the most probable development cost is $10 million which represents an increase of $143,000 per aircraft or 0.36% of the purchase price for a fleet of 70 regulated current technology SST aircraft. EPA estimates that the most probable operational cost penalty is $5 per hour per aircraft due to increased maintenance, a 0.3% increase in the maintenance and depreciation cost. The extreme estimates for the development cost are (1) worst case—$80 million, and (2) best case—$8 million. The extreme estimates for the operational costs are (1) worst case—$24 per hour and $15 per hour for fuel and maintenance respectively, (2) best case—no penalty for either fuel or maintenance. The large disparity between the most optimistic and most pessimistic analysis, especially with regard to the development costs, results largely from the absence of substantive information from the manufacturers on this matter.

As required by section 231 of the Act, the Administrator held public hearings with respect to the proposed aircraft emission standards. One was held in Boston, Massachusetts, on November 14, 1974, and another in Los Angeles, California on November 26, 1974. Testimony was presented at these hearings by eleven organizations, including domestic and foreign manufacturers of aircraft and aircraft engines, Governmental groups, environmental groups and universities. Additional detailed comments were provided prior to the hearings by fourteen organizations. A detailed analysis of this information has been made and is available for inspection and copying at the EPA Public Information Reference Unit.

Several commenters stated that standards applicable to SST Aircraft should be set by the International Civil Aviation Organization (ICAO) and not by EPA because of the international character of SST flight operations. EPA intends to cooperate fully with the ICAO in the development of international standards for control of emissions from all classes of aircraft. Nevertheless, in order to fulfill EPA's responsibility under the Clean Air Act, it is necessary to minimize emissions from aircraft of both United States and foreign registry. Moreover, to exempt foreign aircraft would be unfair to domestic air carriers. Therefore, these standards will apply to aircraft of foreign registry until such time as the ICAO has promulgated regulations of at least equivalent stringency. At that time consideration can be given to applicability of ICAO standards to aircraft of foreign registry while the EPA standards would continue to apply to aircraft of United States registry.

Representatives of environmental groups and state and local governments commented that SST aircraft should be required to meet the same standards as are applicable to subsonic aircraft. However, the Clean Air Act authority relating to aircraft emission standards introduces the term "class or classes of aircraft or aircraft engines" in section 231(a)(2). Later it is stated in section 231(b) that "any regulation prescribed under this section (and any revision thereof) shall take effect after such period as the Administrator finds necessary (after consultation with the Secretary of Transportation) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period." Accordingly, EPA has determined that SST aircraft constitute a discrete class of aircraft under the terms of the Clean Air Act and that the standards to be promulgated should be achievable by this class using reasonably available technology and at reasonable cost. Engines powering SST aircraft are required to incorporate design features which are necessitated by supersonic flight, but which are detrimental to the achievement of emissions as low as those from subsonic aircraft during ground operations and low speed flight in the vicinity of metropolitan airports. Unfortunately, these features are important to achievement of good fuel consumption characteristics during supersonic cruise at high altitudes and therefore cannot readily be compromised. Such features include:

1. Use of afterburners for thrust augmentation at takeoff and climb out, to overcome the inherently poor aerodynamic characteristics of the aircraft during subsonic flight.

2. Limitation to relatively low pressure ratios so as to avoid excessive compressor discharge temperatures during supersonic flight.

3. Use of pure turbojets or very low bypass ratio turbofan operating cycles so as to provide adequate thrust and fuel efficiency and to avoid the excessive weight and aerodynamic drag which would be caused by large diameter high bypass ratio engines, of the type which produce superior fuel consumption characteristics at subsonic flight speeds.

Because of these considerations, SST aircraft meeting the standards promulgated herein will still emit approximately four times more pollutants than will comparable subsonic aircraft. Compounding this problem is the fact that a sizeable percentage of the SST fleet through 1990 will consist of aircraft produced prior to the 1980 date of effectiveness of the standards (at least 27%). The table below compares the emissions contributions of regulated and unregulated SSTs and commercial subsonic aircraft.

Emissions in pounds per aircraft per EPA landing/takeoff (LTO) cycle

	Concorde (SST)	Boeing 747
Unregulated:		
HC	195	50
CO	800	185
NOx	105	125
Regulated:		
HC	45	15
CO	360	65
NOx	110	45

Because of this situation, EPA recognizes the need for this regulation to be supplemented by the implementation of ground operational procedures such as towing the aircraft from the gate to the runway or holding the aircraft at the gate (with propulsion engines off) until the runway is clear for taxi out and non-delayed takeoff. The implementation of such procedures would further reduce SST aircraft emissions (about 30% to 70% for hydrocarbons, 25% to 55% for carbon monoxide, and 4% to 9% for oxides of nitrogen) and save significant quantities of fuel as well, about 160 to 290 gallons per landing/takeoff cycle. The EPA strongly encourages local airport authorities and airlines to work with the Federal Aviation Administration to implement effective ground operational control programs for SST aircraft as soon as is practicable after the introduction of SST commercial service into the United States. In the absence of such improved procedures, the EPA may have to consider alternative strategies of reducing the SST aircraft emissions, if their numbers grow significantly in later years.

Many comments referred to the potential impact of NOx emissions on ozone depletion during very high altitude cruising conditions, going on to suggest that EPA should promulgate standards to protect against this type of problem. EPA recognizes that high altitude flight by supersonic aircraft (and to a lesser extent by subsonic aircraft) may have detrimental effects on the upper atmosphere. The work recently concluded in the Department of Transportation Climatic Impact Assessment Program indicates to EPA that, if stratospheric flights by SST and other aircraft increase significantly, reductions in their emissions of oxides of nitrogen during stratospheric cruising conditions may be necessary. During the public hearings there was a predominance of testimony arguing in favor of controlling emissions in the upper atmosphere. EPA is continuing its investigation of the need and feasibility of controlling cruise emissions and intends to consider additional rule making for such control from both subsonic and supersonic aircraft as necessary to aid in the preservation of the ozone layer. Issuance of the present standards does not preclude a future standard for the emission of oxides of nitrogen at cruise and, in fact, the standards for newly certified engines are expected to reduce the NOx emissions at cruise below that found in the present aircraft. Further, EPA has decided that the newly certified engine standard to limit the oxides of nitrogen emissions should be set so as to preclude the necessity of water injection as a means of compliance. The development of a low NOx "dry" (i.e., with no water injection) combustor for high power departure from the airport should lead to low NOx emissions through the entire power range except, perhaps for idle. Such a combustor should emit low levels of NOx at cruise as well as during departure.

On February 4, 1976, the Secretary of Transportation announced his decision to permit limited scheduled service to the United States of Concorde SST aircraft. In his statement, he indicated that "I shall also request the Secretary of State to initiate discussions through the ICAO and the World Meteorological Organiza-

tion on the development of international stratospheric standards for the SST." The EPA intends to continue its participation in the work of the ICAO and to participate actively in the discussions on the development of international standards applicable to emissions from SST aircraft under high altitude cruising conditions. The EPA believes that in light of the global nature of the impacts from stratospheric flights by SST aircraft, international standards may be most appropriate in this area.

Emission control technology currently under development for newly manufactured engines will not reduce the NOx level at high power departure sufficiently to improve NOx levels at cruise. Thus, the NOx standard for newly manufactured engines, although met by newly manufactured engines after January 1, 1980, will not be significant in controlling NOx emissions at cruise. The necessary technology for further reduction of NOx can not be implemented by the compliance date chosen for newly manufactured engines of existing design. The 1980 newly manufactured engine standards represent a compromise, to obtain at least some control of emissions in the shortest time possible.

Engine manufacturers commented that the standards proposed did not fully allow for the basic differences in operating cycles between SST and subsonic engines, thereby only partly responding to EPA's expressed intentions in the preamble to the proposed standards. Some of the commenters also stated that more time should be allowed for compliance.

These comments have been considered in formulating the standards promulgated herein, which now allow for all necessary technological and cost considerations inherent in modifying the design of the combustion sections of present design SST engines, such as those which power the Concorde aircraft. This is described more completely in Report AC-76-01, referenced earlier and available in the EPA public information reference unit.

The 1984 standards for newly certified engines reflect a basic change from the values proposed in the NPRM. In the preamble to the NPRM, EPA stated, "For 1981, the proposed levels of newly certified engines assume that such engines will be required to achieve noise levels which will dictate engine cycles for which the indicated emissions are entirely feasible. Specifically, afterburning is not expected to be used for thrust augmentation during takeoff for second generation SST powerplants." Commenters uniformly agreed that SST engine/airframe systems possessing the requisite technology to meet the proposed standards (such as variable cycle engines, swing wing aircraft, etc.) could not be employed for the second generation SST aircraft. Without such advances, it becomes very likely that the features characteristic of the first generation will likely be found also in the second, specifically (1) afterburners, (2) moderate pressure ratios, and (3) low bypass ratios. These features will continue to be the cause of airport emissions from SSTs that are higher than found in advanced subsonic aircraft. The 1984 standards herein adopted reflect this situation. They do, nonetheless, require the same level of technological advance within the combustor as required of newly certified (commercial) subsonic engines. Further stringency in the standards would likely require a compromise in the design features of the engine which would have the effect of increasing the fuel consumption at altitude. Since this would increase the cruise emissions which is contrary to EPA's intent, this additional stringency is rejected.

It is understood that research on very advanced candidate propulsion systems for future generations of SST aircraft include several which would operate at higher pressure ratios during the low altitude portions of their mission than those engine designs upon which these standards are based. While the emissions characteristics of such high pressure ratio SST engines cannot be predicted with certainty at this time, it would be expected that, with given combustor design technology, their nitrogen oxides emissions might be higher and their hydrocarbon and carbon monoxide emissions lower than the levels promulgated herein. The EPA recognizes that in so dynamic a field as aircraft engine development it will be necessary, from time to time, to review existing emission standards for the purpose of determining their impact on the feasibility of utilizing technology that may not have been available when the standards were formulated. As a result of the current NASA work, or other future developments, technology may become available that for fuel consumption or other performance factors is clearly superior but that cannot meet promulgated emission standards. In that case all of the relevant issues will be reconsidered by EPA in the context of all technical and environmental data then available, and a decision made by the Administrator that is appropriate on the basis of the new information.

It is recognized that most SST aircraft engines will utilize afterburners during the takeoff mode of operation, and further, it is recognized that the emissions measurement procedure of Subpart G is not applicable to the afterburning mode of SST engine operation (take-off mode only). Since a uniformly acceptable measuring technique has not been established for afterburning operation, Subpart G has been amended to allow petition to EPA for a variance in the prescribed procedure for such testing.

As required by Section 231 of the Clean Air Act, the effective date of these standards allows for the time necessary to "permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period." In this respect EPA's actions regarding SST emissions differ from its actions regarding SST noise. EPA has recommended (41 FR 6270, Feb. 12, 1976) that all SST aircraft comply with the same noise standards as apply to subsonic aircraft, without consideration of technology and cost of compliance. This recommendation was based upon the requirement of Section 7 of the Noise Control Act that a proposed standard submitted to the FAA by the EPA "provide such control and abatement through the exercise of any of the FAA's regulatory authority (over air commerce or transportation or over aircraft or aircraft operations) as EPA determines is necessary to protect the public health and welfare."

It is intended that the attainment of any standards proposed herein not result in the increased emission of any substance for which a standard is not proposed if such emission could endanger public health or welfare. The Administrator intends to remain informed throughout engine and aircraft development and certification programs to permit him to determine at the earliest possible time if the emission of a substance is likely to endanger the public health or welfare. Therefore, the Administrator may subsequently publish in the FEDERAL REGISTER a list of those substances whose emissions are likely to increase as a result of the installation or incorporation of any system or component, including fuel additives designed to enable an aircraft or aircraft engine to conform to any prescribed standard. In the event such a list of substances is so published, appropriate testing and sampling methods and/or analytical techniques will be proposed under the normal rule making procedures after consultation with the Department of Transportation.

The standards contained in this notice are being promulgated after consultation with the Secretary of Transportation in order to assure appropriate consideration of aircraft safety. However, the Department of Transportation has advised that it is impossible to make conclusive judgments as to the effects of an emission standard on aircraft safety until engines designed to meet that standard have been developed, constructed, and tested. Therefore, there will be continuing consultation on this issue between this Agency and that Department. Should the Secretary of Transportation determine at any point that an emission standard cannot be met within the specified time without creating a safety hazard, appropriate modifications will be made to that standard or to its effective date.

(Sec. 231 of the Clean Air Act, as amended (42 U.S.C. 1857f-9))

Effective date: This amendment takes effect on September 15, 1976.

Dated: August 10, 1976.

RUSSELL E. TRAIN,
Administrator.

Subparts C and G of Part 87 of Title 40 of the Code of Federal Regulations are amended as follows:

Subpart C—Exhaust Emissions (New Aircraft Gas Turbine Engines)

In § 87.21, paragraphs (d) and (e) are revised as follows:

§ 87.21 Standards for exhaust emissions.

* * * * *

(d) Exhaust emissions from each aircraft gas turbine engine of the classes specified below manufactured on or after the dates indicated shall not exceed:

(1) Class T1 (January 1, 1979):	
* * * * *	
(2) Class T2, T3, T4 (January 1, 1979):	
* * * * *	
(3) Class P2 (January 1, 1979):	
* * * * *	
(4) Class T5 (January 1, 1980):	
(i) Hydrocarbons	3.9 pounds/1,000 pound-thrust hours/cycle.
(ii) Carbon Monoxide	30.1 pounds/1,000 pound-thrust hours/cycle.
(iii) Oxides of nitrogen	9.0 pounds/1,000 pound-thrust hours/cycle.
(iv) Smoke	Smoke number from Figure 1.

(5) The smoke number for each engine shall be determined by obtaining the smoke number corresponding to the engine rated power from Figure 1 for turbofan or turbojet engines and Figure 2 for turboprop engines.

(e) Exhaust emissions from each newly certified aircraft gas turbine engine of the classes specified below manufactured on or after the dates indicated shall not exceed:

(1) Class T2, T3, or T4 (January 1, 1981):	
(i) Hydrocarbons	0.4 pound/1,000 pound-thrust hours/cycle.
(ii) Carbon monoxide	3 pounds/1,000 pound-thrust hours/cycle.
(iii) Oxides of nitrogen	Do.
(iv) Smoke	Smoke number from Figure 1.
(2) Class T5 (January 1, 1984):	
(i) Hydrocarbons	1.0 pound/1,000 pound-thrust hours/cycle.
(ii) Carbon monoxide	7.8 pounds/1,000 pound-thrust hours/cycle.
(iii) Oxides of nitrogen	5.0 pounds/1,000 pound-thrust hours/cycle.
(iv) Smoke	Smoke number from Figure 1.
* * * * * * *	

Subpart G—Test Procedures for Engine Exhaust Gaseous Emissions (Aircraft and Aircraft Gas Turbine Engines)

1. In § 87.62, paragraph (a) is revised as follows:

§ 87.62 Test procedure (propulsion engines).

(a)(1) The engine shall be tested in each of the following engine operating modes which simulate aircraft operation to determine its mass emission rates.

Actual power setting, that when corrected to standard day conditions, corresponds to the following percentage of rated power, (rated power includes the reheat contribution and thrust augmentation due to water injection, if applicable):

Mode	Class T1 or P2	Class T2, T3, or T4	Class T5
Taxi/idle (out)	(1)	(1)	(1)
Takeoff	100	100	100
Climbout	90	85	65
Descent	NA	NA	15
Approach	30	30	34
Taxi/idle (in)	(1)	(1)	(1)

[1] See subpar. (2) of this paragraph.

2. In § 87.64, paragraph (c)(1)(ii)(d) is revised and a new paragraph (c)(3) is added as follows:

§ 87.64 Sampling and analytical system for measuring exhaust emissions.

* * * * *

(c) * * *

(1) * * *

(ii) * * *

(d) The axial sampling plane shall be as close to the plane of the exit nozzle as engine performance parameters permit but in any case, shall be within one exit nozzle diameter of the exit plane, except for engine operating modes which employ reheat (afterburning).

* * * * *

(3) *Sampling system for use with reheat (afterburning).* For engines which employ reheat, a sampling system selected by the manufacturer may be used for tests during afterburner (reheat) operation if shown to yield representative results and if approved in advance by the Administrator.

* * * * *

3. In § 87.70, paragraph (d) is revised as follows:

§ 87.70 Calculations.

* * * * *

(d) The time in mode (TIM) shall be as specified below:

Times in mode (minutes)	Class T1 or P2	Class T2, T3, or T4	Class T5
(1) Taxi/idle (out)	19.0	19.0	19.0
(2) Takeoff	.5	.7	1.2
(3) Climbout	2.5	2.2	2.0
(4) Descent	NA	NA	1.2
(5) Approach	4.5	4.0	2.3
(6) Taxi/idle (in)	7.0	7.0	7.0

(Sec. 11 (a)(1), Pub. L. 91-604, 84 Stat. 1703 (42 U.S.C. 1857f-9))

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federal register

MONDAY, AUGUST 16, 1976

PART III:

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

■

RAIL PASSENGER SERVICE ASSISTANCE PROGRAM

Guidelines and Procedures

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

RAIL PASSENGER SERVICE ASSISTANCE PROGRAM

Guidelines and Procedures for Grant Assistance Under Section 17(a)(2) of the Urban Mass Transportation Act of 1964, as amended.

Section 17(a)(2) of the Urban Mass Transportation (UMT) Act of 1964, as amended, provides a limited period of Federal financial assistance to State and local transportation authorities to help cover Additional Costs incurred by these public entities for the continued operation of certain rail passenger services after September 27, 1976. The amount of this Federal assistance will be determined in accordance with the regulations issued by the Rail Services Planning Office (RSPO) of the Interstate Commerce Commission pursuant to section 205(d)(5) of the Regional Rail Reorganization Act of 1973, as amended (1973 Rail Act). These regulations (49 CFR Part 1127) were issued August 3, 1976 (41 FR 32546).

Under section 304(e) of the 1973 Rail Act, the Consolidated Rail Corporation (ConRail) or other operators of commuter and non-Amtrak rail passenger services are obligated to continue operation of these rail passenger services for a 180-day Mandatory Period commencing on April 1, 1976. Losses incurred by the operator for these services are to be reimbursed by the Secretary of Transportation under section 17(a)(1) of the UMT Act to the extent that they are not compensated by a State or local transportation authority.

At the end of the Mandatory Period, the operator will be obligated to continue rail passenger service only if two conditions are met by the appropriate State or local transportation authority: (a) That the authority offers prior to the end of the Mandatory Period a real service continuation payment to the operator as determined in accordance with RSPO regulations issued under section 205(d)(5) of the 1973 Rail Act; and (b) That the authority provides the operator with any compensation due from the authority for the Mandatory Period.

The Urban Mass Transportation Administration (UMTA) will provide financial assistance to the State or local transportation authorities, pursuant to section 17(a)(2) of the UMT Act, to reimburse them for the Federal share of the Additional Costs incurred for rail service continuation payments made to the operator for service during the Optional Period which commences on September 28, 1976. This Federal assistance will be provided for up to the full 24-months of the Optional Period. The Federal share is 100% of Additional Costs for the first 180 days (Optional Period I), and 90% for the next 12-months (Optional Period II). An addtitional 180 days (Optional Period III) of financial assistance at a 50% Federal share will be provided if the State or local transportation authority provides satisfactory assurances that service will be continued after the end of the Optional Period.

It should be noted that under these procedures, applicants are free to negotiate operating agreements which provide for subsidy levels different from those which would result from the application of RSPO standards; however, if such subsidy agreements provide for higher payments than would be required under RSPO standards, UMTA's assistance will not be increased to provide for this additional payment. While this is at variance with the position taken by RSPO in its final regulations, UMTA has determined that the authorizing legislation does not permit Federal reimbursement of subsidy payments in excess of those computed under RSPO standards.

These procedures are designed to provide basic guidance on eligibility for section 17(a)(2) grants, as well as the requirements and operation of the program. Detailed information will be provided in the "Application Instructions for Section 17(a)(2) Projects" which will be made available to all eligible applicants.

Due to the short period of time available for applications to be developed and submitted by the applicants, and reviewed by UMTA, these procedures are being issued without a formal public comment period; however, applicants, operators, and other interested parties are invited to submit comments on these procedures by September 10, 1976. UMTA will revise or amend the procedures to reflect any changes which may be considered necessary. Any applications submitted prior to the issuance of any such modification of these procedures will be required to be appropriately revised or amended.

Comments and questions about the section 17 program should be addressed to the Section 17 Task Force, c/o Office of Chief Counsel, File No. 76-02, Urban Mass Transportation Administration, Room 9320, 400 7th Street, S.W., Washington, D.C. 20590.

These guidelines and procedures have been reviewed in light of DOT Order 2050.4 (Procedures for Considering Inflationary Impacts), and it has been determined that an Inflation Impact Statement is not required.

Effective date: These guidelines and procedures are effective August 11, 1976.

Dated: August 11, 1976.

ROBERT E. PATRICELLI,
Urban Mass Transportation Administrator.

Guidelines and Procedures for Section 17(a)(2) grants.

1. Purpose.
2. Definitions.
3. Eligible services and agencies.
4. Application process.
5. Requirements for continuation of service in 17(a)(2) period.
6. Term of grant and Federal share.
7. Conditions for Extension of grant through Optional Period III.
8. Payment.
9. Local matching share for Optional Periods II and III.
10. General Requirements.

AUTHORITY: Sec. 17, Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1613); 304(e), Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 744).

1. PURPOSE

The purpose of this document is to issue guidelines and procedures for Urban Mass Transportation Administration rail passenger service grants to State or local transportation authorities under section 17(a)(2) of the Urban Mass Transportation Act of 1964, as added by section 808 of the Railroad Revitalization Regulatory Reform Act of 1976 (Pub. L. 94-210, 90 Stat. 31, Feb. 5, 1976).

2. DEFINITIONS

As used herein: "Additional Costs" means generally the amount by which the subsidy computed in accordance with RSPO standards exceeds the amount or rate of compensation which the State or local transportation authority was obligated to pay the operator during the base year, to the extent that such costs were actually incurred and are eligible under RSPO standards for reimbursement under section 17(a)(2). The specific definition will vary according to the type of subsidy, as follows:

(a) where service is continued pursuant to the making of a rail service continuation payment in accordance with RSPO standards, Additional Costs are the amount by which the rail service continuation payment exceeds the amount or rate of compensation the State or local transportation authority was obligated to pay the operator for the corresponding period of the base year.

(b) where the authority and the operator have entered into an agreement establishing a total subsidy greater than that which would be required by the RSPO standards, Additional Costs are computed in the same manner provided in (1) above.

(c) where the authority and the operator have entered into an agreement establishing a total subsidy lower than that which would be required under RSPO standards, Additional Costs are the amount by which actual subsidy levels exceed the amount or rate the authority was obligated to pay the operator for the corresponding period of the base year.

Where no compensation was obligated to be provided to the operator by a State or local transportation authority during the Mandatory Period (i.e., where no subsidy payment was being made for service provided by the reorganized railroads immediately prior to April 1, 1976), the Additional Costs are the entire cost of the rail service continuation payment to the operator, as determined in accordance with the RSPO standards.

"Base year" means the one-year period immediately prior to the date of conveyance (April 1, 1975–March 31, 1976).

"Mandatory Period" means the period extending for 180 days, from April 1, 1976 through September 27, 1976, after the date of conveyance of bankrupt rail properties to ConRail. During this period ConRail is required by section 304(e)(1) of the Regional Rail Reorganiza-

tion Act of 1973, as amended, to continue operation of rail passenger services which existed immediately prior to the date of conveyance.

"1973 Rail Act" means the Regional Rail Reorganization Act of 1973, as amended.

"Operator" means the Consolidated Rail Corporation (ConRail) or other operator of rail passenger services eligible for Federal assistance under section 17 (a) (2) of the UMT Act.

"Optional Period" means the period commencing September 28, 1976 during which the operator must continue to provide service if it has received: (1) the compensation due from the State or local transportation authority for services operated during the Mandatory Period; and (2) the offer of a rail service continuation payment required by Section 304(e) (4) of the 1973 Rail Act. The Optional Period is divided in to three parts:

"Optional Period I", which is the 180 days immediately following the expiration of the Mandatory Period; inclusive dates are September 28, 1976 through March 26, 1977.

"Optional Period II", which is the 12-month period following the expiration of Optional Period I; inclusive dates are March 27, 1977 through March 31, 1978.

"Optional Period III", which is the 180-day period following the expiration of Optional Period II, during which Federal assistance is conditional upon compliance with Section G of these procedures; inclusive dates are April 1, 1978 through September 27, 1978.

"Rail passenger service" means both commuter and inter-city rail passenger services eligible for assistance under section 17 of the UMT Act and section 304 (e) of the 1973 Rail Act. This does not include inter-city rail passenger services operated by the National Railroad Passenger Corporation pursuant to an agreement in effect prior to April 1, 1976.

"Rail service continuation payment" means a payment made by a State or local transportation authority under section 304(c) (2) (A) of the 1973 Rail Act to continue rail passenger service.

"RSPO" means the Rail Services Planning Office of the Interstate Commerce Commission.

"RSPO standards" means standards issued by the RSPO under section 205(d) (5) of the 1973 Rail Act, for the computation of subsidies for rail passenger service, and for the determination of emergency commuter rail passenger service operating payments pursuant to section 17 of the UMT Act.

"Service Level" means generally the number of train-miles of daily revenue operation. However, changes in train quality or attractiveness of service, or significant changes in costs, may be considered to constitute changes in service level.

"State or local transportation authority" means either a State agency or other public body which serves as the funding entity for rail passenger services operated under section 304(e) of the 1973 Rail Act, and as the recipient of Federal funds under section 17(a) (2) of the UMT Act. Also referred to herein as "authority" and "recipient".

"UMT Act" means the Urban Mass Transportation Act of 1964, as amended (49 USC 1601 et seq.).

3. Eligible Services and Agencies

(a) A list of the rail passenger services which are eligible for Federal assistance under section 17(a) (2) will be found in Attachment A of these procedures. This list is the most complete compilation of eligible rail passenger services which UMTA has been able to make. However, it is not intended to exclude other rail passenger services which may also be eligible under the authorizing statutes. UMTA will entertain applications from State or local authorities for such services.

(b) It is anticipated that the applicant for Federal assistance under these procedures will be the same State or local transportation authority which has provided compensation to the operator under section 17(a) (1) during the Mandatory Period. If the applicant is a different entity, or if no compensation was being provided to an operator from a State or local transportation authority during the Mandatory Period, then the applicant shall be an agency designated by the Governor. Such agency shall be a public agency legally capable of receiving and dispensing Federal funds, and entering into a formal agreement with UMTA.

4. Application Process

By August 18, 1976, State or local transportation authorities desiring assistance under section 17(a) (2) shall submit a letter of application to UMTA (as set forth in the Application Instructions), along with as much required supporting material as is feasible. Remaining material needed to complete the application shall be submitted by September 1, 1976, unless a later date is approved by UMTA.

5. Requirements for Continuation of Service in 17(a) (2) Period

Financial assistance under section 17 (a) (2) will be provided with the understanding that the State or local transportation authority has carried out its obligations to the operator under section 304(e) (4) of the 1973 Rail Act:

(a) to provide where applicable the compensation due to the operator for operations conducted during the Mandatory Period; and

(b) before September 28, 1976, to offer the operator a rail service continuation payment pursuant to section 304(c) (2) (A) of the 1973 Rail Act, and the RSPO regulations issued under section 205(d) (5) of the 1973 Rail Act.

6. Term of Grant and Federal Share

(a) The base term of the section 17(a) (2) grant shall be from September 28, 1976 through March 31, 1978. This term encompasses (a) Optional Period I, from September 28, 1976 through March 26, 1977, during which the Federal share is 100% of the Additional Costs; and (b) Optional Period II, from March 27, 1977 through March 31, 1978, during which the Federal share is 90% of Additional Costs.

(b) If the recipient complies with the conditions of Section 7 of these procedures, UMTA will extend the term of the grant for an additional 180 days (Optional Period III), ending September 27, 1978. The Federal share of Additional Costs during Optional Period III will be 50%.

7. Conditions for Extension of Grant Through Optional Period III

For the grant to be extended through Optional Period III, the recipient shall comply with the following conditions by February 1, 1978, which is 60 days prior to the commencement of Optional Period III:

(a) The recipient shall submit to UMTA a statement signed by the Governor(s) of the State(s) concerned, and, if the recipient is an authority, ratified by the directors of such authority, that specific rail passenger services for which Federal assistance is being sought during Optional Period III will continue for a least one year after the expiration date of Optional Period III.

(b) The recipient shall provide UMTA with documentation that sufficient funds will be available through appropriation, tax sources, or otherwise to meet the RSPO-determined cost of operation for rail passenger services for the one-year period after the expiration of Optional Period III.

8. Payment

(a) UMTA will reimburse the recipient for the Federal share (as indicated in section 6) of Additional Costs incurred by the recipient for the rail service continuation payments made to the operator for Optional Period service. If for any reason, the recipient and an operator negotiate a service level which is higher than the service levels in effect during the corresponding period of the base year, UMTA will be responsible for reimbursement of the Federal share of only those Additional Costs which would have been incurred had the service levels not been increased in the Optional Period. If service levels (and hence rail service continuation payments) are lowered during the Optional Period, the Additional Costs will be considered to be reduced in the ratio that the new rail service continuation payment required by RSPO standards bears to the previously required rail service continuation payment. If service levels are reduced at the commencement of Optional Period I, then Additional Costs will be based on the ratio that the rail service continuation payment for the Optional Period bears to the total Federal, State, and local subsidy for the Mandatory Period. The UMTA payment will then be the Federal share (100, 90, or 50 percent) of such Additional Costs.

(b) Determination of the amount of reimbursement to the recipient will be made in accordance with RSPO regulations, the Application Instructions, and these procedures. UMTA reserves the

right to impose such reasonable record-keeping and accounting requirements as may be necessary to facilitate the determination of reimbursable amounts.

(c) To the extent practicable, UMTA will make monthly payments to the recipient in accordance with RSPO regulations. The amount of such payments will be calculated in accordance with the projections of Additional Costs contained in the financial documentation portion of the recipient's UMTA-approved grant application.

All payments made to the recipient are subject to final adjustments based upon application of RSPO standards to actual cost data. Final adjustments will be made at the end of each Optional Period for payments made during taht period.

(d) In order to facilitate the timely processing of payments, the recipient shall submit requisitions for payment no less than 45 days before payment is due from the recipient to the operator. Requisitions shall be submitted to UMTA in the form and manner set out in the Application Instructions.

9. LOCAL MATCHING SHARE FOR OPTIONAL PERIODS I AND II

(a) The local matching share of Additional Costs required during Optional Period II (10%) and Optional Period III (50%) may not include funds from other Federal sources (including UMTA section 5 funds).

(b) Before the start of each Optional Period after Optional Period I, the recipient shall submit to UMTA documentation that sufficient funds will be available, through appropriations, tax sources, or otherwise, to meet the local matching share of Additional Costs for that period. For Optional Period II, such documentation shall be submitted by February 1, 1977; for Optional Period III, such documentation shall be submitted by February 1, 1978.

10. GENERAL REQUIREMENTS

The recipient shall comply with the general requirements of the "Application Instructions for Section 17(a)(2) Projects" regarding:

(a) Protection of the interests of employees.

(b) Public hearing; however, this hearing may be combined with the section 5 public hearing. Public hearings will be required before entering Optional Period III.

(c) Social, environmental, and economic impact.

(d) Civil rights and equal employment opportunity provisions.

(e) Distribution of transportation benefits.

(f) Fares for elderly and handicapped.

The general requirements of paragraphs (b) through (f) may be considered completed if the recipient has previously fulfilled these requirements as part of an application for section 5 operating assistance for the same rail passenger service which is the subject of the section 17 grant application. If the applicant choses to reference its section 5 grant application in satisfaction of requirements set out in the section 17 procedures and application instructions, it should understand that any actions or recommendations made by UMTA regarding compliance with any section 5 requirements will also apply to its section 17 grant.

Other general requirements for grants under the UMT Act have been determined to be inapplicable to the section 17 program.

ATTACHMENT A

Rail passenger services eligible for Federal assistance under section 17(a)(2) of the Urban Mass Transportation Act of 1964, as amended.

Region: Boston.
Subsidizing Agency: Massachusetts Bay Transportation Authority, 500 Arborway, Jamaica Plain, Massachusetts 02130.
Railroad: Penn Central.
Routes:
1. South Station—Providence.[1]
2. South Station—Stoughton, Massachusetts.[2]
3. South Station—Franklin, Massachusetts.
4. South Station—Needham, Massachusetts.
5. South Station—Framingham, Massachusetts.

Region: Rhode Island.
Subsidizing Agency: Rhode Island DOT, State Office Building, Providence, Rhode Island 02903.
Railroad: Penn Central.
Route:
1. Providence—Westerly.

Region: New Jersey.
Subsidizing Agency: New Jersey DOT, 1035 Parkway Avenue, Trenton, New Jersey 08520.
Railroad: Central Railroad of New Jersey.
Routes:
1. Newark—Raritan.[3]
2. Newark—Bay Head.
3. Cranford—Bayonne at 33rd Street.

Railroad: Penn Central.
Routes:
1. Penn Station (N.Y.)—Trenton.[4]
2. Penn Station (N.Y.)—Bay Head.[5]
3. Princeton—Princeton Junction.

Railroad: Pennsylvania Reading Seashore Lines.
Routes:
1. Lindenwold—Cape May.
2. Lindenwold—Ocean City.
3. Lindenwold—Atlantic City.

Region: Philadelphia.
Subsidizing Agency: Southeastern Pennsylvania Transportation Authority, 2029 PSFS Building, 12 South 12th Street, Philadelphia, Pennsylvania 19107.
Railroad: Reading Company.
Routes:
1. Reading Terminal—Newton.
2. Reading Terminal—Fox Chase.
3. Reading Terminal—Chestnut Hill.
4. Reading Terminal—Norristown.
5. Reading Terminal—West Trenton.
6. Reading Terminal—Warminster.
7. Reading Terminal—Lansdale.[6]
8. Reading Terminal—Pottsville.[7]
9. Reading Terminal—Bethlehem.[8]

Railroad: Penn Central.
1. 30th Street Station—Manayunk.
2. 30th Street Station—Chestnut Hill.
3. 30th Street Station—Trenton.
4. 30th Street Station—Media-West Chester.
5. 30th Street Station—Paoli.
6. 30th Street Station—Wilmington, Delaware.[9]

Region: Baltimore-Washington.
Subsidizing Agency: None.
Railroad: Penn Central.
Route: Baltimore-Washington.
Region: Northwest Ohio.
Subsidizing Agency: None.
Railroad: Erie-Lackawanna.
Route: Cleveland-Youngstown.
Region: Northwest Indiana.
Subsidizing Agency: None.
Railroad: Penn Central.
Route: Chicago-Valparaiso, Indiana.

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[1] Existing MBTA subsidy ends at Sharon, Massachusetts.
[2] Existing MBTA subsidy ends at Canton, Massachusetts.
[3] Some service extends as far as Phillipsburg.
[4] Most service on the main line terminates at New Brunswick.
[5] Some of this service operates only as far as South Amboy.
[6] Some service extends to Doylestown.
[7] Existing SEPTA subsidy ends at Pottstown, Pa.
[8] Existing SEPTA subsidy ends at Quakertown, Pa.
[9] Existing SEPTA subsidy ends at Marcus Hook, Pa. (State line).

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