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highlights

PART I:

FREEDOM OF INFORMATION
CPSC proposes interim guidelines for disclosure and production; comments by 12–10–76 49640

VETERANS HOME LOANS
VA extends loan guaranty benefits; effective 11–4–76 49636

ENERGY
FEA amends aviation fuel allocation levels; effective 11–1–76 49627
FEA amends definition of "notice of noncompliance" in penalty regulations 49625

TREASURY NOTES
Treasury announces interest rates on notes of Series B–1983 and K–1979 (2 documents) 49689

NATIONAL LABOR RELATIONS BOARD
NLRB issues notice of Chairman's Task Force Interim Report and Recommendations 49683

LOW INCOME HOUSING
HUD corrects provisions for public housing agencies' acquisition of HUD properties with or without rehabilitation; effective 11–10–76 49629

FEDERAL SAVINGS AND LOAN SYSTEM
FHLBB proposes amendments to alteration, repair and improvement loan provisions; comments by 12–13–76 49639

PRIVACY ACT OF 1974
DOD/AF provides for implementation 49630
EEOC and Japan-United States Friendship Commission propose rules for implementation (2 documents); comments by 12–11 and 12–13–76 ..... 49647, 49656
TVA proposes to amend annual systems of records notice; comments by 12–10–76 49688
Privacy Protection Study Commission announces 12–9, 12–10, 12–16 and 12–17–76 hearings on employment and personnel recordkeeping practices 49684

MEETINGS—
FCC: National Industry Advisory Committee Amateur Radio Services Subcommittee, 12–7–76 49667
DOD: Wage Committee, 1–4 thru 1–25 inclusive 49666
Design Awards Jury Committee, 12–6 and 12–7–76 .. 49666

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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FEDERAL REGISTER, Daily Issue:

Subscriptions and distribution	202–783–3238
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in this issue.	523–5215
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235

PUBLIC LAWS:

Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

USDA/CSRS: Committee of Nine, 12–14 thru 12–16–76 49661

FS: North Kaibab Grazing Advisory Board, 12–17–76 49661

HEW: Rights and Responsibilities of Women, Secretary's Advisory Committee, 12–2 and 12–3–76 49676

OE: Accreditation and Institutional Eligibility Advisory Committee, 12–8 thru 12–10–76 49675

Interior/NPS: Boston National Historical Park Advisory Commission, 12–7–76 49682

State: Shipping Coordinating Committee Subcommittee on Maritime Law, 12–16–76 49687

Study Group 7 of U.S. National Committee for International Radio Consultative Committee, 11–29–76 49687

Commerce/TS: Address by Secretary of State for Tourism for France, 11–18–76 49666

CANCELLED MEETING—

FEA: Petroleum and Natural Gas Exploration, Development and Production Advisory Committee, 11–15–76 49668

PART II:

SELF-REGULATORY ORGANIZATIONS

SEC extends proceedings on National Securities Clearing Corporation's application for registration as a clearing agency 49721

PART III:

MUTUAL MORTGAGE INSURANCE

HUD consolidates and amends mortgage servicing requirements 49729

PART IV:

VOCATIONAL EDUCATION

HEW/OE publishes notice of intent to issue regulations on State and discretionary programs; comments by 12–17–76 49741

PART V:

FUEL ECONOMY OF MOTOR VEHICLES

EPA adopts testing, labeling and information disclosure requirements for 1977 and later model year automobiles; effective 11–10–76 49751

PART VI:

CITIZEN PARTICIPATION

HEW requests public comment on task force report by 12–25–76 49771

PART VII:

BUDGET RESCISSION AND DEFERRALS

OMB publishes report of three new budget deferrals, revision of two others and withdrawal of a previously submitted rescission proposal 49783

contents

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notices

Authority delegations:
- Colombia, Director; loan agreements ... 49688
- Egypt, Director; loan agreements, etc ... 49688
- Panama, Director; loan agreements (2 documents) ... 49688
- Paraguay, Director; loan agreements ... 49688

AGRICULTURAL MARKETING SERVICE

Rules

Lettuce grown in So. Tex ... 49625
Oranges and grapefruit grown in Tex ... 49625

Proposed Rules

Walnuts grown in Calif., Oreg., and Wash ... 49637

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Cooperative State Research Service; Forest Service.

AIR FORCE DEPARTMENT

Rules

Personnel records amendment, basic identifying data ... 49630

CENSUS BUREAU

Notices

Population censuses, special; results ... 49662

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
- Airborne Freight Corp ... 49662
- Delta Air Lines, Inc.; correction ... 49661

COMMERCE DEPARTMENT

See Census Bureau; Domestic and International Business Administration; Travel Service.

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Rules

Freedom of information ... 49640

COOPERATIVE STATE RESEARCH SERVICE

Notices

Meetings:
- Committee of Nine ... 49661

CUSTOMS SERVICE

Proposed Rules

Drawback claims, accelerated payment ... 49646

DEFENSE DEPARTMENT

See also Air Force Department.

Notices

Meetings:
- Design Awards Jury Committee ... 49666
- Wage Committee ... 49666

DISEASE CONTROL CENTER

Notices

Advisory Committees; annual reports filed, availability ... 49675

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Scientific articles; duty free entry:
- Stanford University ... 49662
- Tennessee State University ... 49664
- University of Nebraska ... 49665

EDUCATION OFFICE

Notices

Meetings:
- Accreditation and Institutional Eligibility Advisory Committee ... 49675

Vocational education, State plans and discretionary programs; clarifications and interpretations; inquiry ... 49741

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air quality implementation plans; various States, etc.:
- Alaska ... 49635

Motor vehicle fuel economy, 1977 and later model years ... 49751

Notices

Agency pollution control and abatement programs:
- Draft program strategies; availability for comment ... 49667

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Proposed Rules

Privacy act; systems of records ... 49656

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rules

FM broadcast stations; table of assignments:
- Texas ... 49659

Notices

Meeting:
- National Industry Advisory Committee, Amateur Radio Services Subcommittee ... 49667

Hearings, etc.:
- Soler, Jose David, et al ... 49667

FEDERAL ENERGY ADMINISTRATION

Rules

Administrative procedures and sanctions; oil:
- Penalties, civil and criminal ... 49625

Petroleum allocation regulations, mandatory:
- Aviation fuel allocation levels ... 49627

Notices

Meeting:
- Petroleum and Natural Gas Exploration, Development and Production Advisory Committee; cancellation ... 49668

FEDERAL HOME LOAN BANK BOARD

Proposed Rules

Federal savings and loan system:
- Alteration, repair, or improvement loans ... 49639

FEDERAL HOUSING COMMISSIONER—OFFICE OF ASSISTANT SECRETARY FOR HOUSING

Rules

Mortgage and loan insurance programs:
- Mutual mortgage insurance, servicing requirements, etc ... 49729

FEDERAL INSURANCE ADMINISTRATION

Rules

Flood Insurance Program, National:
- Areas eligible for sale of insurance; corrections (2 documents) ... 49629

Proposed Rules

Flood Insurance Pogram, National; flood elevation determinations, etc.:
- Ohio ... 49648
- Pennsylvania (11 documents) ... 49648–49656

FEDERAL MARITIME ADMINISTRATION

Notices

Oil pollution; certificates of financial responsibility ... 49668

Agreements filed, etc.:
- Companhia de Navegacao Lloyd Brasileiro and Companhia de Navegacao Maritima Netumar ... 49669
- South Louisiana Port Commission and Peavey Co ... 49669

FEDERAL MEDIATION AND CONCILIATION SERVICE

Notices

Committees, establishment, renewals, etc.:
- FMCS Health Care Industry Labor-Management Advisory Committee ... 49670

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
- Amoco Production Co ... 49672
- Appalachian Power Co ... 49670
- Distrigas Corp. and Distrigas of Massachusetts Corp. (2 documents) ... 49672, 49673

FEDERAL RESERVE SYSTEM

Notices

Applications, etc.:
- Americorp ... 49673
- European-American Bancorp ... 49673
- First Bancorp., Inc ... 49674
- First Freeport Corp ... 49674
- First National Boston Corp ... 49674
- Mingo Bancshares, Inc ... 49675
- Mountain Financial Services, Inc ... 49675
- Stillwater Holding Co ... 49675

FISH AND WILDLIFE SERVICE

Notices

Endangered species permits; applications:
- Gunderson, James D. ... 49677
- Sivelle, Charles ... 49676
- Thompson, Lee E. ... 49678

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
- Dolores National Wild and Scenic River, Colo.; cross reference ... 49661
- Sequoia National Forest, Little Kern Unit, Calif. ... 49661

Meetings:
- North Kaibab Grazing Advisory Board ... 49661

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Disease Control Center; Education Office; Public Health Service.

Notices

Citizen participation; requests for public comments ... 49771

Meetings:
- Women, Rights and Responsibilities, Secretary's Advisory Committee ... 49676

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Federal Housing Commissioner—Office of the Assistant Secretary for Housing; Federal Insurance Administration.

Rules

Low-income housing:
- PHA acquisition with or without rehabilitation; HUD owned or mortgaged properties ... 49629

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau; National Park Service.

Notices

Environmental statements; availability, etc.:
- Bruneau River, Idaho ... 49682
- Dolores National Wild and Scenic River, Colo. ... 49682
- National Fishery Research and Development Center, Pa. ... 49682

INTERNAL REVENUE SERVICE

Proposed Rules

Excise taxes:
- Manufacturers and retailers; special provisions, etc.; correction ... 49656

Income taxes:
- Bank loans, reserves for losses; extension of time ... 49656

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief ... 49690

Hearing assignments ... 49689

Motor carriers:
- Irregular route property carriers; gateway elimination ... 49690
- Temporary authority applications (2 documents) ... 49692, 49695
- Transfer proceedings ... 49700

Waste product transportation for reuse or recycling ... 49700

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

Proposed Rules

Privacy Act; implementation ... 49647

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
- New Mexico (2 documents) ... 49680

Survey plat filings:
- Alaska (8 documents) ... 49679–49682

MANAGEMENT AND BUDGET OFFICE

Notices

Budget rescissions and deferrals ... 49783

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notices

Committees, establishment, renewals, etc.:
- Applications Steering Committee, Earth Dynamics Advisory Subcommittee ... 49683

Environmental statement:
- Modification of 40 x 80-Foot Subsonic Wind Tunnel, Ames Research Center, Calif. ... 49683

NATIONAL LABOR RELATIONS BOARD

Notices

Chairman's Task Force's 1976 Interim Report and Recommendations; availability ... 49683

NATIONAL PARK SERVICE

Rules

Pet restrictions; dogs, cats, etc.:
- Rocky Mountain National Park, Colo ... 49628

Notices

Meetings:
- Boston National Historical Park Advisory Commission ... 49682

PRIVACY PROTECTION STUDY COMMISSION

Notices

Privacy Act of 1974:
- Hearings on employment and personnel recordkeeping practices ... 49684

PUBLIC HEALTH SERVICE

Rules

Industrial sound level meter sets, certification; correction ... 49636

RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS, NATIONAL STUDY COMMISSION

Notices

Public hearings ... 49683

SECURITIES AND EXCHANGE COMMISSION

Notices

Self-regulatory organizations; proposed rule change:
- National Securities Clearing Corp. ... 49721

Hearings, etc.:
- Discount Corporation of New York ... 49685
- Municipal Securities Rulemaking Board ... 49685
- New Orleans Public Service, Inc. ... 49686

SMALL BUSINESS ADMINISTRATION

Notices

Applications, etc.:
- Capital Services and Resources, Inc. ... 49686
- Grocers Small Business Investment Corp. ... 49687

STATE DEPARTMENT

See also Agency for International Development.

Notices

Meetings:
- International Radio Consultative Committee, U.S. National Committee; Study Group 7 ... 49687
- Maritime Law Subcommittee, Shipping Coordinating Committee ... 49687

TENNESSEE VALLEY AUTHORITY

Notices

Privacy Act of 1974:
- Proposed routine uses ... 49688

TRAVEL SERVICE

Notices

Jacques Medecin; luncheon ... 49666

TREASURY DEPARTMENT

See also Customs Service; Internal Revenue Service.

Notices

Notes, Treasury:
- B–1983 series ... 49689
- K–1979 series ... 49689

VETERANS ADMINISTRATION

Rules

Adjudication; pensions, compensation, dependency, etc.:
- Loan guaranty eligibility ... 49636

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Weekly Briefings at the Office of the Federal Register

(For Details, See 41 FR 46527, Oct. 21, 1976)

RESERVATIONS: JANET SOREY, 523–5282

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR

906 49625
971 49625

PROPOSED RULES:

984 49637

10 CFR

205 49625
211 49627

12 CFR

PROPOSED RULES:

545 49639

16 CFR

PROPOSED RULES:

1015 49640

19 CFR

PROPOSED RULES:

22 49646

22 CFR

PROPOSED RULES:

1200 49647

24 CFR

203 49730
845 49629
1914 (2 documents) 49629

PROPOSED RULES:

1917 (12 documents) 49648–49655

26 CFR

PROPOSED RULES:

1 49656
48 49656

29 CFR

PROPOSED RULES:

1611 49656

32 CFR

879 49630

36 CFR

7 49628

38 CFR

3 49636

40 CFR

52 49635
600 49752

42 CFR

82 49636

47 CFR

PROPOSED RULES:

73 49659

CUMULATIVE LIST OF PARTS AFFECTED DURING NOVEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during November.

1 CFR

Ch. 1 47909
301 47909

PROPOSED RULES:

405 49491

3 CFR

PROCLAMATIONS:

4476 49083

5 CFR

Ch. I 49473
213 49473
316 48317
151 48110
771 48110
772 48110
733 49473
1303 49085
2515 47910

7 CFR

Ch. I 48317
2 49473
26 49473
58 48509
246 48119
905 49474
906 ..... 48510, 48719, 49625
908 48510
910 48720
944 49109
971 49625
982 49475
1030 49110
1421 49476
1430 48120
1802 49104
1822 48317
1980 49109

PROPOSED RULES:

729 49492
905 48366
913 48540
984 49637
987 49492
989 48540
1033 47940
1094 49112
1096 49112
1427 48131
1430 48570
1701 48744
1871 47944

8 CFR

PROPOSED RULES:

3 47939
292 47939

9 CFR

97 48721
317 48721
319 ..... 48721, 48743
327 48722
445 48723
447 48723

10 CFR

205 49625
206 48318
211 ..... 48319, 49476, 49627
212 ..... 48319, 48324
420 48325
710 48727

PROPOSED RULES:

50 49123
209 48129
212 49113

12 CFR

4 ..... 47934, 48334
5 ..... 47934, 48334
8 48335
9 ..... 47934, 47937
202 49087
221 48335
546 48727
584 48728

PROPOSED RULES:

202 49123
330 49492
331 49492
545 49639
563 48377
570 48377

13 CFR

316 48116

14 CFR

37 48511
39 ..... 47911, 47912, 48511–48513, 49088, 49089
71 ..... 47913, 48513, 48514, 49090
73 49091
75 ..... 47913, 48514, 49091
97 ..... 47913, 48515
232 49477
300 ..... 48116, 48119

PROPOSED RULES:

39 ..... 47946, 47947
71 ..... 47947, 47948, 48371, 48541, 49149
73 ..... 48541, 49149
91 48371
207 48371
208 48371
212 48371
214 48371
217 48371
221 ..... 48376, 48377, 49151
241 48371
249 48371
300 48129
373a 48371
389 48371

15 CFR

50 48335
923 48112

16 CFR

13 ..... 48113, 48114, 49480
419 48516
303 48115
703 47914
1009 47914

PROPOSED RULES:

1015 49640

17 CFR

1 48112
15 48112
17 48112
240 ..... 48335, 49091
241 ..... 48335, 48336

PROPOSED RULES:

230 49493
239 49493
240 ..... 48377, 48379, 49493
249 49493
259 48130

18 CFR

PROPOSED RULES:

2 48745
141 ..... 45130, 48745
260 ..... 45130, 48745

19 CFR

PROPOSED RULES:

22 49646
155 48132
159 48132

20 CFR

404 47915
405 ..... 47915, 49499, 49592
410 47915
416 47915
602 48250
604 48250
605 48250
653 48250

PROPOSED RULES:

405 49499
625 49608
651 48746
653 48746
656 48938
658 48746

21 CFR

2 48261
8 ..... 48265, 48730
10 48265
121 49482
202 48266
207 48097
310 ..... 47919, 49482
312 48266
429 48267
430 49482
431 48267
433 48267
436 ..... 48099, 49483
444 49483
448 48100
510 48100
511 48268
514 48268
520 ..... 48100, 48731
522 48732
558 ..... 48732, 49484
573 48100
1003 48268
1004 48269
1210 48269

PROPOSED RULES:

102 49504
121 48125
125 49504

21 CFR—Continued

PROPOSED RULES—Continued

436 ... 49504
446 ... 49504
452 ... 48125
1306 ... 49505

22 CFR

201 ... 48732
211 ... 47919

PROPOSED RULES:

1200 ... 49647

23 CFR

140 ... 48516, 49484
740 ... 48682

24 CFR

203 ... 49730
570 ... 48476
845 ... 49629
881 ... 49484
888 ... 49440
1914 ... 49629
1917 ... 48110–48132, 48337–48341, 48535–48538, 48732–48735, 49093, 49094
2205 ... 48538

PROPOSED RULES:

1917 ... 48366–48370, 48542–48552, 49151–49159, 49648–49655

25 CFR

60 ... 48735
104 ... 48735

26 CFR

601 ... 48740

PROPOSED RULES:

1 ... 48132–48134, 49160, 49656
48 ... 48346, 49656
301 ... 49178
601 ... 48746

27 CFR

5 ... 48120

29 CFR

1910 ... 48742
2608 ... 48480
2610 ... 48484

PROPOSED RULES:

60 ... 48947
1611 ... 49656
1910 ... 48746, 48950
1915 ... 48950
1916 ... 48950
1917 ... 48950
1918 ... 48950
1926 ... 48950
2608 ... 48492

29 CFR—Continued

PROPOSED RULES—Continued

2610 ... 48498
2615 ... 48504

30 CFR

PROPOSED RULES:

11 ... 49506

31 CFR

PROPOSED RULES:

350 ... 47959

32 CFR

879 ... 49630

33 CFR

117 ... 48516

PROPOSED RULES:

40 ... 47944
117 ... 47945
204 ... 48747

36 CFR

7 ... 49628
221 ... 48538

38 CFR

3 ... 49636

PROPOSED RULES:

3 ... 48747
21 ... 49506

40 CFR

52 ... 49635
60 ... 48342
61 ... 48342
120 ... 48737
407 ... 48736
416 ... 48516
455 ... 48088
600 ... 49752

PROPOSED RULES:

52 ... 47949–47956, 48044, 48750, 48752
60 ... 48706

41 CFR

8–7 ... 48516
8–18 ... 48516
101–11 ... 48737
101–32 ... 48519

PROPOSED RULES:

60–2 ... 48128
60–5 ... 48128
60–8 ... 48128

42 CFR

82 ... 49636

PROPOSED RULES:

54 ... 48242
84 ... 48753

43 CFR

2650 ... 49487
3300 ... 48738

PROPOSED RULES:

3500 ... 48124, 48754
3510 ... 48124
9230 ... 48754

45 CFR

250 ... 48738
581 ... 49094
801 ... 47938, 48739
1005 ... 48739

PROPOSED RULES:

177 ... 48862, 48910
1061 ... 49179

47 CFR

0 ... 48343, 49095
15 ... 49095
21 ... 47931
73 ... 47931, 49095–49103
74 ... 48519
89 ... 48520
91 ... 48520
93 ... 48520

PROPOSED RULES:

21 ... 49182
73 ... 47956, 49182, 49659

49 CFR

1 ... 48122, 49487
218 ... 48343
501 ... 47933
1033 ... 48122, 48343, 48344
1090 ... 48344
1121 ... 48520
1201 ... 48972

PROPOSED RULES:

173 ... 48553
210 ... 49183
571 ... 48555
218 ... 48126
265 ... 48371
393 ... 47948
1090 ... 48130
1100 ... 49282

50 CFR

20 ... 48534
26 ... 49487, 49488
32 ... 48345, 48535
33 ... 49488
215 ... 49488

PROPOSED RULES:

17 ... 48757
216 ... 49507

FEDERAL REGISTER PAGES AND DATES—NOVEMBER

Pages	*Date*
47909–48096	Nov. 1
48097–48315	2
48317–48508	3
48509–48718	4
48719–49081	5
49083–49472	8
49473–49623	9
49625–49797	10

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

Filberts grown in Oregon and Washington; free and restricted percentages for 1976–77 marketing policy year; comments by 11–19–76. 45999; 10–19–76

Milk marketing orders; Ohio Valley; comments by 11–16–76.... 47940; 11–1–76

Raisins produced from grapes grown in California; expenses and rate of assessment for 1976–77 crop year; comments by 11–19–76 ... 49540; 11–4–76

Walnuts Grown in California; free and reserve percentages for 1976–77 marketing year; comments by 11–19–76..... 47490; 10–29–76

Animal and Plant Health Inspection Service—

Employment of veterinary technicians by accredited veterinarians; requirements and standards for use; comments by 11–20–76.... 44407; 10–8–76

Commodity Credit Corporation—

Cigar tobacco, grade loan rate for price support on 1976 crop; comments by 11–15–76..... 45575; 10–15–76

Farmers Home Administration—

Chattel security; liquidation of property and related actions; comments by 11–15–76.... 45576; 10–15–76

Packers and Stockyards Administration—

Market agency, dealer and packer bonds; general provisions; comments by 11–16–76..... 40162; 9–17–76

CIVIL AERONAUTICS BOARD

CAB/SEC single reporting system and updating the accounting and reporting provision; comments by 11–19–76. 46324; 10–20–76

Tariffs of Air Carriers; Free and Reduced-Rate Transportation; comments by 11–17–76..... 45848; 10–18–76

CONSUMER PRODUCT SAFETY COMMISSION

Hazardous pacifiers ban, revised proposals; comments by 11–19–76. 46347; 10–20–76

ENVIRONMENTAL PROTECTION AGENCY

Approval and promulgation of North Dakota implementation plans; comments by 11–18–76..... 46010; 10–19–76

Grants for State underground water source protection programs; comments by 11–15–76. ..... 36727; 8–31–76

Inert ingredients in pesticide formulations; exemption from tolerance; comments by 11–15–76..... 45029; 10–14–76

Puerto Rico; approval and promulgation of implementation plans; comments by 11–18–76..... 46010; 10–19–76

State underground injection control programs; comments by 11–15–76. 36730; 8–31–76

FEDERAL COMMUNICATIONS COMMISSION

Broadcast licensees; maintenance of certain program records requirements; reply comments by 11–19–76. 42958; 9–29–76

FM broadcast stations; Table of assignments, Crozet, Va.; comments by 11–19–76..... 46350; 10–20–76

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Insurance Corporation; reserve accounts; comments by 11–15–76 ..... 44057; 10–6–76

FEDERAL MARITIME COMMISSION

Reports by common carriers by water in domestic offshore trades; comments by 11–19–76..... 46352; 10–20–76

Rules of practice and procedure; miscellaneous amendments; comments by 11–15–76..... 44059; 10–6–76

FEDERAL RESERVE SYSTEM

Interlocking bank relationships; Clayton Act; comments by 11–15–76.. 46352; 10–20–76

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

Antibiotic drugs; tetracycline; updating and technical revision of regulations relating to human use; comments by 11–16–76..... 40168; 9–17–76

Packaging of antibiotic drugs for parenteral use; clarification of requirements; comments by 11–15–76. 39328; 9–15–76

Pickled, fermented, and acidified foods; emergency permit control; comment period extended to 11–20–76..... 41436; 9–22–76

Pickled, fermented, and acidified foods; good manufacturing practice; comment period extended to 11–20–76..... 41436; 9–22–76

Thermally processes low-acid foods packaged in hermetically sealed containers; good manufacturing practice; comment period extended to 11–20–76..... 41436; 9–22–76

Social Security Administration—

Health insurance for the aged and disabled, provider elections and changes of intermediary; comments by 11–19–76..... 43917; 10–5–76

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of Assistant Secretary for Housing—

Experimental financing; interim rule; comments by 11–15–76.... 42948; 9–29–76

INTERIOR DEPARTMENT

Geological Survey—

Coal mine operations; Montana reclamation requirements; comments by 11–19–76..... 39036; 9–14–76

Hearings and Appeals Office—

Mine Health and Safety hearings and appeals; Summary disposition; special rules; comments by 11–15–76. 45574; 10–15–76

Indian Affairs Bureau—

Irrigation projects; operation and maintenance; comments by 11–15–76..... 39030; 9–14–76

Mining Enforcement and Safety Administration—

Procedures for civil penalty assessment; comments by 11–15–76. 45574; 10–15–76

LABOR DEPARTMENT

Contract Compliance Programs Office—

Equal employment opportunity; revision and redesignation of regulations; comments by 11–16–76. 40340; 9–17–76

Employee Benefits Security Office—

Employee stock ownership plans and taxpayer election of 11-percent investment credit; comments by 11–19–76..... 46017; 10–19–76

Office of the Secretary—

Migrant and other seasonally employed farmworkers; comprehensive employment and training programs; comments by 11–17–76 46617; 10–22–76

NATIONAL AERONAUTICS AND SPACE ADMIISTRATION

Privacy regulations; comments by 11–15–76..... 43200; 9–30–76

NATIONAL CREDIT UNION ADMINISTRATION

Corporate central Federal credit unions; comments by 11–16–76..... 41725; 9–23–76

SECURITIES AND EXCHANGE COMMISSION

Securities confirmations; transactions; comments by 11–15–76..... 41432; 9–22–76

Rule relating to reporting by certain issuers that file reports with other Federal agencies; comments by 11–15–76.... .... 46353; 10–20–76

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—
Transition area designation; Cape Hatteras; comments by 11–15–76. 43183; 9–30–76

Federal Railroad Administration—
Federally assisted programs; nondiscrimination; comments by 11–20–76..... 46612; 10–22–76

National Highway Traffic Safety Administration—
Federal Motor Vehicle Safety Standards; Metric series and 60-psi passenger car tires; comments by 11–15–76..... 43192; 9–30–76

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau—
Distilled spirits bottling premises, responsibility for sealing conveyances, preparation and disposition of distilled spirits plant transaction forms; records and reports; comments by 11–16–76..... 40118; 9–17–76

Comptroller of Currency—
National banks; form and content of financial statements to shareholders; comments by 11–20–76. 46144; 10–19–76

Customs Service—
Customs field organization; change in Region IX; comments by 11–15–76. 45015; 10–14–76

Internal Revenue Service—
Employee stock ownership plans and taxpayer election of 11-percent investment credit; comments by 11–19–76..... 46017; 10–19–76

VETERANS ADMINISTRATION

Benefits; recoupment of severance pay; comments by 11–15–76..... 45031; 10–14–76

Next Week's Public Hearings

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—
Yellowfin tuna; incidental take in seine operations, Washington, D.C., 11–15–76..... 45015; 10–14–76

FEDERAL TRADE COMMISSION

Food advertising, Washington, D.C.; 11–15–76..... 21368; 5–25–76

INTERIOR DEPARTMENT

Geological Survey—
Coal mining operating regulations; adoption of requirements of Montana's reclamation laws, Billings, Montana, 11–18–76..... 45999; 10–19–76

Reclamation Bureau—
Kanopolis Unit, Kansas; Public Hearing on Draft Environmental statement, 11–18–76..... 45882; 10–18–76

INTERNATIONAL TRADE COMMISSION

Hearing; Sugar, New Orleans, Louisiana, 11–18–76..... 47604; 10–29–76

RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS, NATIONAL STUDY COMMISSION

Hearings, San Francisco, California and Chicago, Illinois, 11–15, 11–16, 11–18 and 11–19–76.. 47115; 10–27–76

SECURITIES AND EXCHANGE COMMISSION

Bearing of distribution Expenses by Mutual Funds, Washington, D.C., 11–17–76..... 44770; 10–12–76

TRANSPORTATION DEPARTMENT

Coast Guard—
Self-propelled vessels carrying bulk liquefied gases; standards; Washington, D.C., 11–15–76..... 43822; 10–4–76

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; discontinuance of benefits to eligibles in Elba Systems Corp., Denver, Colo. (open), 11–16–76.... 46665; 10–22–76

Next Week's Meetings

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—
Shippers Advisory Committee, Lakeland, Fla. (open), 11–16–76. 47980; 11–1–76

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Architecture and Environmental Arts Advisory Panel, Washington, D.C., (closed), 11–16 and 11–17–76. 47289; 10–28–76

National Council on the Arts, Washington, D.C. (partially open), 11–19 and 11–20–76..... 48423; 11–3–76

Research Grants Panel, Washington, D.C. (closed), 11–15 and 11–19–76. 45066–45067; 10–14–76

Theatre Advisory Panel, Washington, D.C. (partially closed), 11–14–76. 47290; 10–28–76

CIVIL RIGHTS COMMISSION

Louisiana Advisory Committee, Baton Rouge, Louisiana (open), 11–19–76. 48560; 11–4–76

Maine Advisory Committee, Bangor, Me. (open), 11–18–76.. 46640; 10–22–76

Michigan Advisory Committee, Detroit, Mich. (open), 11–15–76 47992; 11–1–76

Michigan Advisory Committee, Sault Ste. Marie, Michigan (open), 11–19–76. 48561; 11–4–76

North Carolina State Advisory Committee, Raleigh, N.C. (open), 11–19–76. 47282; 10–28–76

Vermont Advisory Committee, Montpelier, Vt. (open), 11–15–76.. 46640; 10–22–76

West Virginia Advisory Committee, Charleston, W.Va. (open), 11–17–76. 46640; 10–22–76

COMMERCE DEPARTMENT

Census Bureau—
Census Advisory Committee on Housing For the 1980 Census, Suitland, Md. (open), 11–18–76..... 47271; 10–28–76

Domestic and International Business Administration—
Telecommunications Equipment Technical Advisory Committee, Washington, D.C. (partially closed), 11–19–76..... 47981; 11–1–76

National Bureau of Standards—
Federal Information Processing Standards Coordinating and Advisory Committee, Gaithersburg, Md. (open), 11–18–76..... 44724; 10–12–76

National Oceanic and Atmospheric Administration—
South Atlantic Regional Fishery Management Council, Savannah, Ga. (open), 11–18 and 11–19–76. 48392; 11–3–76

CONSUMER PRODUCT SAFETY COMMISSION

Product Safety Advisory Council, Washington, D.C. (open with restrictions), 11–16 and 11–17–76..... 47585; 10–29–76

DEFENSE DEPARTMENT

Air Force Department—
Air Force Academy Board of Visitors, Colorado Springs, Colorado (partially open), 11–19–76..... 48563; 11–4–76

Military Airlift Committee, Wilton, Connecticut (open), 11–17 and 11–18–76..... 45591; 10–15–76

USAF Scientific Advisory Board, Los Angeles, Calif. (closed), 11–17–76. 44197; 10–7–76

USAF Scientific Advisory Board, Wright-Patterson AFB, Ohio (closed), 11–15 and 11–16–76. 46626; 10–22–76

USAF Scientific Advisory Board, Wright-Patterson AFB, Ohio (closed), 11–18–76..... 46355; 10–20–76

Army Department—
Ballistic Missile Defense Technology Advisory Panel, Huntsville, Ala. (closed), 11–15 thru 11–17–76. 46488; 10–21–76

Junior Science and Humanities Symposia Advisory Committee, Research Triangle Park, North Carolina (open), 11–16–76.....46032; 10–19–76

Navy Department—
Academic Advisory Board to the Superintendent, U.S. Naval Academy, Annapolis, Maryland (open), 11–15–76..... 44432; 10–8–76

Office of Secretary—
Defense Science Board Task Force on PATRIOT vulnerability, Bedford, Mass. (closed), 11–18–76. 46355; 10–20–76

Defense Advisory Committee on Women in the Services, Washington, D.C. (open), 11–15 thru 11–18–76..... 44873; 10–13–76

Wage Committee, Washington, D.C. (closed), 11–16–76..... 41439; 9–22–76

ECONOMIC OPPORTUNITY, NATIONAL ADVISORY COUNCIL
Committee on Agency Operations, Washington, D.C. (open), 11–17 and 11–18–76..... 45062; 10–14–76
Committee on Legislation, Washington, D.C. (open), 11–18–76..... 45062; 10–14–76
Meeting, Washington, D.C. (open), 11–19–76..... 45062; 10–14–76

EDUCATION OF DISADVANTAGED CHILDREN, NATIONAL ADVISORY COUNCIL
Meeting in Parma, Ohio (open), 11–19 and 11–20–76..... 48196; 11–2–76

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
Historical Advisory Committee, Greenville, Del. (closed), 11–16–76. 46899; 10–26–76
Procurement Policy Advisory Committee, Washington, D.C. (open), 11–16–76. 47992; 11–1–76

FEDERAL ENERGY ADMINISTRATION
Consumer Affairs/Special Impact Advisory Committee, Atlanta, Georgia (open), 11–19–76.... 48467; 11–4–76
Petroleum and Natural Gas Exploration, Development, and Production Advisory Committee, Washington, D.C. (open), 11–15–76.. 46649; 10–22–76
Public Forum on Coal, Charleston, W.Va. (open), 11–15–76..... 48401; 11–3–76

FEDERAL PREVAILING RATE ADVISORY COMMITTEE
Pay System for Federal prevailing rate employees, Washington, D.C. (closed), 11–18–76..... 46373; 10–20–76

GENERAL SERVICES ADMINISTRATION
National Archives and Records Service—
Archives Advisory Council, Washington, D.C. (open with restrictions), 11–18 thru 11–20–76..... 46389; 10–20–76

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration—
Advisory Committees, Washington, D.C., Maryland and Virginia (partially open), 11–15 thru 11–20–76. 44442; 10–8–76
Alcohol, Drug Abuse, and Mental Health National Panel, Rockville, Md. (open), 11–15–76..... 47272; 10–28–76
Education Office—
Adult Education National Advisory Council, New York, New York (open), 11–16 thru 11–18–76. 47092; 10–27–76
National Diffusion Network Program; comments by 11–17–76.... 45962; 10–18–76
Federal Council on the Aging—
Economics of Aging Committee, Washington, D.C. (open), 11–16 and 11–17–76..... 47091; 10–27–76
Food and Drug Administration—
Antiinfective Agents Advisory Committee, Rockville, Md. (partially open), 11–16–76..... 45613; 10–15–76
Nuclear Medicine Subcommittee of the Medical Radiation Advisory Committee, Chicago, Illinois (open), 11–17–76..... 47573; 10–29–76
Review of Contraceptives and Other Vaginal Products Panel, Rockville, Md. (partially open), 11–19 and 11–20–76..... 45613; 10–15–76
Review of Miscellaneous Internal Drug Products Panel, Rockville, Md. (partially open), 11–15–76..... 45612; 10–15–76
Review of Topical Analgesics Panel, Rockville, Md. (partially open), 11–17 and 11–18–76..... 45613; 10–15–76
Toxicology Subcommittee of the Diagnostic Products Advisory Committee, Washington, D.C. (partially open), 11–15 and 11–16–76.. 45612; 10–15–76
National Institutes of Health—
Cancer Research Grant Application Review Committee, Bethesda, Maryland (partially open), 11–15 thru 11–20–76.... 44445; 10–8–76
Communicative Disorders Review Committee, San Diego, Calif. (open with restrictions), 11–15–76. 38541; 9–10–76
Comprehensive Sickle Cell Centers (CSCC) Ad Hoc Review Committee, Bethesda, Md. (partially open), 11–17 thru 11–19–76..... 41774; 9–23–76
Conference on Guides for Training Programs in Gastrointestinal Oncology, Bethesda, Md. (open), 11–18 and 11–19–76..... 38541; 9–10–76
Contraceptive Development Contract Review Committee, Bethesda, Md. (open), 11–15–76..... 43217; 9–30–76
General Clinical Research Centers Committee, Bethesda, Md. (partially open), 11–15 and 11–16–76. 41774; 9–23–76
General Research Support Program Advisory Committee, Bethesda, Md. (open), 11–17 thru 11–19–76. 43217; 9–30–76
Maternal and Child Health Research Committee, Bethesda, Md. (partially open), 11–16 and 11–17–76. 41775; 9–23–76
National Cancer Advisory Board, Bethesda, Maryland (open), 11–15 and 11–16–76 .. 44445; 10–8–76
Pediatric Clinical Pharmacology Workshop, Bethesda, Maryland (open), 11–18 and 11–19–76..... 33576; 8–10–76
Pharmacology Toxicology Research Program Committee, Bethesda, Md. (open), 11–15–76..... 43218; 9–30–76
Study Sections; Bethesda, Md., Chevy Chase (partially open), 11–15, 11–16, 11–17, 11–18, 11–19 and 11–20–76..... 35552; 8–23–76
Temporary Review Committee for Frederick Cancer Research Center, Germantown, Md. (open), 11–18–76..... 45894; 10–18–76
Vision Research Program Committee, Bethesda, Md. (open with restrictions), 11–18 and 11–19–76. 45895; 10–18–76
Office of Secretary—
National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, San Francisco, Calif. (partially open), 11–14–76..... 46363; 10–20–76
President's Commission on Olympic Sports, Arlington, Virginia (closed), 11–14 thru 11–16–76..... 47579; 10–29–76
President's Council on Physical Fitness and Sports, Washington, D.C. (open), 11–16 and 11–17–76. 46040; 10–19–76
Services and Facilities for the Developmentally Disabled National Advisory Council, Washington, D.C. (open), 11–15 thru 11–17–76. 46500; 10–21–76

HISTORIC PRESERVATION ADVISORY COUNCIL
International Centre Committee, Washington, D.C. (open), 11–16–76. 47987; 11–1–76

INTERIOR DEPARTMENT
Land Management Bureau—
National Advisory Board, Albuquerque, New Mexico (open), 11–15 thru 11–17–76..... 46033; 10–19–76
Redding District Advisory Board Planning Committee, Reading, Calif. (open), 11–17 and 11–18–76. 46627; 10–22–76
Roswell District Multiple Use Advisory Board, Roswell, New Mexico (open), 11–15–76..... 45597; 10–15–76
National Park Service—
Gateway National Recreation Area; draft management plan, Staten Island, N.Y., New York, N.Y. (open), 11–19 and 11–20–76..... 41443; 9–22–76

LABOR DEPARTMENT
Labor Statistics Bureau—
Business Research Advisory Council's Committee on Wages and Industrial Relations, Washington, D.C. (open) 11–15–76..... 47612; 10–29–76
Office of the Secretary—
Occupational Safety and Health National Advisory Committee, Washington, D.C. (open), 11–18 and 11–19–76..... 48201; 11–2–76

MANAGEMENT AND BUDGET OFFICE
Business Advisory Council on Federal Reports, Washington, D.C. (open), 11–18–76..... 48197; 11–2–76

Executive, Legislative and Judicial Salaries Commission, Washington, D.C. (closed), 11–16–76..... 46529; 10–21–76

Executive, Legislative and Judicial Salaries, Washington, D.C. (closed), 11–17–76..... 48197; 11–2–76

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

New England Regional Fishery Management Council, Arlington, Virginia (open), 11–18 and 11–19–76. 47571; 10–29–76

OCEANS AND ATMOSPHERIC, NATIONAL ADVISORY COMMITTEE

Meeting, Washington, D.C. (open), 11–15 and 11–16–76.. 47114; 10–27–76

NUCLEAR REGULATORY COMMISSION

Reactor Safeguards Advisory Committee, Washington, D.C. (partially open), 11–11 thru 11–13–76.... 48820; 11–5–76

SCIENCE AND TECHNOLOGY POLICY OFFICE

President's Committee on Science and Technology, Washington, D.C. (open), 11–18–76..... 48424; 11–3–76

SECURITIES AND EXCHANGE COMMISSION

National Market Advisory Board, Washington, D.C. (open), 11–15 and 11–16–76..... 47300; 10–28–76

SMALL BUSINESS ADMINISTRATION

Albuquerque District Advisory Council, Albuquerque, N.M. (open), 11–17–76. 48200; 11–2–76

Hartford District Advisory Council, Hartford, Conn. (open), 11–18–76. 48200; 11–2–76

Las Vegas District Advisory Council, Las Vegas, Nevada, 11–18–76..... 47610; 10–29–76

Lower Rio Grande Valley District Advisory Council, Edinburg, Texas (open), 11–16–76..... 44243; 10–7–76

STATE DEPARTMENT

Northwest Atlantic Fisheries Advisory Committee, Boston, Mass. (open and closed), 11–16–76..... 46889; 10–26–76

Office of the Secretary—

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 11–18–76..... 47084; 10–27–76

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 11–17–76. 46488; 10–21–76

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 11–18–76. 46488; 10–21–76

TRADE NEGOTIATIONS, OFFICE OF SPECIAL REPRESENTATIVE

Trade Negotiations Advisory Committee, Washington, D.C. (closed), 11–16–76. 48006; 11–1–76

TRANSPORTATION DEPARTMENT

Coast Guard—

National Offshore Operations Industry Advisory Subcommittee on Mobile Offshore Units, Washington, D.C. (open), 11–19–76..... 48620; 11–4–76

Federal Aviation Administration—

Radio Technical Commission for Aeronautics (RTCA) Executive Committee, Arlington, Va. (open), 11–17–76..... 47280; 10–28–76

Federal Highway Administration—

Highway Safety Management Program Study, Washington, D.C. (open), 11–18–76..... 48163; 11–2–76

Federal Railroad Administration—

Minority Business Resources Center Advisory Committee, Washington, D.C. (open), 11–17–76..... 48163; 11–2–76

TREASURY DEPARTMENT

Internal Revenue Service—

Small Business Advisory Committee, Washington, D.C. (open), 11–15 and 11–16–76.... 46889; 10–26–76

VETERANS ADMINISTRATION

Station Committee on Educational Allowances (open), Denver, Colorado, 11–16–76..... 47611; 10–29–76

Station Committee on Educational Allowances, San Diego, California 11–15–76..... 45635; 10–15–76

Station Committee on Educational Allowances, Togus, Me. (open), 11–15–76..... 46665; 10–22–76

Veterans Administration Wage Committee, Washington, D.C. (closed), 11–18–76..... 38557; 9–10–76

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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

[Grapefruit Regulation 28, Amendment 1]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Limitation of Shipments

This amendment sets the minimum size requirement for shipments of grapefruit grown in the Lower Rio Grande Valley at 3$^{5}/_{16}$ inches for the period November 8 through December 5, 1976, rather than 3$^{9}/_{16}$ inches currently established for the period. This requirement is designed to promote orderly marketing in the interest of producers and consumers.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of grapefruit grown in the Lower Rio Grande Valley in Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Texas Valley Citrus Committee (established under the aforesaid amended marketing agreement and order), and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

Shipment of grapefruit 3$^{5}/_{16}$ inches in diameter and larger is currently authorized under Grapefruit Regulation 27 (40 FR 51178) through November 7, 1976. Grapefruit Regulation 28 (41 FR 48719), which becomes effective November 8, 1976, would set the minimum at 3$^{9}/_{16}$ inches. However, this requirement should be modified to allow the continued shipment of grapefruit 3$^{5}/_{16}$ inches in diameter beyond November 7, 1976, because the season is late this year, shipments are behind schedule, and the fruit is smaller than normal. A large percentage of size 112 grapefruit is expected to move into the export market.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of grapefruit.

Order. The provisions of paragraph (a)(2) of § 906.359 Grapefruit Regulation 28 (41 FR 48719) are amended to read as follows:

§ 906.359 Grapefruit Regulation 28.

Order. (a) During the period November 8, 1976, through November 6, 1977, no handler shall handle:

* * * * *

(2) Any grapefruit of any variety, grown in the production area, which are smaller than pack size 96, as such size is specified in § 51.630(c) of the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona), except that the minimum diameter limit for pack size 96 grapefruit in any lot shall be 3$^{9}/_{16}$ inches: *Provided,* That during the periods November 8, 1976, through December 5, 1976, and February 21, 1977, through November 6, 1977, no handler shall handle any grapefruit of any variety, grown in the production area, which are smaller than pack size 112, as such size is specified in § 51.630(c) of the aforesaid U.S. Standards for Grapefruit, except that the minimum diameter limit for pack size 112 grapefruit in any lot shall be 3$^{5}/_{16}$ inches;

* * * * *

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

Dated, November 5, 1976, to become effective November 8, 1976.

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

[FR Doc.76-33076 Filed 11-9-76;8:45 am]

PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Expenses and Rate of Assessment

This document authorizes the South Texas Lettuce Committee to spend $20,500 for its operations during the fiscal period ending July 31, 1977, and to collect one and one-half cents ($0.015) per carton on assessable lettuce handled by first handlers to defray such expenses.

The committee is the administrative agency established under Marketing Agreement No. 144 and Order No. 971 (7 CFR Part 971), regulating the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

Notice was published in the October 21 FEDERAL REGISTER (41 FR 46453) regarding the proposals. It afforded interested persons an opportunity to file written comments not later than November 4, 1976. None was filed.

After consideration of all relevant matters, including the proposals set forth in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular fiscal period shall apply to all assessable lettuce from the beginning of such period.

The regulation follows:

§ 971.216 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1977, by the South Texas Lettuce Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate will amount to $20,500.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be one and one-half cents ($0.015) per carton of assessable lettuce handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 971.43(a)(2).

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

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

Dated: November 5, 1976.

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

[FR Doc.76-33075 Filed 11-9-76;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

Subpart P—Investigations, Violations, Sanctions, and Judicial Actions

CIVIL AND CRIMINAL REGULATIONS

I. BACKGROUND

On August 17, 1976 the Federal Energy Administration ("FEA") gave Notice (41

FR 34783, August 17, 1976) of a Proposed Rulemaking to consider proposals to revise Part 205 of Title 10, Code of Federal Regulations, regarding the possibility of amending the definition of "notice of noncompliance" contained in FEA's penalty regulations.

In this proceeding, 29 written comments were received and a public hearing was held in Washington, D.C. on September 1, 1976 at which 6 oral presentations were received. After consideration of all the written comments and oral presentations, the FEA has determined that the definition of "notice of noncompliance" should be modified.

Section 452 of the Energy Policy and Conservation Act ("EPCA"), which was enacted into law on December 22, 1975, amended Section 5 of the Emergency Petroleum Allocation Act of 1973 ("EPAA") so as to increase substantially the penalties applicable to violations of the Federal Energy Administration's mandatory price and allocation regulations. Included within those new penalty amendments was a provision, now contained in Section 5(a)(4) of the EPAA, which makes individual directors, officers or agents of corporations subject to the same criminal penalties as the corporation if they have "knowingly and willfully" authorized, ordered or performed any act or practice that constitutes a violation described in that section. However, Section 5(a)(4) limits a corporate official's liability for imprisonment to those cases where he has knowledge, or reasonably should have known, of "notice of noncompliance" received by the corporation from the FEA. There is very little in the legislative history of the EPCA elucidating congressional intent regarding precisely what constitutes "notice of noncompliance."

On January 15, 1976, the Federal Energy Administration issued a Notice of Proposed Rulemaking to amend FEA's existing civil and criminal penalty regulations to conform them to the provisions of Section 5(a). (41 FR 2249, January 15, 1976.) In that Notice, FEA proposed to define "notice of noncompliance" as "any written notice that the FEA believes the corporation to be acting in violation of the provisions of this chapter * * * or any order issued pursuant thereto, and shall include, but not be limited to a notice of probable violation * * * a remedial order * * * or a consent order * * *."

Many comments received in response to the January Notice of Proposed Rulemaking disagreed with the FEA definition of "notice of noncompliance." The disagreement focused on FEA's inclusion of notices of probable violation ("NOPV's") or other pre-remedial order notices as "notices of noncompliance" sufficient to trigger a corporate director's, officer's, or agent's liability for imprisonment. Despite the disagreement, FEA adopted its proposed definition of "notice of noncompliance" in a rulemaking on May 14, 1976 (41 FR 19929).

On August 17, 1976, FEA decided to reconsider the propriety of the definition of "notice of noncompliance" in the context of a rulemaking proceeding. The August 1976 Notice of Proposed Rulemaking suggested three possible alternative revisions to the definition. The first option suggested in the Notice of Proposed Rulemaking, and the only one for which express regulatory language was drafted, would have revised the current regulations by including in them the substance of the discussion regarding "notice of noncompliance" and referrals to the Department of Justice contained in the preamble to the current regulations, and by making clear that an NOPV would not constitute a "notice of noncompliance" unless the NOPV expressly so indicated.

The second alternative discussed in the Notice of Proposed Rulemaking was to leave the criminal penalty regulations unaltered, and the third alternative was to amend the current regulations to provide that only remedial orders or consent orders would be considered "Notices of Noncompliance."

Virtually all of the comments received both in writing and orally at the public hearing criticized and found unacceptable both the current regulation, designated as the second alternative in this Rulemaking, as well as the option designated as Alternative One. Most commentators suggested that Alternative One was inadequate because it left wide discretion within the agency to determine which NOPV's would contain language which would trigger the penalty provisions involving incarceration. There was fear, expressed by commentators, that after a period of time, the inclusion of the triggering language in NOPV's would become routine, rather than extraordinary, as contemplated by Alternative One.

Of the 35 commentators who responded to the Notice of Proposed Rulemaking, all agreed, either expressly or by implication, that NOPV's as mere notices that a violation probably exists, should be deleted from any revision of the definition of "notice of noncompliance." These commentators urged, in support of their position, that a literal meaning of the phrase "notice of noncompliance" would appear to exclude documents such as NOPV's, which do not purport, under FEA regulations, to make a definitive finding of noncompliance. In addition, these commentators contended that the sparse legislative history relevant to the construction of the term "notice of noncompliance" fails to justify an interpretation of that term which would include NOPV's. In short, the consensus of the commentators was that "notice of noncompliance" should be restricted to FEA documents which conclude that a violation exists.

FEA has evaluated the merits of all of the contentions advanced by each of the commentators. FEA has concluded that NOPV's should be excluded from the definition of "notice of noncompliance." Ordinarily an NOPV is in the nature of a complaint notifying a firm that FEA has reason to believe that a violation of its regulation has occurred or is occurring. As such, NOPV's do not represent final agency findings that a violation has, in fact, occurred, and it would be more equitable, therefore, not to include NOPV's within the definition of "notice of noncompliance" contained in FEA regulations. Accordingly, NOPV's are deleted from the definition of "notice of noncompliance."

Ten commentators urged FEA to drop consent orders from inclusion within the definition of "notice of noncompliance" on the theory that such orders are not agency findings of violation. However, FEA regulations provide that a consent order may contain an admission by a firm that a violation of FEA regulations has occurred. An admission by a firm in a consent order that a violation of FEA regulations has occurred becomes an official agency finding upon acceptance of the consent order by the FEA. As such, a consent order containing an express concession of a violation is not substantially different from a remedial order merely because the former is voluntarily entered into, and the latter is unilaterally issued. Similarly, a consent order that does not contain a concession that a violation has occurred, but which contains a provision acknowledging awareness of FEA's interpretation with respect to the unlawfulness of a particular practice, will be deemed to be a "notice of noncompliance." It should be emphasized that only those consent orders which contain either an explicit concession by a firm that a violation of FEA regulations has occurred or an express acknowledgement of an FEA interpretation will be considered by FEA to constitute "notices of noncompliance."

Ten of those responding to the Notice of Proposed Rulemaking argued that a "notice of noncompliance" should only be issued after a company had exhausted all of its administrative appeals. For the reason set forth below, FEA declines to accept this suggestion.

A literal reading of the language employed by Congress in specifying "notice of noncompliance," which has been construed herein in accordance with the suggestions of all of the commentators as requiring the deletion of NOPV's, demands the inclusion of final agency findings of a violation. Such agency actions, even prior to administrative appeal, are according to FEA's regulations final determinations. There could be no clearer "notice of noncompliance," as that term was contemplated by Congress, than a remedial order, for example. As the Conference Report makes clear, the statutory amendment was designed to limit the authority to seek a term of imprisonment "to instances when the director, officer or agent had knowledge or reasonably should have known of prior notice of noncompliance required by the corporation." (S. Rep. No. 94-516, 94th Cong., 1st Sess. 200 (1975)).

Finally, none of the commentators criticized the present language of the regulations which includes within the definition of notice of noncompliance "any written notice that the FEA believes the corporation to be acting in violation" of FEA regulations. FEA has

weighed the necessity of having the limited flexibility of the power to utilize other written notices in extraordinary situations against the possibility for abuse inherent in retaining such overly broad authority for the agency to deem "any written notice" a "notice of noncompliance." FEA has determined to delete the language contained in the present regulation providing that any written notice may constitute a notice of noncompliance because it is needlessly duplicative of other elements of the definition of notice of noncompliance, and, to the extent not duplicative, may pose the possibility of abuse.

This amendment has been reviewed in accordance with Executive Order No. 11821, issued on November 27, 1974 (39 FR 41502), and has been determined not to be of a nature that requires an evaluation of its inflationary impact pursuant to that Order.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133 and Pub. L. 94–163; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385, Energy Policy and Conservation Act, Pub. L. 94–163; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 205 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., November 5, 1976.

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

Section 205.203(e)(2)(i) is revised to read as follows:

§ 205.203 Sanctions.

* * * * *

(e)(2)(i) "Notice of Noncompliance" shall be a Remedial Order issued under §§ 205.192 or 205.193, and a Consent Order issued under § 205.197.

[FR Doc.76–33092 Filed 11–5–76;4:35 pm]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Amendments to Aviation Fuel Allocation Levels

On October 8, 1976, the Federal Energy Administration ("FEA") issued a notice of proposed rulemaking and public hearing (41 FR 45585; October 15, 1976) to amend certain provisions of the Mandatory Petroleum Allocation Regulations relating to allocation levels of aviation fuels. FEA stated therein that consideration of the amendments proposed was warranted in light of a number of significant changes that have been occurring within the aviation industry such as the conversion of various classes of aircraft fleets from piston-powered to jet-powered equipment, the separation of civil air carrier facilities from facilities serving general and public aviation, and the sustained growth in demand being experienced within the general and public sectors of the industry since the 1972 base year.

Evidence available to FEA suggests that these shifts in operations and the overall growth in demand have resulted in continuing fuel supply problems for an increasing number of fixed base operators and wholesale purchaser-consumers and end-users of aviation fuels. FEA stated its belief that, in many cases, application of provisions of the Mandatory Petroleum Allocation Regulations may have been contributing to the urgency of the supply problems associated with these changes, in that allocation levels for affected consumers and resellers in the general and public aviation categories have heretofore been restricted to base period uses. In addition, such consumers and resellers have experienced difficulty in securing adjustments to allocation entitlements to reflect current conditions.

On the basis of this information, the FEA proposed to amend § 211.143 and to adopt a new § 211.144 effective November 1, 1976 which would provide that fixed base operators and a number of wholesale purchaser-consumers and end-users would be entitled to 100 percent of their current requirements subject to application of an allocation fraction. The proposed change was intended to establish allocation levels for fixed base operators to permit them to purchase volumes of fuel commensurate with their actual requirements in the conduct of an ongoing business of selling aviation fuels to wholesale purchaser-consumers and end-users. Under the proposed change, affected consumers would be able to purchase fuel pursuant to the new allocation levels whether or not such purchases are made from the fixed base operator or from the prime supplier.

The proposed provisions relating to a fixed base operator's allocation entitlement provided for establishing such entitlement with reference to the requirements of the wholesale purchaser-consumers and end-users supplied by the fixed base operator, rather than with reference to a base period volume as heretofore provided. The proposed new § 211.144 provided fixed base operators in general with a basis for establishing an allocation entitlement comparable to that currently provided to some wholesale purchaser-consumers and end-users of aviation fuels which are entitled to 100 percent of current requirements subject to application of an allocation fraction.

Because fixed base operators are resellers of fuel and not consumers of fuel, a new definition of "current requirements" for fixed base operators was proposed to define such requirements as equal to the sum of the allocation entitlements of all their customers, including base and transient customers.

Due to the apparent difficulties that some fixed base operators have stated they have been experiencing in determining the allocation entitlements of certain of their purchasers, the FEA proposed that the definition of the current requirements of a fixed base operator would be based on either amounts actually certified to the fixed base operator or on amounts equal to the volumes sold to transient purchasers in the immediately preceding calendar year.

The amendments proposed on October 8 also provided for modification of the allocation levels for certain wholesale purchaser-consumers and end-users of aviation fuels. Many such consumers and end-users have been traditionally supplied by fixed base operators. All such users, whether or not supplied by fixed base operators, however, have generally been experiencing difficulty in obtaining adequate fuel supplies. Included within the uses proposed to be eligible for an allocation level of one hundred percent of current requirements subject to application of an allocation fraction were: uses of aviation fuel for business flying, public aviation, personal flying, instructional flying and air travel club flying.

On October 27, 1976, FEA held a public hearing on the proposal and witnesses presented statements on behalf of three trade associations representing fixed base operators, business flying and general aviation manufacturers.

Approximately 22 written comments and 12 late comments were received from fixed base operators, related trade associations and aviation fuel suppliers. The overwhelming majority of comments received supported FEA's proposal. Many confirmed the extent of the supply dislocations occurring within this sector of the aviation industry upon which FEA's decision to issue the proposal had been based. Many of those commenting argued against continuing the certification requirements imposed on fixed base operators and their customers particularly with respect to end-users. The aviation fuel suppliers that commented expressed support for complete decontrol of aviation fuels and most supported or stated that they did not oppose the proposed changes. Most commented that aviation fuels for this segment of the industry are in ample supply. Many of those commenting suggested that, with respect to sales to wholesale purchaser-consumers, certifications and projections of future needs are easily made, while such certifications and projections with respect to sales to end-users are substantially more difficult. Several recommended that the allocation entitlement of a fixed base operator be established with a supplier on the basis of the fixed base operator's projection of current requirements for the applicable allocation period.

FEA has considered carefully the comments and testimony received during this proceeding. Based on its review of these comments and its own further evaluation, FEA has determined to adopt the amendments substantially as proposed, with certain modifications relating to the method of determining the current requirements of a fixed base operator.

Accordingly, under the definition adopted, current requirements of a fixed base operator means the sum of the volumes of aviation fuels that the wholesale purchaser-consumers and end-users supplied by the fixed base operator are entitled to purchase under the allocation

levels prescribed in § 211.143. In recognition of the difficulties expressed by fixed base operators in certifying the allocation entitlements of base and transient end-users, FEA has modified the final clarifying sentence of the definition from that proposed. As adopted, a fixed base operator determines its current requirements with reference to allocation entitlements certified by the wholesale purchaser-consumers which it supplies. The allocation entitlements of the end-users which it supplies shall be based on the fixed base operator's reasonable estimate of the volumes needed to meet the current requirements of such end-user customers. FEA intends shortly to make available guidelines containing criteria which shall be applied by FEA in resolving situations in which the supplier and the fixed base operator cannot agree on the volumes which the fixed base operator is entitled to receive under these provisions. Such criteria may include such factors as previous sales levels, historic rates of growth in such sales, and certain unusual increases or decreases in demand. FEA believes that the amendments as so adopted will now provide to fixed base operators and the specified wholesale purchaser-consumers and end-users the needed flexibility to obtain adequate supplies of aviation fuels.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641.)

In consideration of the foregoing, Part 211, Chapter II of Title 10, Code of Federal Regulations is hereby amended as set forth below, effective November 1, 1976.

Issued in Washington, D.C., November 5, 1976.

MICHAEL F. BUTLER,
General Counsel.

1. Section 211.12 is amended in subparagraph (1) of paragraph (b) to read as follows:

§ 211.12 Purchaser's allocation entitlement.

* * * * *

(b) *Entitlements*—(1) *Wholesale purchaser-reseller.*—A wholesale purchaser-reseller, other than a fixed base operator whose allocation entitlement for aviation fuels is determined as provided in § 211.144, shall be entitled to receive a volume of an allocated product equal to the sum of the volumes allocable to it from each of its suppliers. The volume supplied to a wholesale purchaser-reseller by each of its suppliers shall equal the sum of (i) any amounts which that purchaser has certified to a supplier to be for ultimate use under an allocation level not subject to an allocation fraction plus (ii) the product of that supplier's allocation fraction multiplied by an amount equal to that part of that wholesale purchaser's base period use purchased or obtained from that supplier minus any amounts which that purchaser has certified to be for ultimate use under an allocation level not subject to an allocation fraction.

* * * * *

2. Section 211.142 is amended to add new definitions of "current requirements" and "fixed base operator" in appropriate alphabetical sequence as follows:

§ 211.142 Definitions.

* * * * *

"Current requirements" means current requirements as defined in § 211.51, except that as to a fixed base operator, current requirements means the sum of the volumes of aviation fuels that the wholesale purchaser-consumers and end-users suplied by such fixed base operator are entitled to purchase under the allocation levels prescribed in § 211.143. For the purpose of determining a fixed base operator's current requirements, the allocation entitlements of wholesale purchaser-consumers shall be an amount equal to the total volumes certified to the fixed base operator by such purchasers; and the allocation entitlements of end-users shall be an amount equal to the total volumes certified by the fixed base operator to its supplier based on such fixed base operator's reasonable estimate of the current requirements of such end-users.

* * * * *

"Fixed base operator" means a firm or that portion of a firm which maintains facilities at an airport for the purpose of (a) engaging in the retail sale of aviation fuels primarily to purchasers other than (1) scheduled or supplemental air carriers certificated by the Civil Aeronautics Board pursuant to 49 U.S.C. 1371 or (2) the Department of Defense; and (b) performing one or more of the following general aviation activities: (1) Aircraft maintenance, servicing, parking, tie-down, storage and other aircraft services; (2) baggage and cargo handling and other passenger/freight services; and (3) maintenance of avionics equipment and systems.

* * * * *

3. Section 211.143 is amended in paragraph (c) to read as follows:

§ 211.143 Allocation levels.

* * * * *

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by application of an allocation fraction) for the following uses:

(i) Emergency aviation services, safety and mercy missions;

(ii) Energy production flying;

(iii) Aircraft manufacturing but not to exceed one hundred thirty (130) percent of base period use;

(iv) Telecommunications flying.

(v) Business flying, including requirements for crew training and proficiency flying;

(vi) Public aviation;

(vii) Personal non-business flying;

(viii) Instructional flying; and

(ix) Air travel club flying, including requirements for crew training and proficiency flying.

(2) One hundred (100) percent of base period use (as reduced by application of an allocation fraction) for the following uses:

(i) Domestic, supplemental and scheduled cargo air carriers, including requirements for crew training and proficiency flying;

(ii) International air carriers, including requirements for crew training and proficiency flying—the total of both bonded and non-bonded fuels;

(iii) Intrastate carriers, including requirements for crew training and proficiency flying;

(iv) Local service air carriers, including requirements for crew training and proficiency flying;

(v) Other air carriers, including requirements for crew training and proficiency flying; and

(vi) Non-flying use of aviation fuels;

* * * * *

4. Part 211 is amended by adding a new § 211.144 to read as follows:

§ 211.144 Fixed base operators.

Nothwithstanding the general provisions of § 211.12(b)(1), fixed base operators are entitled to receive from their suppliers an amount of aviation fuel equal to one hundred (100) percent of current requirements as reduced by the application of the supplier's allocation fraction for use in the conduct of an ongoing business of selling aviation fuels to wholesale purchaser-consumers and end-users.

[FR Doc.76-33093 Filed 11-5-76;4:35 pm]

Title 36—Parks, Forests and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SERVICE

Rocky Mountain National Park, Colorado; Dogs, Cats, and Other Pets

A proposal was published at page 28291 of the FEDERAL REGISTER of July 9, 1976, to amend § 7.7 of Title 36 of the Code of Federal Regulations. The effect of this amendment is to restrict dogs, cats and other pets to areas which are generally accessible by automobile. This restriction will maintain the scenic, aesthetic, and natural values of off-road areas by prohibiting pets which present a potential conflict with park users and wildlife.

Interested persons were given thirty days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. Minimal comments were received, and these were predominantly in favor of the proposed amendment. The proposed amendment is hereby adopted without substantive change and is set forth below. This

amendment shall take effect on December 10, 1976.

(5 U.S.C. 553; 16 U.S.C. 3; * * *).

Section 7.7 is amended to add the following:

§ 7.7 Rocky Mountain National Park.

* * * * *

(f) *Dogs, Cats, and Other Pets.* In addition to the provisions of § 2.8 of this chapter, dogs, cats, and other pets on leash, crated, or otherwise under physical restraint are permitted in the park only within 100 feet of the edge of established roads or parking areas, and are permitted within established campgrounds and picnic areas; dogs, cats, and other pets are prohibited in the backcountry and on established trails.

ROGER J. CONTOR,
Superintendent,
Rock Mountain National Park.

[FR Doc.76-33072 Filed 11-9-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-399]

PART 845—PHA ACQUISITION WITH OR WITHOUT REHABILITATION

PHA Acquisition of HUD-Owned Properties and Properties With HUD-Insured and HUD-Held Mortgages

On June 9, 1976, in the FEDERAL REGISTER (41 FR 23292), interim regulations were published amending Title 24 of the Code of Federal Regulations by adding a new Part 845, "Acquisition With or Without Rehabilitation—Subpart D—PHA Acquisition of HUD-Owned Properties and Properties With HUD-Insured and HUD-Held Mortgages." Certain provisions in Subpart D pertaining to the monthly housing cost for tenants who continue in occupancy of acquired properties were incorrectly published. The amendment omits language describing the method of computation which has proven confusing and difficult to apply. Because it is important that this change be given effect as soon as possible in order to benefit PHAs already carrying out programs that are already approved or are being approved, comment and public procedure are impracticable and good cause exists for making the change effective upon publication.

The Finding of Inapplicability with respect to the National Environmental Policy Act of 1969 and the certification with respect to the economic and inflationary impacts of the interim regulations, published on June 9, 1976, continue to apply to the regulations as hereby corrected and no additional finding or certification is required.

Accordingly, Part 845 is corrected as follows:

On page 23292, subparagraph 5(b) of the preamble is corrected to read as follows:

* * * * *

5. * * *

(b) The tenant's monthly housing cost shall be determined in accordance with the provisions of the United States Housing Act of 1937, as amended.

* * * * *

On page 23295, in § 845.412, paragraph (c)(2) is corrected to read as follows:

§ 845.412 Relocation of tenants.

* * * * *

(c) * * *

(2) The tenant's monthly housing cost shall be determined in accordance with the provisions of the United States Housing Act of 1937, as amended.

* * * * *

(Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d).)

Effective date: This Amendment is effective on November 10, 1976.

JAMES L. YOUNG,
Assistant Secretary for Housing — Federal Housing Commissioner.

[FR Doc.76-32995 Filed 11-9-76;8:45 am]

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2413]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Borough of Somerset, Pennsylvania; Correction

The notice published on October 28, 1976 at 41 FR 47232 listing the Borough of Somerset, Pennsylvania (Somerset County) as a suspended community effective December 2, 1976, should be corrected to read effective December 15, 1976.

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

Issued: October 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-32994 Filed 11-9-76;8:45 am]

[Docket No. FI-2413]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

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

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at § 1912.5, 24 CFR Part 1912).

The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

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

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
*	*	*	*	*	*
Colorado	Weld	Firestone, town of	Oct. 26, 1976, emergency	Sept. 19, 1975	080241
Iowa	Fremont	Unincorporated areas	do		190868
Do.	O'Brien	Hartley, city of	do	Sept. 26, 1975	190590
Do.	Cass	Lewis, city of	do	Aug. 22, 1975	190347
Do.	Poweshiek	Montezuma, city of	do	Sept. 26, 1975	190622
Do.	Dallas	Redfield, city of	do	Mar. 26, 1976	190361
Michigan	Genesee	Flint, township of	do		260395
Pennsylvania	Crawford	South Shenago, township of	do		422397
West Virginia	Monroe	Unincorporated areas	do	July 25, 1975	540278
*	*	*	*	*	*
Georgia	Gwinnett	Dacula, city of	Oct. 26, 1976, emergency	Apr. 18, 1975	130324
Indiana	Henry	Lewisville, town of	do	Sept. 20, 1974	180091A
				June 25, 1976	
Iowa	Cass	Griswold, city of	do	Sept. 19, 1975	190346
Do.	Lucas	Russell, city of	do	Sept. 26, 1975	190649
New York	Madison	Madison, town of	do	Dec. 20, 1974	361292A
				June 4, 1976	
North Dakota	La Moure	Edgeley, city of	do	July 25, 1975	380223A
				Feb. 27, 1976	
Oklahoma	Bryan	Caddo, town of	do	Apr. 16, 1976	400353
Do.	Le Flore	Panama, town of	do	May 28, 1976	400092
Pennsylvania	Butler	Eau Clair, borough of	do	Jan. 10, 1975	422348
*	*	*	*	*	*
Delaware	Sussex	Unincorporated areas	Oct. 15, 1976. Suspension withdrawn	Dec. 13, 1976	100029A
Massachusetts	Suffolk	Winthrop, town of	do	June 28, 1974	250289A
Missouri	Pulaski	Waynesville, city of	do	Feb. 1, 1974	290300A
Texas	Refugio	Refugio, town of	do		480540
*	*	*	*	*	*
Iowa	Shelby	Defiance, city of	Oct. 27, 1976, emergency	Dec. 20, 1974	190246
Michigan	Van Buren	Bangor, city of	do	Sept. 26, 1975	260529
Do.	Berrien	Coloma, city of	do		260556
Ohio	Lake	Kirtland, city of	do	Aug. 8, 1975	390616
Oklahoma	Garfield	Kremlin, city of	do	Apr. 9, 1976	400293
*	*	*	*	*	*
Idaho	Valley	New Meadows, city of	Oct. 28, 1976, emergency		160181
Iowa	Tama	Traer, city of	do	Sept. 19, 1975	190668
Kansas	Sedgwick	Garden Plain, city of	do	Aug. 15, 1975	200498A
				Jan. 2, 1976	
New York	St. Lawrence	Clifton, town of	do	Nov. 29, 1974	361173A
				Dec. 26, 1975	
South Carolina	Horry	Atlantic Beach, town of	do	Aug. 23, 1974	450222A
*	*	*	*	*	*
Alabama	Dale	Midland, city of	Oct. 29, 1976, emergency	Jan. 10, 1975	010248
Iowa	Tama	Elberon, city of	do	Sept. 26, 1975	190728
Do.	Dallas	Granger, city of	do	Mar. 22, 1974	190104A
				Jan. 2, 1976	
Do.	Appanoose	Unionville, town of	do		[1] 190923
Kansas	Rooks	Palco, city of	do	July 2, 1976	200445
Michigan	Marquette	Chocolay, township of	do	Oct. 24, 1975	260448
New York	Suffolk	Dering Harbor, village of	do	Dec. 20, 1974	361424A
				Aug. 6, 1976	

[1] New.

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

Issued: October 21, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-32875 Filed 11-9-76;8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER I—MILITARY PERSONNEL

PART 879—AMENDMENT OF PERSONNEL RECORDS—RECORDING BASIC IDENTIFYING DATA

Privacy Act of 1974

A new part 879 is added to Subchapter I, Chapter VII of Title 32, CFR, consisting of §§ 879.1 to 879.13, to read as follows:

Subpart A—Amendment of Records Under the Privacy Act of 1974

Sec.

879.1 Purpose.
879.2 General information.
879.3 Processing requests for amendment.
879.4 Review of initial refusals.

Subpart B—Recording and Administratively Changing Identification Data

879.5 Social Security Account Number (SSAN).
879.6 Recording and changing name.
879.7 Correcting date or place of birth.

Subpart C—Tables and Sample Letter

879.8 Correcting SSAN in records.
879.9 Inputting SSAN changes to APDs.
879.10 Administrative correction of name, date or place of birth.
879.11 Evidence required to support request for change of name.
879.12 Evidence required to support request for correction of date or place of birth.
879.13 Sample letter for refusal of request for amendment of record.

AUTHORITY: The provisions of this Part 879 issued under sec. 8012, 70A, Stat. 488; 10 U.S.C. 8012, except as otherwise noted herein.

SOURCE: Air Force Regulation 35–22, February 5, 1976.

§ 879.1 Purpose.

This part outlines procedures for (1) processing requests for amendment of military personnel records submitted by the subject of the record under the Privacy Act of 1974 (5 U.S.C. 552a), and (2) recording and administratively changing Social Security Account Number (SSAN), name, and date and place of birth in the military personnel records system. It applies to all present and former Air Force personnel, including members of the Air National Guard of the United States (ANGUS) and United States Air Force Reserve (USAFR). In case of conflict, Part 806b of this chapter has precedence over this part.

§ 879.2 General information.

(a) *Types of amendments*—(1) *Amendments covered by this part.* This part applies to requests for amendment of factual record errors submitted under the Privacy Act, as opposed to requests for factual corrections submitted to the Air Force Board for the Correction of Military Records under Part 865 of this chapter.

(2) *Types not covered by this part.* This part (i) does not apply to actions which may be construed as appraisal, judgment, or opinion, such as retroactive promotion, removal of disciplinary action, correction or removal of effectiveness reports, revision of findings and decisions of retirement, disposition, or physical evaluation boards, or other actions based on appraisal, judgment, or opinion, which are processed under Part 865 of this chapter when administrative relief under other parts is not granted; (ii) does not rescind existing procedures for administrative correction of records, such as those provided by Parts 865 and 888 of this chapter, AFR 31–11, Subpart B of this part, and other directives; (iii) does not apply to routine record maintenance or update locally when documentary evidence furnished by the individual or otherwise available to the Air Force, conclusively demonstrates an error in fact does exist, there are no legitimate reasons for not updating the record, and the update is effected by responsible personnel officials; and (iv) amendments that reflect a change of the individual's status but do not correct an error; for example, a promotion or a change of name by court order when the name previously appearing in the record was in fact correct.

(b) *Submitting requests.* Requests for amendment of military personnel records under this part must be submitted in writing. Individuals should seek the advice of personnel officers, where possible, before submitting a request for amendment.

(1) Requests should contain:

(i) Sufficient information to permit identification and location of the record.

(ii) A description of the item for which amendment is requested.

(iii) The reason why the amendment is requested.

(iv) If available, documentary evidence supporting the requested amendment.

(2) Requests should be addressed as follows:

(i) Active duty, retired, and former members:

AFMPC/DPMDRA1, Randolph AFB TX 78148.

(ii) ANGUS officers and USAFR members:

ARPC/DAES, 3800 York St., Denver CO 80205.

(iii) ANGUS airmen:

The State Adjutant General, (see AFM 10–4 for addresses).

§ 879.3 Processing requests for amendment.

(a) *Time limits*—(1) *Acknowledgement.* The appropriate addressee indicated in § 879.2(b)(2) forwards requests for amendment of records to the office of primary responsibility (OPR) at HQ USAF, separate operating agency (SOA), or State Adjutant General, as appropriate, for the record item in question. The OPR sends the requester a written acknowledgement within 10 workdays of receipt at the SOA or State Adjutant General, advising the requester when he or she may be advised of action taken. A separate acknowledgement is not required if a determination is made and the requester advised within the 10-day period.

NOTE.—When the appropriate addressee must retrieve records from another depository before sending the case to the OPR, the former office will acknowledge receipt of the request and advise the requester of the delay and reason therefor.

(2) *Determination.* A determination must be made within 30 workdays of receipt of the request, unless extenuating circumstances preclude meeting this limit. When the expected completion date indicated in the acknowledgement cannot be met, the OPR advises the requester of the reasons of the delay and of the revised expected completion date.

(b) *Agreement to amend record.* If the OPR agrees to amend the individual's record, the OPR:

(1) Inputs the amendment in APDS, if applicable.

(2) Amends the master personnel record (MPerR).

(3) Prepares DD Form 1343, Notification of Change in Service Member's Official Records, if applicable, or other amendment documents. Files the original in the MPerR and distributes copies to:

(i) The individual.

(ii) Privacy Central Accounting Office (PCAO) at the Air Force Military Personnel Center (AFMPC/DPMDP) for members on active duty or on the Temporary Disability Retired List, or at the Air Reserve Personnel Center (ARPC/DA) for ANGUS officers and USAFR members. Those offices instruct previous recipients of the amended item to amend their copies. When the MPerR is obtained from the National Personnel Records Center, and an amendment is made to the record, the OPR routes the record to the AFMPC Privacy Central Accounting Office. That office reviews the manual record to identify previous recipients of disclosed data and forwards new data value to them.

(iii) The appropriate addressee indicated in § 879.2(b)(2), for clearance of suspense.

(iv) The custodian of the unit personnel records group (UPRG) for members on active duty, or in the ANGUS or active Reserve. That custodian inputs the amendment in advanced personnel data system (APDS) for source documents not maintained in the MPerR.

(v) The custodian of the officer command selection record group (OCSRG) for officers on active duty or in the ANGUS or active reserve, if the amendment affects a data item maintained in that record group.

(c) *Denial of amendment by the OPR.* If the OPR does not deem amendment appropriate, he or she consults the Staff JA. If the latter concurs, the OPR advises the individual by letter, in duplicate, of the reasons for refusal and that he or she may request review by the SAFAA, through the OPR (see § 879.13).

§ 879.4 Review of initial refusals.

(a) *Processing requests for review.* An individual whose request for amendment is denied by the OPR may request a review of the initial refusal by writing to the Secretary of the Air Force through the OPR within 45 days of the letter of denial (§ 879.13). The OPR forwards the request for review, request for amendment, initial refusal, other pertinent correspondence, and the MPerR to the SAFAA. The SAFAA is the final decision authority in the Air Force, and a final determination on the request for review normally is completed within 30 workdays after receipt by SAFAA.

(b) *Amendment directed.* If SAFAA determines the record should be amended, they refer the case to the OPR for action as in § 879.3(b).

(c) *Denial by SAFAA.* If SAFAA upholds the OPR's refusal to amend the record, SAFAA advises the individual:

(1) Of the refusal and reasons therefor.

(2) Of the individual's right to file a statement of dispute, that is a concise statement of reasons for disagreeing with the Air Force's decision.

(3) That the statement of dispute is part of the record and available to subsequent users of the record.

(4) That accountable previous recipients of the disputed data will be provided a copy of the dispute statement.

(5) Of the individual's right to seek judicial review of the Air Force's refusal to amend the record.

(6) SAFAA sends a copy of the denial letter and the case file to the OPR.

(d) *Statements of dispute.* Statements of dispute are forwarded to the appropriate addressee in § 879.2(b)(2). That office validates the disputes; that is, ascertains that the individual has exhausted all administrative channels for amendment, annotates validity, and forwards the dispute to the PCAO. The PCAO:

(1) Provides a copy of the statement of dispute to the appropriate OPR who in turn, provides the PCAO a complete data identification number (DIN) list of disputed data and a copy of the SAFAA denial letter.

(2) Updates the Privacy Act tracking systems (PATS) and APDS system to indicate a dispute exists.

(3) Provides the original dispute statement and copy of SAFAA denial letter to the MPerR custodian for microforming,

if applicable, and filing in the MPerR. Copies of the statement of dispute and denial letter are also sent to the appropriate consolidated base personnel office (CBPO) for filing in the UPRG; to the appropriate MAJCOM for filing in the OCSRG for officers or the ACRG for enlisted members; and to previous accountable recipients of the disputed data item or record.

NOTE.—When disputed data is subsequently disclosed, a copy of the dispute statement must also be included. The releaser may also include a summary of the reasons for not amending the record, but the summary will be limited to the reasons set forth in the SAFAA denial letter.

(e) *Withdrawal of statement.* A request by an individual for withdrawal of a statement of dispute is forwarded to the appropriate addressee indicated in § 879.2(b)(2). That office sends the request to the PCAO, who deletes accountability from the PATS and APDS systems; advises record custodians at SOA, MAJCOM, and CBPO levels to destroy the dispute statement and SAFAA denial letter; advises previous accountable recipients the data or record is no longer disputed; and advises the individual when action is completed.

Subpart B—Recording and Administratively Changing Identifying Data

§ 879.5 Social Security Account Number (SSAN).

(a) *Use of SSAN.* The SSAN serves as the numerical identifier for all Air Force personnel. It is also necessary for reporting contributions withheld from military members under the Federal Insurance Contributions Act (FICA) to the Social Security Administration (SSA) by the Air Force Accounting and Finance Center (AFAFC).

(b) *SSAN Card.* Each applicant for enlistment or appointment in the Air Force must possess a SSAN card. The individual must be advised that disclosure of the SSAN to the Air Force is mandatory for entry into the Air Force, that it is required by Executive Order 9397, 22 November 1943, and that it is used for identification and forwarding contributions to the SSA under FICA. If the applicant does not have a card, it is his or her responsibility to obtain one before acceptance for entry into the Air Force. The recruiting activity refers the applicant to the nearest SSA district office to submit IRS Form SS-5, Application for Social Security Number (or Replacement of Lost Card).

(c) *Recording the SSAN.* Enter the SSAN in records whenever the Air Force service number (AFSN) or a numerical personnel identifier is required.

(1) How to write the SSAN:

(i) For input to APDS write as a nine-character number without hyphens; for example, 372974061. Use this method for any multipart form that includes a punch card, since the card is usually filed mechanically.

(ii) For other purposes, write as an eleven-character number with a hyphen after the third and fifth digits; for example 372-97-4061.

(2) Use of service and component identifiers.

(i) Since service-wide adoption of the SSAN eliminated the AFSN prefixes and unique service numbers formerly used to identify Air Force commissioned and warrant officers and airmen, the Department of Defense has prescribed two-letter designations for use with SSANs as an aid to identification. Identifiers placed before the SSANs denote airmen and those placed after denote officers.

(*a*) The first letter of the identifier will be "F" which specifies Air Force.

(*b*) The second letter denotes the component within the Air Force, as follows:

R—Regular
G—National Guard
V—Reserve
T—without component

(*c*) Since the above elements aid in the identification procedures, they usually are included with the SSAN when entered on a manually prepared document. They will not be used when applicable directives specifically exempt them.

(ii) Examples of SSANs with Service and Component Identifiers:

FR 288-16-8998, Regular Airman.
FG 288-16-8998, National Guard Airman.
288-16-8998FR, Regular commissioned or Warrant Officer.
288-16-8998FV, Reserve Commissioned or Warrant Officer.

(d) *Application for replacement of lost card.* The servicing CBPO:

(1) Assists the member in completing IRS Form SS-5 as follows:

(i) Name to be Used in Work or Business. Enter the member's name exactly as shown on his or her military record.

(ii) Mailing address.

(iii) Member's signature.

(2) Forward the completed form to one of the following, according to the CBPO's location:

(i) In CONUS, the nearest SSA district office.

(ii) Alaska:

Social Security District Office, PO Box 1327, Federal Office Bldg—Rm 117, 709 W. 9th St., Juneau AK 99801.

(iii) Asia, Australia, Pacific Islands (except Hawaii), or any APO or FPO San Francisco or Seattle address:

Social Security District Office, Civic Center, 303 Golden Gate Ave., San Francisco CA 94102.

(iv) Europe, Africa, Canada, or any APO or FPO New York address:

Social Security District Office, 707 North Calvert St., Baltimore MD 21202.

(v) Hawaii:

Social Security District Office, American Mutual Building, 1181 Alakea St., Honolulu HI 96813.

(vi) Puerto Rico:

Social Security District Office, PO Box 2468, San Juan PR 00936.

(vii) Virgin Islands:

Social Security District Office, PO Box 118, 22 Crystal Glade, St Thomas VI 00801.

(3) *CBPO Followup Action:*

(i) *When to Followup.* CBPOs located in CONUS allow 30 days after the application has been sent for receipt of a SSAN card. CBPOs at overseas installations allow 60 days.

(ii) *How to Followup.* If a SSAN card has not been received within the prescribed time limit, the CBPO requires the member to submit a followup application. IRS Form SS-5 must be completed as in § 879.7(b)(1) except "Yes" is checked under item 10 and the date when and office where the previous application was sent are entered in the designated space. The followup application is sent to the same office.

(e) *Resolving SSAN discrepancies.* If a military member's SSAN card differs from his or her manual, mechanized, or pay records, the servicing CBPO initiates corrective action according to § 879.8 and § 879.9.

§ 879.6 Recording and changing name.

(a) *Entering name in official records.* The name appearing on the order or letter of appointment or on DD Form 4, Enlistment or Re-enlistment Agreement—Armed Forces of the United States, is presumed to be an individual's correct name unless and until a correction is made under this part.

(1) *Name required on records.* Normally, the name indicated on an individual's birth, baptismal, citizenship, or naturalization certificate, a civil court order, or other legal document is used in Air Force military personnel records.

(i) If a person is known in his or her community by a name different from the one shown on the certificate or other document presented, he or she may request that the records be maintained in that name by so indicating on the application for entry in the Air Force.

(ii) Military personnel whose Social Security card reflects a name other than the name they request be used on official Air Force records, must change their name with the SSA by completing and mailing SSA Form OAAN 7003, Request for Change in Social Security Records, to the nearest SSA district office. It is mandatory that the name established in their personnel records at the time of entry in the Air Force agrees with that recorded with SSA.

(2) *How a name is recorded.* Record the name on Air Force records in order of last name, first name, middle initial, and any designation, such as junior, senior, or a numerical designator. Designations are abbreviated; for example, "Jones, John J. Jr." The full middle name is used only when specifically directed. Do not space between names having apostrophes, nor space or code hyphens for names having hyphens. Do not space between sections of compound names.

(b) *Changing name.* (1) Processing requests (§ 879.10).

(2) Evidence required (§ 879.11).

(3) If correction is warranted:

(i) The MPerR custodian:

(a) Forwards the SSA Form OAAN 7003 to the nearest SSA district office.

(b) Prepares DD Form 1343.

(c) Corrects the MPerR.

(d) Inputs the correct name in APDS (Except for non-EAD ANG airmen).

(e) Distributes DD Form 1343, (§ 879.10, column C).

(ii) The field record group (FRGp) custodian, upon receipt of authenticated DD Form 1343:

(a) Reproduces and distributes copies of the form according to § 879.11, column E.

(b) Correct AF Form 10, Unit Personnel Record Group (including subgroups), DD Form 93, Record of Emergency Data, and VA Form 29–8386, Servicemen's Group Life Insurance Election. Any other document of record that is dated before the date of correction will be corrected only if the document is to be used at a later date. When such document is reproduced or distributed, DD Form 1343 is authority for correction.

(c) Input the correct name in APDS for non-EAD ANG airmen.

(d) File duplicate DD Form 1343 in the Unit Personnel Record Group (UPRG).

§ 879.7 Correcting Date or place of birth.

(a) *Evidence required.* See § 879.12.

(b) *Correction.* If correction is warranted:

(1) The MPerR custodian:

(i) Prepares DD Form 1343.

(ii) Corrects the MPerR.

(iii) Inputs the correct date of birth (officers only) in APDS.

(iv) Distribute DD Form 1343 (§ 879.10, column C).

(2) The FRGp custodian, upon receipt of authenticated DD Form 1343:

(i) Reproduces and distributes copies of the form (§ 879.12, column E).

(ii) Corrects all records in AF Form 10 which contain date or place of birth.

(iii) Inputs corrections in APDS, except date of birth corrections for officers.

(iv) Files duplicate DD Form 1343 in the UPRG.

§ 879.8 Correcting SSAN in records.

Rule	(A) If a duplicate or erroneous SSAN requires verification for—	(B) Then the CBPO forwards an explanatory letter with a reproduced copy of the member's SSAN card to (see note 1)—	(C) And that action agency when warranted—
1	A person on extended active duty, the temporary disability retired list (TDRL), or the USAF retired list.	AFMPC/DPMDRA (airman) or DPMDRO (officer), Randolph AFB TX 78148.	Corrects the MPerR and APDS (sec. 879.9) and notifies, via DD form 1343, the Privacy Central Accounting Office at AFMPC or ARPC, as appropriate, and when applicable, the custodians of the FRGp (see note 2) and OCSRG (officers) or ACRG (airmen) and interested Government agencies.
2	An ANGUS officer not on EAD....	ARPC/DPRS, 3800 York St., Denver CO 80205.	
3	A USAFR airman or officer not on EAD or an airman on the USAF retired list who has USAFR officer status.		
4	An ANGUS airman not on EAD...	The State Adjutant General (see AFM 10–4 for addresses).	

NOTES

1. Members not serviced by a CBPO will apply directly to the activity specified.
2. The custodian of the FRGp reproduces and forwards copies of the DD form 1343 to custodians of the health record group, dental records, individual flight record, personal clothing and equipment record group, and to the unit assignment to amend their records.

§ 879.9 Inputting SSAN changes to APDS.

Rule	(A) If request for a change of SSAN for a member who is on extended active duty, TDRL, or retired, is received from—	(B) Then AFMPC/DPMDRA (airmen) or DPMDRO (officers)—	(C) And imputs the transaction formats on magnetic tape to APDS according to AFM 30-3, vol. II—
1	AFAFC as a result of FICA edits by SSA.	Processes changes according to (sec. 879.8).	For any changes to source documents in manual records and issues DD form 1343.
2	A UPRG custodian.		
3	AFAFC and search indicates that the member is separated from active duty and has ANGUS officer or USAFR status.	Forwards to ARPC/DPRS, 3800 York St., Denver, Colo. 80205.	
4	AFAFC and search indicates that the member is separated from active duty and has ANGUS airman status.	Forwards to appropriate State adjutant general (see AFM 10-4 for addresses).	
5	AFAFC and search indicates that the member is discharged and does not have current military status.	Forwards the request to NPRC, 9700 Page Blvd., St. Louis, Mo. 63132.	

§ 879.10 Administrative correction of name, date or place of birth.

(A) Rule	If member requesting correction is—	(B) Then the—	(C) And when correction is warranted, the custodian corrects the MPerR, prepares DD form 1343, files the original in the MPerR and distributes other copies to the privacy central accounting office and—
1	An officer or airman on active duty.	CBPO forwards the request (secs. 879.11 or 12) for action by the MPerR custodian, which is AFMPC/DPMDRO (officer) or DPMDRA (airman), Randolph AFBT, Tex. 78148.	Custodians of the UPRG and OCSRG or ACRG; ARPC/DPRS, 3800 York St., Denver, Col. 80205, for members with concurrent Reserve status; Director of Selective Service when applicable (see note 3); FBI, Director of Identification, Washington, D.C. 20335; and AFHRL/SMDJ, Lackland AFB, Tex. 78236.
2	An officer or airman in a retired pay or TDRL status.	The member forwards documentation as required by sec. 879.11 or sec. 879.12 to AFMPC/DPMDRO (officer) or DPMDRA (airman), Randolph AFB, Tex. 78148.	NPRC (MPR), 9700 Page Blvd., St. Louis, Mo. 63132, for retired personnel (other than TDRL).
3	A USAFR officer or airman not on EAD (see note 2).	CBPO forwards the request (secs. 879.11 or 12) for action by the MPerR custodian, which is APPC/DPRS, 3800 York St., Denver, Col. 80205 or the member forwards documentation as required by secs. 879.11 or 12 to ARPC/DPRS.	Custodian of UPRG and OCSRG (see note 1) or ACRG; Director of Selective Service, when applicable (see note 3); FBI, Director of Identification, Washington, D.C. 20335; and AFHRL/SMDJ, Lackland AFB, Tex. 78236.
4	An ANGUS officer not on EAD.		
5	An ANGUS airman not on EAD.	CBPO forwards the request (secs. 879.11 or 12) for action by the MPerR custodian, which is appropriate State adjutant general (see AFM 10-4 for addresses).	Custodian of UPRG and ACRG; Director of Selective Service, when applicable (see note 3); FBI, Director of Identification, Washington, D.C. 20335; and AFHRL/SMDJ, Lackland AFB, Tex. 78236.

NOTES

1. Forward copy for file in Aerospace Defense Command (ADC), Military Airlift Command (MAC), or Tactical Air Command (TAC) Officers Information Folder for generals and colonels in USAFR or ANGUS units for which these commands have been designated the gaining command.
2. USAFR not EAD assigned to nonaffiliated Reserve section (NARS), inactive status list Reserve section (ISLRS), obligated Reserve section (RRPS) or mobilization augmentee or reinforcement designee not assigned to a specific mobilization augmentation position, applies directly to ARPC.
3. See AFR 35-77 for addresses of State directors.

§ 879.11 Evidence required to support request for change of name.

(A) Rule	If request is to correct name—	(B) Then the member must furnish the servicing CBPO (see notes 1 and 2)—	(C) The Chief, Quality Control Section, CBPO—	(D) And the MPerR custodian (see not 4)—	(E) And the Servicing CBPO—
1	Due to change by court order or decree.	The original (or copy) of the court order or decree and a completed SSA form OAAN 7003.	Signs a verifying statement on reverse side of SSA Form OAAN 7003, date and reason for change; CBPO address; MAJCOM of assignment; and whether officer or airman (example: "Married Jan. 1, 1972; verified from marriage certificate," 317 Cmbt Spt GP, Pope AFB, N.C. 28308 (TAC) (Off)); forwards only the completed OAAN form 7003 to the MPerR custodian (see table 2-3) and returns supporting document(s) to the member.	Prepares and distributes DD form 1343 (see table 2-3).	On receipt of a completed copy of DD form 1343 from the MPerR custodian, reproduces sufficient copies and distributes one copy each to the unit of assignment, custodians of the health record group, dental record, clothing and equipment record gr up for necessary correction of their records. Recipients or reproduce copies will destroy the form after correction has been made.
2	As a result of marriage or dissolution of marriage.	The original (or copy) of the certificate of marriage or final court decree authorizing resumption of a maiden name or adoption of another name and a completed SSA form OAAN 7003.			
3	By adding or deleting a suffix, double name or altering a name.	A statement giving a legitimate reason for the change, such as death of father, birth of son, etc., and a completed SSA form OAAN 7003.			
4	At time of naturalization.	The naturalization certificate or Department of Justice statement showing correct name and a completed SSA form OAAN 7003 (see note 5).			
5	That was erroneously recorded (see note 3).	A statement of circumstances and the original (or copy) of a public record, birth or baptismal certificate, etc., and a completed SSA form OAAN 7003.			

NOTES

1. Former AF members will furnish documents directly to custodian indicated in sec. 879.10.
2. Records of former members are not amended to reflect name changes occurring after discharge.
3. Correcting a name that has been transposed or reverse (example: John Joseph Brown to Joseph John Brown) or making a slight correction in the spelling (example: Michael to Micheal) requires only the member's statement.
4. MPerR custodian forwards a copy of the DD form 1343 for file in ADC, MAC, or TAC information folder for generals and colonels in USAFR or ANGUS units for which these commands have been designated the gaining command.
5. Reproduction of a naturalization certificate is a Federal offense under 18 U.S.C. 1426, punishable by a severe fine or imprisonment or both.

§ 879.12 Evidence required to support request for correction of date or place of birth.

Rule	(A) If request is to correct date and place of birth of a—	(B) Then the member must furnish the servicing CBPO—	(C) And the Chief, Quality Control Section, CBPO—	(D) And the MPerR custodian (see note 2)—	(E) And the servicing CBPO—
1	U.S. citizen born in the United States or 1 of its possessions.	The original (or copy) certificate of birth on file with the office of vital statistics of the state or U.S. possession in which the member was born.	Furnishes a statement verifying the correct date and place of birth to the MPerR custodian (see table 2-3), and returns supporting document(s) to the member.	Prepares and distributes DD form 1343 (see table 2-3).	On receipt of a copy of DD form 1343 reproduces a copy and sends it to the custodian of the health record group.
2	U.S. citizen born in a foreign country.	A certificate or statement verifying the date and place of birth furnished by the U.S. Consular office or the service hospital in which the member was born.			
3	A naturalized citizen.	The original (or copy) of a certificate from the Bureau of Immigration verifying the date and place of birth (see note 1).			

NOTES

1. Reproduction of a naturalization certificate is a Federal offense under 18 U.S.C. 1426, punishable by a severe fine or imprisonment, or both.
2. MPerR custodian forwards a copy of the DD form 1343 for file in ADC, MAC, or TAC information folder for generals and colones in USAFR or ANGUS units for which these commands have been designated the gaining command.

§ 879.13 Sample letter for refusal of request for amendment of record.

(SAMPLE)

(Appropriate Letterhead)

(Date)

Reply to attention of: (office symbol).
Subject: Refusal of Request for Amendment of Record.
To: (Requestor's name and address).

1. Amendment of your record as you requested is not deemed appropriate because

---

(give reasons)

---

2. You may request a review of this refusal in writing to the Secretary of the Air Force within 45 days of the date of this letter. Include in your letter any reasons for reconsideration you wish to present, and attach a copy of this letter. Address your letter to the Office of the Secretary of the Air Force, Administrative Assistant, through (address of OPR).

(Signature of functional OPR)

(stamped or typed name, position, title, and office of functional OPR)

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

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Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 640-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Alaska: Approval and Disapproval of Compliance Schedules

Section 110 of the Clean Air Act, as amended, and the implementing regulations of 40 CFR Part 51, require each State to submit a plan which provides for the implementation, maintenance and enforcement of national ambient air quality standards throughout the State. On May 31, 1972 (37 FR 19842), pursuant to section 110 of the Clean Air Act, and 40 CFR Part 51, the Administrator approved, with certain exceptions, the State of Alaska Air Quality Control Plan.

On September 30, 1975 and January 6, 1976, after proper notice and public hearing, the Commissioner of the Alaska Department of Environmental Conservation (ADEC), submitted for the Administrator's approval, revisions to the compliance schedule portion of the State Implementation Plan, in accordance with 40 CFR 51.4, 51.6 and 51.15. On June 7, 1976, EPA announced receipt of these revisions in the FEDERAL REGISTER (41 FR 22845) and invited public comment on whether the revisions should be approved or disapproved. No comments were received during the 30-day public comment period. This publication disapproves two and approves two of the revisions to the compliance schedule portion of the Implementation Plan pursuant to provisions of 40 CFR § 51.8. The proposed compliance schedules have all been evaluated for compliance with 40 CFR §§ 51.4, 51.6, and 51.15. Alaska Forest Products and Schnabel Lumber Company, Haines, Alaska have been found not to satisfy the requirements of 40 CFR § 51.4, 51.6, and 51.15. Alaska schedules are being disapproved because the available information fails to demonstrate that the ambient air quality levels are being met. The compliance schedule variance issued to Alaska Forest Products has no final compliance date nor does it contain enforceable increments of progress. The compliance schedules variances issued to Schnabel Lumber Company and Alaska Forest Products as well do not demonstrate that the continued emissions under the variance will not interfere with the attainment and maintenance of NAAQS.

The other two compliance schedules are being approved because, based upon data available, attainment and maintenance of air quality standards will not be precluded. Compliance schedules for Alaska Lumber and Pulp Company, Sitka, Alaska and Golden Valley Electric Association, Healy, Alaska contain enforceable increments of progress and both contain final compliance dates.

Each compliance schedule establishes a new date by which an individual air pollution source must attain compliance with an emssion limitation of the State Implementation Plan. This date is indicated in the following table under the heading "Final Compliance Date". Each schedule which extends more than a year from the date of adoption must include federally enforceable increments of progress toward compliance as required by 40 CFR 51.15(c).

While the table below does not list those interim dates, the actual compliance schedules do. The "Effective Date" column in the table refers to the date the compliance schedule becomes effective for purposes of Federal enforcement. The "Date of Adoption" column refers to the date that the State adopted the compliance schedules. An evaluation of each schedule is available for public inspection at the Regional Office of the EPA at the address noted below.

State compliance schedule revisions are available for public inspection at the appropriate State agency, EPA headquarters, and at the EPA Regional Office. The locations of these offices are as follows:

State of Alaska, Department of Environmental Conservation, Pouch O, Juneau, Alaska 99801.
Public Information Reference University, Room 2922 (EPA Library), 401 M Street S.W., Washington, D.C. 20460.
Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

The Administrator finds good cause to make this rulemaking effective immediately as the compliance schedules are already in effect under Alaska State Law and EPA's disapproval imposes no additional regulatory burden.

This rulemaking is issued under the authority of section 110 of the Clean Air Act as amended [42 U.S.C. § 1857c-5].

Dated: November 3, 1976.

JOHN QUARLES,
Acting Administrator.

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

Subpart C—Alaska

1. In § 52.70, paragraph (c) (3) through (5) are revised to read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(3) Compliance schedules submitted on August 23, 1973, by the State of Alaska Department of Environmental Conservation.

(4) Compliance schedules submitted on September 30, 1975, by the State of Alaska Department of Environmental Conservation.

(5) Compliance schedules submitted on January 6, 1976, by the State of Alaska Department of Environmental Conservation.

2. Section 52.84 is amended by adding the following lines to the table in paragraph (b) and revising (c) as follows:

§ 52.84 Compliance schedules.

* * * * *

(b) The compliance schedules for the sources identified below are approved as meeting the requirements of § 51.15 of this chapter. All regulations cited are contained in the Alaska Administrative Code, Title 18, unless otherwise noted.

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
*	*	*	*	*	*
Alaska Lumber & Pulp Co	Sitka	18AAC50.050(a)(b), 18AAC50.060(a)(2), 18AAC50.120(h).	June 6, 1975	Immediately	Oct. 30, 1977
Golden Valley Electric Association, Inc.	Healy	18AAC50.050(a)(b), 18AAC50.120(h).	Sept. 29, 1975	do	Oct. 30, 1980

* * * * * * *

(c) The compliance schedules for the sources identified below are disapproved as not meeting the requirements of § 51.15 of this chapter. All regulations cited are contained in the Alaska Administrative Code, Title 18, unless otherwise noted.

Source	Location	Regulation involved	Date of adoption
Alaska Forest Products, Inc	Haines	18 AAC 50.040(a)(2), 18 AAC 50.040(c)(2), 18 AAC 50.120(h).	Aug. 21, 1975
Schnabel Lumber Co	do	18 AAC 50.040(a)(2), 18 AAC 50.040(c)(2), 18 AAC 50.040(h).	Do.

[FR Doc.76-32972 Filed 11-8-76;8:45 am]

Title 42—Public Health

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

SUBCHAPTER G—OCCUPATIONAL SAFETY AND HEALTH RESEARCH AND RELATED ACTIVITIES

PART 82—CERTIFICATION OF INDUSTRIAL SOUND LEVEL METER SETS

Correction

In FR Doc. 29444, appearing at page 44396, in the issue of Friday, October 8, 1976, the following corrections should be made:

1. On page 44398, column 1, in § 82.4 in "ANSI S1.4–1971" the word "Specifications" should be "Specification".

2. On page 44399, column 1, in § 82.15, the first word in paragraph (a) should read "One" and not "Only".

3. On page 44402, column 3, paragraph (g), line 1, the word "amplified" should read "amplifier".

Title 38—Pensions, Bonuses, and Veterans' Administration

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Pension, Compensation, and Dependency and Indemnity Compensation; Loan Guaranty Eligibility

On page 39772 of the FEDERAL REGISTER of September 16, 1976, there was published a notice of proposed regulatory development to amend §§ 3.315 and 3.805 relating to loan guaranty eligibility. These proposed sections implement Pub. L. 94–324 (90 Stat. 720) which extends loan guaranty benefits to certain veterans whose service occurred after July 25, 1947 and prior to June 27, 1950 and to the surviving spouse of a veteran who served during this period, who is otherwise eligible.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date: These VA Regulations are effective October 1, 1976.

Approved: November 4, 1976.

By direction of the Administrator,

ODELL W. VAUGHN,
Deputy Administrator.

1. In § 3.315, paragraph (b) is revised to read as follows:

§ 3.315 Basic eligibility determinations; dependents, loans, education.

* * * * *

(b) *Loans.* Where a World War II veteran or a Korean conflict veteran had less than 90 days' service, or a veteran who served after July 25, 1947 and prior to June 27, 1950 or on or after February 1, 1955, had less than 181 days' service on active duty as defined in §§ 36.4301(gg) and 36.4501(o) of this chapter, eligibility of the veteran for a loan under 38 U.S.C. ch. 37 requires a determination that the veteran was discharged or released because of a service-connected disability or that the official service department records show that he or she had at the time of separation from service a service-connected disability which in medical judgment would have warranted a discharge for disability. These determinations are subject to the presumption of incurrence under § 3.304(b). Determinations based on World War II, Korean conflict and Vietnam era service are also subject to the presumption of aggravation under § 3.306(b) while determinations based on service on or after February 1, 1955, and before August 5, 1964, or after May 7, 1975, are subject to the presumption of aggravation under § 3.306 (a) and (c). The provisions of this paragraph are also applicable, regardless of length of service, in determining eligibility to the maximum period of entitlement based on discharge or release for a service-connected disability. (38 U.S.C. 1802, 1807, 1818)

* * * * *

2. In § 3.805, the section heading, introductory portion preceding paragraph (a) and paragraph (a) are revised to read as follows:

§ 3.805 Loan guaranty for widows (widowers); certification.

A certification of loan guaranty benefits may be extended to widows (widowers) based on an application filed on or after January 1, 1959, if:

(a) The veteran served in the Armed Forces of the United States (Allied Nations are not included) at any time on or after September 16, 1940; and

* * * * *

[FR Doc.76-33027 Filed 11-9-76;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 AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 984]

WALNUTS GROWN IN CALIFORNIA

Proposed Amendment of Administrative Rules and Regulations

Notice is given of a proposal to amend Subpart—Administrative Rules and Regulations (7 CFR 984.437–984.480). The subpart is operative pursuant to the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984; 41 FR 31541), regulating the handling of walnuts grown in California. The amended marketing agreement and order (hereinafter referred to collectively as the "order") are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal, based on a recommendation by the Walnut Marketing Board, conforms the provisions of the subpart with the recent amendment of the order and makes them more reflective of current industry operating practices.

The order was amended August 1, 1976. The amendment, among other things, changed the order from a surplus program to a reserve program so the export market, the primary market for walnuts in excess of domestic needs, could be treated as a reserve market, not a surplus market. Also, the order now requires that walnuts held to meet a reserve obligation must be merchantable walnuts. However, substandard walnuts meeting minimum requirements specified pursuant to § 984.50(e) may be disposed of in reserve outlets and credit for such disposition may be deducted from the handler's holding requirement.

The current provisions in § 984.450 (b) and (c) specify minimum kernel content requirements for surplus inshell and shelled walnuts, respectively. Therefore, it is proposed that these paragraphs be changed to specify minimum kernel content requirements for reserve disposition credit. Section 984.450(a) currently contains modified minimum standards for inshell walnuts. These modifications are contained in a recent amendment of the U.S. Standards for Walnuts (Juglans Regia) in the Shell (7 CFR 51.2945–51.2966; 41 FR 44187) to be effective November 15, 1976. Since the proposed amendment of the administrative rules and regulations, hereinafter set forth, will be effective after November 15, 1976, paragraph (a) is no longer needed and should be deleted, and revised paragraphs (b) and (c) would be redesignated as (a) and (b).

Section 984.451(b) currently requires the inspection of all shelled walnuts to be made on the premises of the sheller prior to moving them to any other location. This requirement is no longer necessary under current industry operating practices, and it is proposed to be deleted. Paragraph (c) of § 984.451 has been rewritten to make it clear that the inspection and certification of inshell and shelled walnuts for export must be completed no more than 60 days prior to shipment from the handler's plant. The language of the current provision may be interpreted to mean that the inspection and certification could be made up to 60 days after shipment from the handler's plant and this is not the intention of the Board.

Section 984.456 is revised to bring all of the rules and regulations governing the disposition of reserve walnuts and walnuts used for reserve disposition credit into one section. The provisions in § 984.458 regarding the transfer of disposition credit in excess of a handler's surplus obligation and § 984.462 regarding the weight of surplus walnuts delivered to the Board are deleted because similar provisions on reserve walnuts would be contained in revised § 984.456.

A new paragraph (a) is added to § 984.464 to make it clear that whenever free and reserve percentages are in effect for a marketing year substandard walnuts meeting the requirements of § 984.450 may be delivered by the handler to the Board for pooling at any time during the year and the disposition credited to the handler's reserve holding obligation. Current paragraphs (a) and (b) would be redesignated as (b) and (c).

Other proposed changes involve consolidation of some required reports and removal of authority for reports on shipments of walnuts between states of production and declaration privilege, which are no longer necessary. Also, the word "surplus" is changed to "reserve" wherever it appears.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same in quadruplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washingotn, D.C. 20250 to be received no later than November 26, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during official hours of business (7 CFR 1.27(b)).

The proposal is as follows:

§ 984.437 Methods for proposing names of additional candidates to be included on walnut growers' nomination ballots.

(a) Whenever the grower member position specified in § 984.35(a)(4) is assigned to growers who marketed their walnuts through independent handlers, any ten or more such growers who marketed an aggregate of 500 or more tons of walnuts through those handlers during the marketing year preceding the year in which Board nominations are held, may petition the Board to include on the nomination ballot the name of an eligible candidate to fill this position, and the name of an eligible candidate to serve as his alternate. The names of the eligible candidates proposed pursuant to this paragraph shall be included on the ballot together with the names of any incumbents who are willing to continue serving on the Board.

(b) Any ten or more growers eligible to serve in the grower member position specified in § 984.35(a)(5) and who marketed an aggregate of 500 or more tons of walnuts through independent handlers during the marketing year preceding the year in which Board nominations are held may petition the Board to include on the nomination ballot the name of an eligible candidate to fill this position and the name of an eligible candidate to serve as his alternate. The names of the eligible candidates proposed pursuant to this paragraph shall be included on the ballot together with the names of any incumbents who are willing to continue serving on the Board.

(c) Any ten or more growers eligible to serve in the grower member position specified in § 984.35(a)(6) and who marketed an aggregate of 500 or more tons of walnuts through independent handlers during the marketing year preceding the year in which Board nominations are held, may petition the Board to include on the nomination ballot the name of an eligible candidate to fill this position, and the name of an eligible candidate to serve as his alternate. The names of the eligible candidates proposed pursuant to this paragraph shall be included on the ballot together with the names of any incumbents who are willing to continue serving on the Board.

(d) Petitions made pursuant to paragraphs (a), (b), and (c) of this section shall be on forms supplied by the Board and filed no later than April 1 of the nomination year.

§ 984.445 Procedures for voting by mail or telegram.

Whenever the Board votes upon any proposition by mail or telegram at least six members or alternates acting as members must vote and one dissenting vote shall prevent its adoption. Each proposition to be voted upon by either of these methods shall specify a time limit for members to vote, after which the alternates shall be given the opportunity to vote.

§ 984.450 Grade and size regulations.

(a) *Minimum kernel content requirements for inshell walnuts for reserve disposition credit.* For the purposes of §§ 984.54 and 984.56, no lot of inshell walnuts may be held, exported, or disposed of for use by government agencies or charitable institutions unless it meets the minimum requirements for merchantable inshell walnuts effective pursuant to § 984.50(a). The disposition of any lot of inshell walnuts pursuant to § 984.64 having at least a certified kernelweight of not less than 10 percent of the inshell weight of the lot may be credited against a handler's reserve obligation.

(b) *Minimum kernel content requirements for shelled walnuts for reserve disposition credit.* For the purposes of §§ 984.54 and 984.56, no lot of shelled walnuts may be held, exported, or disposed of for use by government agencies or charitable institutions unless it meets the minimum requirements for merchantable shelled walnuts effective pursuant to § 984.50(b). The disposition of any lot of shelled walnuts pursuant to § 984.64 having at least a certified kernelweight of kernels six sixty-fourths of an inch or larger of not less than 10 percent of the total weight of the lot may be credited against a handler's reserve obligation: *Provided,* That such minimum kernel content requirements shall not apply to any lot of walnut meal certified by the designated inspection service as having been derived from chopping, slicing, or dicing merchantable shelled walnuts.

§ 984.451 Inspection and certification of inshell and shelled walnuts.

(a) The inspection service shall be the DFA of California.

(b) Each handler shall make each container of each lot of walnuts accessible for sampling and sealing or stamping in connection with the inspection and certification of any lot of inshell or shelled walnuts.

(c) Inshell and shelled walnuts for export pursuant to § 984.56(b) shall have been inspected and certified not more than 60 days prior to shipment from the handler's plant.

§ 984.452 Certification of shelled walnuts for processing.

Each certificate issued for shelled walnuts for processing pursuant to § 984.52 (b) shall bear the notation "Certified for Processing Only". Shelled walnuts so certified for processing may not be processed by anyone other than the handler obtaining such certificate.

§ 984.456 Disposition of reserve walnuts and walnuts used for reserve disposition credit.

(a) Beginning August 1 of any marketing year, a handler may become an agent of the Board to dispose of reserve walnuts of such marketing year. The agency shall be established upon execution of an "Agency Agreement for Reserve Walnuts" setting forth the terms and conditions specified by the Board for the sale of reserve walnuts in authorized outlets.

(b) Any handler who desires to transfer disposition credit in excess of his reserve obligations to another handler shall submit a request to the Board for such transfer on WMB Form No. 17 signed by both handlers and the Board shall credit such transfer.

(c) Any reserve walnuts that a handler has not disposed of by the end of the marketing year shall be delivered to the Board for pooling on demand. The Board may delay such demand with respect to reserve walnuts for which the handler has agreed to undertake disposition pursuant to the Board's authority. Each lot of reserve or substandard walnuts delivered to the Board for pooling and disposition shall be separately weighed at the handler's expense by a public weighmaster either upon removal from the handler's premises or in transit to Board storage facilities or diversion point.

A copy of each weighmaster's certificate showing the net weight of the walnuts shall be forwarded to the Board by the handler. Walnuts delivered to the Board shall be delivered F.O.B. handler's warehouse or point of storage.

§ 984.464 Disposition of substandard walnuts.

(a) Whenever free and reserve percentages are in effect during a marketing year substandard walnuts meeting the requirements of § 984.450 may be delivered by a handler to the Board for pooling at any time during the year and the disposition credited to the handler's reserve obligation.

(b) (1) The Board shall maintain a list of approved crushers, livestock feed manufacturers and livestock feeders, and of the locations of the facilities within the area of production to which substandard walnuts may be shipped. The Board may deny approval to any applicant or remove any approved crusher, feed manufacturer, or feeder from the list when such denial or removal is deemed necessary to insure control of substandard walnut disposition or the Board determines that substandard walnuts are not shipped to such facilities.

(2) Substandard walnuts disposed of to an approved crusher, livestock feed manufacturer, or livestock feeder, may only be shipped directly to an approved location where the crushing, feed manufacture, or feeding is to take place.

(3) Applications for approval to crush, manufacture livestock feed, or feed substandard walnuts shall be submitted to the Board on a form prescribed by the Board and which includes the location and a description of the disposal facilities to be used and a certification to the Board and the Secretary of Agriculture that the applicant will:

(i) Crush, manufacture feed, or feed such walnuts at the location;

(ii) Use such walnuts for no other purpose than for crushing into oil, manufacturing into livestock feed, or livestock feeding;

(iii) Permit such inspection of his premises and of walnuts received and held by him, and such examination of his books and records covering walnut transactions as the Board may require;

(iv) Keep a record of his receipts, holdings, and use of substandard walnuts available for examination by authorized representatives of the Board and the U.S. Department of Agriculture for a period of two years after the end of the marketing year in which the recorded transactions are completed; and

(v) Make such reports, certified to the Board and the Secretary as to their correctness, as the Board may require.

(c) Each handler who disposes of substandard walnuts to an approved crusher, livestock feed manufacturer or livestock feeder shall upon shipment report to the Board on WMB Form No. 20, the quantities disposed of or shipped.

REPORTS

§ 984.471 Reports of handler carryover.

Reports of handler carryover as of August 1, January 1, and April 1 of each marketing year shall be submitted to the Board on WMB Form No. 4 for inshell and shelled walnuts, on or before August 15, January 15, and April 15, respectively of that marketing year.

§ 984.472 Reports of merchantable walnuts shipped.

(a) Reports of merchantable walnuts shipped during a month shall be submitted to the Board on WMB Form No. 6 not later than the 5th day of the following month. Such reports shall include all shipments during the preceding month and shall show for inshell and shelled walnuts (1) the quantity shipped, (2) whether they were shipped into domestic or export channels, and (3) for exports, the quantity by country of destination. If a handler makes no shipments during any month he shall submit a report marked "None". If a handler has completed his shipments for the season he shall mark the report "Completed", and he shall not be required to submit any additional WMB Form No. 6 reports during the remainder of that marketing year.

(b) Reports of walnuts purchased directly from growers by handlers who are manufacturers or retailers shall be submitted to the Board on WMB Form No. 6, not later than the 5th day of the month following the month in which the walnuts were purchased. Such reports shall show the quantity of walnuts purchased and the quantity inspected and certified as merchantable walnuts.

§ 984.473 Report of walnut receipts.

Each handler shall file a report of his walnut receipts from growers on or before January 15 of each marketing year on forms supplied by the Board.

§ 984.480 Books and other records.

Each handler shall maintain true and complete records of all inshell and shelled walnuts and walnut material, by categories, received, held, or disposed of by him. The records shall be maintained

in such form as to permit verification of all transactions involved and shall be made available during normal business hours to authorized representatives of the Board or the Secretary of Agriculture. These records shall include the following:

(a) The names and addresses of the persons from whom received, and the quantities received from each such person;

(b) The names and addresses of the persons to whom disposal is made, and the quantities disposed of to each such person;

(c) The quantities used by the handler for such purposes as manufacturing, production of oil, and livestock feeding; and

(d) The quantities held on August 1, January 1, and April 1 of each marketing year.

Dated: November 4, 1976.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc.76-33078 Filed 11-9-76;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 76-821]

FEDERAL SAVINGS AND LOAN SYSTEM

Proposed Amendments Relating to Alteration, Repair, or Improvement Loans

NOVEMBER 3, 1976.

The following summary of the amendments proposed by this Resolution is provided for the reader's convenience and is subject to the full explanation in the preamble and to the specific provisions in the regulations.

I. *Existing Regulations*—Certain construction loans, even without full amortization, may be made up to 80% of the value of the security property, whereas non fully amortized loans exceeding $10,000 for altering, repairing, or improving the security property may not be made in excess of 60 percent of the value of the property.

Certain construction loans may be combined with real-estate-secured permanent loans which begin when construction is completed. Existing regulations contain no similar provision as to combining alteration, repair, or improvement loans with permanent loans.

II. *Proposed Amendments*—The proposal would apply the same rules regarding maximum loan-to-value ratio and combination of loans to both construction loans and alteration, repair, or improvement loans secured by residential property.

III. *Purpose of Amendment*—To encourage upgrading of existing residential property.

The Federal Home Loan Bank Board considers it desirable to propose to amend Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545) principally for the purpose of liberalizing certain provisions applicable to alteration, repair, or improvement loans secured by residential property.

The Federal Home Loan Bank Board believes that there is a growing loan demand in many areas for funds to substantially alter, repair, or improve residential property where the cost of such changes would exceed the $10,000 limitation in § 545.8 (12 CFR 545.8) regarding loans without requirement of security. The present regulations require that such loans exceeding $10,000 be secured loans and that such loans comply with the regulations regarding secured loans.

Existing regulations permit a Federal association to make a 3-year loan, without requirement of principal payment, up to 60 percent of the value of the real estate securing the loan. Existing regulations also increase from 60 percent to 80 percent such permissible loan-to-value ratio for certain construction loans. The regulatory changes in this proposal would apply the same rules for alteration, repair, or improvement of residential property as are applied to construction of residential property. The Board intends that the words "alteration, repair, or improvement" include, for example, enlargement, rebuilding, reconstruction, rehabilitation, remodeling, restoring, or similar change.

In substance, the proposal would permit Federal associations to grant loans up to 80 percent of value, with deferment of principal payment, for 18 months on home or combination home and business property and for 36 months on multi-family dwellings. Also, the proposal would permit such loans to be combined with permanent long-term loans under the same rules as are applied to construction loans. These regulatory changes would be accomplished by adding the words "alteration, repair, or improvement" after the word "construction" wherever the word "construction" appears in paragraphs (a)(7), (b)(2), and (b)(3) of § 545.6-1.

Interested persons are invited to submit written data, views and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street, NW., Washington, D.C. 20552, by December 13, 1976, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address.

Accordingly, the Board hereby proposes to amend said Part 545 by revising paragraphs (a)(7), (b)(2)(ii), and (b)(3) of § 545.6-1 thereof to read as set forth below.

§ 545.6-1 Lending powers under sections 13 and 14 of Charter K.

Any Federal association which has Charter K may, under sections 13 and 14 thereof, make the following types of loans on the security of first liens on improved real estate and the use by such an association of loan plans, practices, and procedures which comply with the applicable provisions of §§ 545.6 to 545.6-13, are hereby approved by the Board:

(a) *Homes or combination of homes and business property—*

* * * * *

(7) *Construction, alteration, repair, or improvement loans.* If the members of an association have authorized loans on homes or combination of homes and business property to be made without full amortization in excess of 50 percent of the value thereof, such loans may be made for the purpose of construction, alteration, repair, or improvement up to 80 percent of the value thereof and for a term of not more than 18 months and with interest payable at least semiannually without regard to any requirement of this part for amortization of principal prior to the end of the term. Monthly installment loans and flexible payment loans under paragraph (a)(1) of this section, other installment loans under paragraph (a)(2) of this section, loans without full amortization under paragraph (a)(3) of this section, loans in excess of 80 percent of value under paragraph (a)(4) of this section and loans in excess of 90 percent of value under paragraph (a)(5) of this section may each be combined into a single loan with a loan for the purpose of construction, alteration, repair, or improvement meeting the requirements of this paragraph, and the term of the permanent loan shall be considered to begin at the end of the term allowed for construction, alteration, repair, or improvement.

(b) Other dwelling units; combination of dwelling units, including homes, and business property involving only minor or incidental business use.

* * * * *

(2) *Other installment loans.*

* * * * *

(ii) *Partially-amortized loans.* Partially-amortized monthly installment loans may be made in an amount not in excess of 80 percent of the value of the real estate.

Both monthly installment loans under subparagraph (1) and other installment loans under subparagraph (2) may be combined into a single loan with a loan for the purpose of construction, alteration, repair, or improvement which meets the requirements of subparagraph (3)(ii) of this paragraph, and the term of the monthly installment loan shall be considered to begin at the end of the term allowed for construction, alteration, repair, or improvement.

(3) *Loans without full amortization.* Any loan of a type that such an association may make on a monthly installment basis may also be made without full amortization of principal, but with interest payable at least semiannually, for an amount not in excess of 50 percent of the value of the security and for a term of not more than 5 years: *Provided,* That the requirements of this subparagraph with respect to semiannual payment of interest and the limitations of this subparagraph with respect to maximum percentage or other amounts and maximum terms of loans shall not be applicable to insured or guaranteed loans:

Provided further, That, when the members of such association have authorized loans to be made without full amortization for an amount exceeding 50 percent of the value, such loans may be made up to the percentage of value authorized by the members but not in excess of:

(i) 60 percent of the value and for a term of not more than 3 years; and

(ii) If such loan is made for the purpose of construction, alteration, repair, or improvement, 80 percent of the value and for a term of not more than 36 months without regard to any requirement of this part for amortization of principal prior to the end of the term.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.76-33040 Filed 11-9-76;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1015]

PROCEDURES FOR DISCLOSURE OR PRODUCTION OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

Proposed Interim Guidelines

• *Purpose.* The purpose of this document is to republish the Consumer Product Safety Commission's Freedom of Information Act Regulations for comment. It was thought desirable to again publish these regulations for comment because of some significant changes from the proposed regulations published in the FEDERAL REGISTER on April 20, 1976 (41 FR 16572). The first significant change, incorporated into § 1015.4, provides that the Secretary may in his/her discretion certify a Freedom of Information Act (FOIA) request to the Commissioners for an initial decision rather than initially determine the matter himself/herself. The purpose of this amendment is to provide a mechanism by which the Secretary can obtain Commission decisions on unusual or unique issues. •

The second significant change is contained in proposed § 1015.15(b). Section 1015.15(b) provides that the Commission will not ordinarily release legal advice documents involving pending or prospective litigation when the release of such documents would significantly interfere with the Commission's regulatory or enforcement proceedings.

Proposed § 1015.15(b) also contains a change in the Commission's policy for disclosing draft documents. Draft documents will now be released after review by the author's supervisor or if the draft document is intended for the author's sole use, by the author, if he/she agrees. This amendment will permit the staff to reduce their preliminary thoughts to writing and afford them greater flexibility to comment and exchange ideas on a subject among themselves before a draft document is releasable.

The third significant change, contained in a new § 1015.17, provides a means by which Commission personnel may appeal a decision of the Secretary to release a staff document prepared by them. The purpose of this change, contained in § 1015.17(a)(2), is to provide for an appeal to the Commissioners if a disagreement should arise between the Secretary and the staff over release of a document.

Section 1015.17(b) provides that a Commissioner may initially withhold documents prepared by himself/herself and their assistants. If a requester appeals the withholding, the other Commissioners would make a final decision on the matter. Section (b) serves the purpose of allowing a Commissioner to at least initially protect from disclosure his/her personal thoughts and those of his/her staff on a particular subject.

In response to the proposed regulations published in the FEDERAL REGISTER of April 20, 1976, nine comments were received and are available for viewing in the Office of the Secretary.

The following changes were made in response to the comments received:

1. The language in § 1015.1(a) covering requests for records that are contained in the Commission's system of records under the Privacy Act was amended to provide that an individual's request for records about himself/herself would be processed under the Privacy Act regulations but that a request by an individual for a third party's records would be processed under these (FOIA) regulations.

2. Section 1015.8 covering requests received during the course of administrative hearings has been deleted in its entirety.

3. Sections 1015.17 and 1015.18 of the proposed regulations published on April 20, 1976 have been renumbered §§ 1015.18 and 1015.19 respectively. A number of typographical errors and omissions were found in the proposed regulations and have been corrected in these final regulations.

The issues raised by the comments and the Commission's replies thereto are arranged below by the number of the sections to which they refer. Placed at the end are discussions of comments to which the Commission responded in the preamble to the proposed and interim rules published on April 20, 1976 (41 FR 16572).

The three significant changes discussed above do not deprive a requester of any procedural rights under the Freedom of Information Act, such as the ten day time limit for an initial decision. They do, however, provide for a very limited withholding of documents reflecting, in part, past Commission practices and the need to prevent the premature release of draft documents. The Commission hopes that the certifying of a Freedom of Information Act request to the Commissioners by the Secretary, and the internal staff appeal process will result in an expedited final Commission decision. The Commission will continue to adhere to its stated principle of disclosure being the rule and withholding the exception, and encourages its staff to provide the public with information and documents as quickly and informally as possible.

Because §§ 1015.4, 1015.15(b) and 1015.17 contain general statements of policy and rules of practice and procedure, the requirement in the Administrative Procedure Act (5 U.S.C. 553(b)) for notice and comment is not applicable.

Nevertheless, the Commission solicits comments on the changes in §§ 1015.4, 1015.15(b) and 1015.17(b) by December 10, 1976. The public is requested to limit its comments to these three sections. Comments and any accompanying material or data should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

1. One commenter thought that the Commission was in error by stating in § 1015.1(a) that "* * * a request for records that are contained in the Commission's system of records under the Privacy Act (5 U.S.C. 552a) will be considered a request for records under the Privacy Act and not under the Freedom of Information Act." The commenter stated there may be some records about an individual that would be available to him or her under the FOIA that would not be available under the Privacy Act.

The Commission agrees that there is a need to clarify the inter-relationship between the Privacy Act and the Freedom of Information Act and therefore has revised the language of § 1015.1(a). That section now provides that a request by an individual for his/her own records that are contained in the Commission's system of records under the Privacy Act will be processed under that Act. In addition, an individual will receive any records about himself or herself required to be made available under the FOIA. However, at the present time, there do not exist any Commission records about an individual that would be available to him or her under the FOIA that are not available under the Privacy Act.

Section 1015.1(a) has also been changed to insure that a request by a person for records about another individual which are covered by the Privacy Act will be processed administratively under the FOIA. Substantively, the decision on whether or not to release will be made initially under the FOIA. If the decision under the FOIA is against disclosure, for example on the ground of invasion of personal privacy, then the request would be handled under the Privacy Act procedures for obtaining consent from the individual whose records are sought. (See the CPSC rules under the Privacy Act, 16 CFR Part 1014.)

2. One commenter took exception to the statement in § 1015.1(c) that the Attorney General's Memorandum on the 1974 Amendments to the Freedom of Information Act may be consulted in answering questions arising under the FOIA, because the Memorandum supports a "conservative" interpretation of the FOIA.

The Attorney General's Memorandum was referenced as an aid to those individuals who may have questions about the Freedom of Information Act, especially the 1974 Amendments. The Memorandum is merely one source document that is consulted by Commission personnel when a question arises about the interpretation of the FOIA.

3. One commenter thought that the wording of § 1015.3(c) implied that the Commission would deny or delay a request for records if it were unduly burdensome.

The Commission believes that section contains no such implication. In fact, in the April 20, 1976 proposed and interim rules, the Commission revised the language of that section from the language that appeared in the proposed and interim regulations published on August 21, 1974 (39 FR 30298), to clarify that the Commission would not deny a request solely because the records requested are voluminous. Rather, the thrust of § 1015.3(c) is to reflect the practice of the Commission to communicate with a requester when it receives a broad categorical request for documents so as to reduce the burden on the Commission and not impose substantial search and duplication fees upon a requester. If a requester reasonably describes the documents requested even though he/she requests a voluminous number of documents, the Commission will make a good faith effort to fulfill the request within the statutory time limits. However, if an individual requests a voluminous amount of documents and fails to reasonably describe the records so as to avoid an unreasonable amount of effort in locating them, then, the request would be denied and the individual contacted and requested to submit a more specific request. See, "Irons v. Schuyler," 465 F. 2d 608 (D.C. Cir. 1972).

4. One commenter thought that the 10 day time requirement in § 1015.5(a) for responding to requests for written records under the FOIA should not begin to run until the Commission had made its determination on whether an item is disclosable.

Subsection, (a)(6)(A)(i), of the Freedom of Information Act, 5 U.S.C. 552(a), expressly provides that the 10 day limit shall begin to run from the day of receipt of a request for records. Therefore, § 1015.5 of these regulations will not be changed in response to the comment.

5. One commenter objected to the last sentence in § 1015.8 which provides that the rules governing adjudicative hearings take precedence over these regulations when a request for records is made during an administrative hearing. The commenter stated that a requester's rights under the Freedom of Information Act should not be abridged because he or she participates in an administrative hearing.

The Commission has decided to delete § 1015.8 in its entirety because the Commission believes a request for records by a party to an administrative hearing should be processed by the Presiding Officer of that hearing in accordance with the rules of practice governing the conduct of the hearing to eliminate confusion. This would not, however, preclude a party to the hearing or another individual from making a Freedom of Information Act request which would be processed in accordance with the regulations contained in this Part 1015.

6. A number of commenters thought that the disclosure of trade secrets to consultants, contractors and advisory committee members, as provided for in § 1015.11, was violative of section 6(a)(2) of the CPSA because that section permits disclosure of trade secrets and other confidential data only to Commission officers and employees. Other commenters expressed their concern that no criminal or civil sanctions would be applicable to the unlawful disclosure of trade secrets by consultants, contractors or advisory committee members.

The Commission believes that the disclosure of trade secrets and other confidential data to consultants, contractors and advisory committee members for use only in their work for the Commission is expressly permitted by section 6(a)(2) of the CPSA which provides that the Commission "* * * *or its representative* * * *" is empowered to collect trade secrets and other data, and thus, impliedly permits the Commission to disclose trade secrets to its representatives. This interpretation finds support in the case of "Chemical Specialties Manufacturers Association v. Consumer Product Safety Commission," C.A. No. 75-1722 (D.D.C., November 3, 1975).

Any unlawful disclosure of a trade secret by a contractor, consultant or advisory committee member could subject that individual to criminal prosecution under 18 U.S.C. 641, as well as civil liability. In addition, the Commission carefully screens its contractors and consultants prior to the award of any contract involving trade secrets and explicitly provides in the contract and/or by affidavit that trade secrets shall not be disclosed.

7. One commenter thought that the 5 day time limit in § 1015.17(b) for submitting a claim of confidentiality is too short.

The Commission recognizes that the 5 day time limit for submitting claims is a short period of time. However, the Commission is required under section (a)(6)(A) of the FOIA to make a decision on whether to disclose records within 10 working days of receiving the request for records under the FOIA. Therefore the short time limit for filing claims of confidentiality is necessary.

8. Two commenters believed that the Commission's policy as expressed in § 1015.15(c) of releasing draft documents might result in a violation of section 6(b)(1) of the CPSA because the contents of the draft document might be misleading and inaccurate. Section 6(b)(1) provides requirements concerning public disclosure of information obtained under the Act.

The Commission recognizes that draft documents are by their very nature tentative and releases a prepared statement with each draft that describes its tentative nature. The Commission has also revised § 1015.15(b) to provide for the release of draft documents after review or approval by an author's supervisor. This is expected to result in a greater degree of accuracy.

9. Several commenters thought that the requirements in § 1015.17(c) for submitting a claim of confidentiality were onerous and burdensome in that they require justification for claiming confidentiality. At least one commenter was concerned that the failure to comply with all the requirements of § 1015.17(c) might result in the Commission's rejecting a claim of confidentiality by the person submitting the information. In addition, there appears to be some confusion about the kind of notice, actual or constructive, that the Commission must afford a submitter of information in § 1015.17(a) so that he/she will have an opportunity to submit a claim of confidentiality.

Finally, one commenter thought that the information in a claim for confidentiality should be verified and a statement of the age of the data claimed confidential should be included in the request for confidential treatment of the information.

To provide for a new section to be added to Subpart B of the regulations, the former § 1015.17 has been redesignated § 1015.18. The format in section 1015.18 for submitting claims of confidentiality is basically derived from the case of "National Parks & Conservation Association v. Morton", 498 F. 2d 765 (D.C. Cir. 1974) which discusses the factors to be considered in deciding whether to honor a claim of confidentiality. In order for Commission personnel to be in a position to make an informed judgment on a claim, it is necessary that the individual or company making the claim supply the Commission with all the information requested in § 1015.18(c). If the Commission, in evaluating a claim of confidentiality, finds that the requester has inadvertently omitted some information from the prescribed claim format, the individual or company requesting confidentiality will be notified and requested to immediately forward the omitted information.

As to the possible confusion about the notification requirement in § 1015.18(a), the term "* * * after being notified by the Commission of his/her opportunity to request confidential treatment for information * * *" is intended to include actual notice by the Commission, either orally or in writing.

The Commission believes that a claim for confidentiality need not be verified because any deliberate misinformation included in a claim could subject the claimant to the sanctions of the False Reports to the Government Act (18 U.S.C. 1001). In evaluating any claim for confidentiality, the Commission takes into consideration, if appropriate, how old the data is. If the Commission considers the age of the information claimed confidential to be relevant but does not know the age of the material, the Com-

mission will seek this information from the claimant. However, the Commission does not believe it is necessary to require all claimants to submit information about the age of the material they wish held confidential.

10. One commenter thought that the practice of the Commission, as expressed in § 1015.18(b), of providing ten days notice to a submitter before releasing data claimed to be confidential was illegal because it violates the FOIA's requirement that non-exempt records be made promptly available.

The two cases cited by the commenter in support of its position, "Merrill v Federal Open Market Committee of the Federal Reserve System," 38 Ad L2d 387 (D.D.C. March 9, 1976) and "Packer v Kliendienst," C.A. No. 1988–72 (D.D.C. July 8, 1974) held that a delay of 45 days and 60 days respectively is a violation of the prompt disclosure requirement. It does not appear, however, that a delay of ten days to allow a submitter the right to seek judicial relief is a violation of the prompt disclosure requirement. Indeed, an argument could be made that a submitter must be afforded some type of advance notice or other mechanism for seeking judicial relief when a government agency rules against his/her claim of confidentiality. See, "Pharmaceutical Manufacturers Association v Weinberger," C.A. No. 75–725 (D.D.C. April 14, 1976).

Therefore, the Commissions has not changed this provision. However, former § 1015.18 has been renumbered as § 1015.19 to accommodate a new section in the regulations.

11. One commenter thought that the Commission should adopt the practice of the Food and Drug Administration of determining before data is submitted whether data voluntarily submitted is a trade secret or not.

The Commission's practice of determining claims of confidentiality at the time a request for a record is made has worked well in the past. If the Commission determines that a claim of confidentiality is not valid, the submitter is afforded the protection of receiving 10 days advance notice before release. It should be noted that although the Food and Drug Administration provides for presubmission determination of confidentiality, its FOIA regulations do not explicitly provide for any advance notice of an adverse decision. (21 CFR 4.20 et seq.; 41 FR 9317 March 4, 1976) See, "Phamaceutical Manufacturers Association v Weinberger," C.A. No. 72–725 (D.D.C. April 14, 1976.)

12. A few commenters expressed concern whether the Commission would withhold from disclosure trade secrets and other confidential business data. These commenters felt that the Commission's position on this matter is not entirely clear.

Despite a clear statement in the third answer to comments in the preamble to the April 20, 1976 proposed final guidelines under the FOIA (41 FR 16573) that trade secrets and other confidential business data will not be disclosed by the Commission, some concern apparently still exists that the Commission's openness policy may undermine the protection of this data. The Commission's openness policy is not in any way intended to erode the protections afforded trade secrets and other confidential business data by section 6(a)(2) of the CPSA and exemption 4 of the FOIA (and § 1015.16(d) of these regulations). Rather, the Commission's openness policy covers the release of internal Commission documents which would otherwise be exempt from disclosure under the FOIA but which the Commission has decided should be released in the interest of keeping the public fully informed of its activities.

13. One commenter was concerned that a submitter might waive his/her right to obtain a patent for data submitted to the Commission.

Any data that is submitted to the Commission which is covered by a patent or application for a patent will be so honored by the Commission.

14. One commenter believed that the Commission should respect a claim for confidentiality until such time as a reasonable review indicated otherwise.

Section 1015.17(d), now renumbered § 1015.18(d), expressly provides that the Commission will honor claims of confidentiality until a review of the data, in response to a FOIA request, indicates otherwise.

15. A number of commenters raised the same issues in these comments which were previously answered by the Commission when these regulations were proposed on April 20, 1976. Since the Commission has nothing substantial to add to the replies already given, these comments are listed below with a reference to the comments in that notice which are applicable.

(a) One commenter took exception to the Commission's failure to provide a specific standard for determining whether data is a trade secret or confidential commercial information.

As stated in reply 14 (41 FR 16573), the Commission decided that it was not advisable to attempt to articulate an all inclusive specific standard or definition for trade secret or confidential commercial data because the law in this area is evolving. See, "Pharmaceutical Manufacturers Association v. Weinberger," C.A. No. 75–725 (D.D.C. April 14, 1976) slip opinion at page 8.

(b) One commenter thought that providing a requester with a summary of information found to be confidential would compromise its secrecy.

As previously noted in reply 15 (41 FR 16574), the practice of providing a requester with a summary of information found confidential is legally required and does not compromise the security of the data.

(c) A number of commenters criticized the failure of the Commission to provide manufacturers with the 30 days notice provided for in section 6(b)(1) of the CPSA.

The Commission responded to this comment in reply 17 (41 FR 16574). As stated, the Commission's position is that section 6(b)(1) is not applicable to Freedom of Information requests. The Commission's interpretation is presently the subject of litigation.

(d) One commenter thought that § 1015.20 which covers the preparation of accident or investigation reports by "agents" of the Commission was an unlawful extension of section 25(c)(1) of the CPSA which limits the preparation of reports to an officer or employee of the Commission.

For the reasons given in reply 19 (FR 16574), the Commission believes that reports prepared by agents of the Commission are covered under section 25(c)(1).

(e) Two commenters disagreed with the Commission's decision not to provide a submitter of information with the right to appeal the Secretary's denial of a claim of confidentiality.

For the reasons previously given in response 28 (41 FR 16575), the Commission has decided not to allow an appeal by a submitter of information.

These regulations will become effective immediately upon publication in the FEDERAL REGISTER and will remain in effect until final regulations are promulgated.

Accordingly, under provisions of the Consumer Product Safety Act (86 Stat. 1207; 15 U.S.C. 2051), the Federal Hazardous Substances Act (74 Stat. 372 as amended; 15 U.S.C. 2161), the Poison Prevention Packaging Act of 1970 (84 Stat. 1070; 15 U.S.C. 1471); the Refrigerator Safety Act (70 Stat. 953; 15 U.S.C. 1211), the Flammable Fabrics Act (67 Stat. 11 as amended; 15 U.S.C. 1191), and the Public Information Act (Freedom of Information Act as amended) 5 U.S.C. 552, the Commission proposes to add the following Freedom of Information Act regulations to Part 1015 to Title 16, Chapter II, Subchapter A:

PART 1015—PROCEDURES FOR DISCLOSURE OR PRODUCTION OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

Subpart A—Production or Disclosure Under 5 U.S.C. 552(a)

Sec.

1015.1 Purpose and scope.
1015.2 Public reference facilities.
1015.3 Requests for records and copies.
1015.4 Responses to requests for records; responsibility.
1015.5 Time limitations on responses to requests for records.
1015.6 Responses: Form and content.
1015.7 Appeals to the Commissioners from initial denials; reconsideration by the Secretary.
1015.8 Requests received during the course of administrative hearings. [Reserved]
1015.9 Fees for production of records.
1015.10 Commission report of actions to Congress.
1015.11 Disclosure of trade secrets to consultants and contractors; nondisclosure to advisory committees and other Government agencies.
1015.12 Disclosure to Congress.

Subpart B—Exemptions From Production and Disclosure Under 5 U.S.C. 552(b)

1015.15 Purpose and scope.
1015.16 Exemptions (5 U.S.C. 552(b)).
1015.17 Internal Commission procedure for withholding exempt records.
1015.18 Information submitted to the Commission; request for treatment as exempt material.
1015.19 Decisions on requests for exemption from disclosure under 5 U.S.C. 552(b)(4).

Subpart C—Disclosure of Commission Accident or Investigation Reports Under 15 U.S.C. 2074(c)

1015.20 Public availability of accident or investigation reports.

AUTHORITY: 86 Stat. 1207; (15 U.S.C. 2051), 74 Stat. 372 as amended; (15 U.S.C. 1261), 84 Stat. 1670; (15 U.S.C. 1471), 70 Stat. 953; (15 U.S.C. 1211), 68 Stat. 11 as amended; 15 U.S.C. 1191), 81 Stat. 54 as amended (5 U.S.C. 552).

Subpart A—Production or Disclosure Under 5 U.S.C. 552(a)

§ 1015.1 Purpose and scope.

(a) The regulations of this subpart provide information concerning the procedures by which Consumer Product Safety Commission records may be made available for inspection and the procedures for obtaining copies of records from the Consumer Product Safety Commission. Official records of the Consumer Product Safety Commission consist of all documentary material maintained by the Commission in connection with its responsibilities and functions under the Consumer Product Safety Act. Commission records include records transferred to the Commission under the Federal Hazardous Substances Act, Poison Prevention Packaging Act of 1970, Refrigerator Safety Act, and Flammable Fabrics Act, as well as records maintained under any other authorized activity. Official records do not, however, include objects or articles such as tangible exhibits, samples, models, equipment, or other items of valuable property; books, magazines, or other reference material; or documents routinely distributed by the Commission in the normal course of business such as copies of FEDERAL REGISTER notices, pamphlets, and laws. Official records include only existing records. Official records of the Commission made available under the requirements of the Freedom of Information Act (5 U.S.C. 552) shall be furnished to the public as prescribed by this Part 1015. A request by an individual for records about himself or herself that are contained in the Commission's system of records under the Privacy Act (5 U.S.C. 552a) will be processed under the Privacy Act. A request by a third party for records that are contained in the Commission's system of records under the Privacy Act will be processed administratively under these regulations with respect to the time limits and appeals rights (§§ 1015.5 and 1015.7), but substantively under the applicable provisions of first the Freedom of Information Act and then the Privacy Act. Documents routinely distributed to the public in the normal course of business will continue to be furnished to the public by employees of the Commission informally and without compliance with the procedures prescribed herein.

(b) The Commission's policy with respect to requests for records is that disclosure is the rule and withholding is the exception. All records not exempt from disclosure will be made available. Moreover, records which may be exempted from disclosure will be made available as a matter of discretion when disclosure is not prohibited by law, or is not against the public interest. See, § 1015.15(b). Section 6(a)(2) of the Consumer Product Safety Act, 15 U.S.C. 2055(a)(2), prohibits the disclosure of trade secrets or other matters referred to in 18 U.S.C. 1905.

(c) The Attorney General's Memorandum on the 1974 Amendments to the Freedom of Information Act published in February, 1975 is available from the Superintendent of Documents and may be consulted in considering questions arising under the Freedom of Information Act.

§ 1015.2 Public reference facilities.

The Consumer Product Safety Commission will maintain in a public reference room or area the materials relating to the Consumer Product Safety Commission which are required by 5 U.S.C. 552(a)(2) and 552(a)(5) to be made available for public inspection and copying. The principal location will be in the Office of the Secretary. The address of this office is:

Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, N.W., Washington, D.C. 20207.

This public reference facility will maintain and make available for public inspection and copying a current index of the materials available at that facility which are required to be indexed by 5 U.S.C. 552(a)(2). For the purpose of providing the opportunity for greater public access to records of the Consumer Product Safety Commission, the Commission may establish additional public reference facilities. Each such additional reference facility will also maintain and make available for public inspection and copying a current index of the materials available at that facility which are required to be indexed by 5 U.S.C. 552(a)(2).

§ 1015.3 Requests for records and copies.

(a) A request for access to records of the Commission shall be in writing addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Any written request for records covered by this part shall be deemed to be a request for records pursuant to the Freedom of Information Act, whether or not the Freedom of Information Act is mentioned in the request. An oral request for records will not be considered a request for records pursuant to the Freedom of Information Act. Responses to oral requests for records shall be made as promptly as resources and time restraints permit.

(b) A request for access to records must reasonably describe the records requested. Where possible, specific information regarding dates, title, file designations, and other information which may help identity the records should be supplied by the requester. If the request relates to a matter in pending litigation, where the Commission is a party, the court and its location should be identified. Where the information supplied by the requester is not sufficient to permit identification and location of the records by Commission personnel without an unreasonable amount of effort, the requester will be contacted and asked to supply the necessary information. Every reasonable effort shall be made by Commission personnel to assist in the identification and location of requested records.

(c) If it is determined that a request would unduly burden or interfere with the operations of the Commission, the response shall so state and shall extend to the requester an opportunity to confer with appropriate Commission personnel in an attempt to reduce the request to manageable proportions by reformulation and by agreeing on an orderly procedure for the production of the records.

(d) If a requested record cannot be located from the information supplied, or is known to have been destroyed or otherwise disposed of, the requester shall be so notified by the Secretary or delegate of the Secretary.

§ 1015.4 Responses to requests for records; responsibility.

The ultimate responsibility for responding to requests for records is vested in the Secretary of the Consumer Product Safety Commission. The Secretary or delegate of the Secretary may respond directly or forward the request to any other office of the Commission for response. In any case where the Secretary or delegate of the Secretary in his/her discretion determines that a request for an identifiable record should be initially determined by the Commission, the Secretary, or the delegate of the Secretary, may certify the matter to the Commission for a decision. In that event the Commission decision shall be made within the time limits set forth in section 1015.5 and shall be final. The Commission response shall be in the form set forth in § 1015.7(d) for action on appeal. If no response is made by the Commission within ten working days, or any extension thereof, the requester and the Commission may take the action specified in § 1015.7(e).

§ 1015.5 Time limitations on responses to requests for records.

(a) The Secretary or delegate of the Secretary shall respond to all written requests for records within ten (10) working days (excepting Saturdays, Sundays, and legal public holidays). The time limitations on responses to requests for records shall begin to run as of the time a request for records is received by the Office of the Secretary and a date stamp notation placed directly on the request.

(b) The time for responding to requests for records may be extended by the Secretary at the initial stage or by the Chairman of the Commission at the appellate stage up to an additional ten (10) working days under the following unusual circumstances:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the Office of the Secretary.

(2) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the Commission having substantial subject matter interest therein.

(c) Any extenstion of time must be accompanied by written notice to the person making the request setting forth the reason(s) for such extension and the time within which a response is expected to be made.

§ 1015.6 Responses: Form and content.

(a) When a requested record has been identified and is available for disclosure, the requester shall either be supplied with a copy or notified as to where and when the record will be made available for inspection. If a requester desires to inspect records at one of the regional offices of the Commission, the Secretary will ordinarily make the records available at the requested regional office. If the payment of fees is required the requester shall be advised by the Secretary in writing of any applicable fees under § 1015.9 hereof.

(b) A response denying a written request for a record shall be in writing signed by the Secretary or delegate of the Secretary and shall include:

(1) The identity of each person responsible for the denial.

(2) A reference to the specific exemption or exemptions under the Freedom of Information Act authorizing the withholding of the record with a brief explanation of how the exemption applies to the record withheld; and

(3) A statement that the denial may be appealed to the Commissioners of the Consumer Product Safety Commission. Any such appeal must be made within 30 calendar days of receipt of the denial by the requester.

(c) If no response is made within ten (10) working days or any extension thereof, the requester can consider his/her administrative remedies exhausted and seek judicial relief in a United States District Court as specified in 5 U.S.C. 552(a)(4)(B). When it appears that no response can be made to the requester within the applicable time limit, the Secretary or delegate of the Secretary may ask the requester to forego judicial relief until a response can be made. The Secretary or delegate of the Secretary shall inform the requester of the reason for the delay, of the date on which a response may be expected and of his/her right to seek judicial review as specified in 5 U.S.C. 552(a)(4)(B).

§ 1015.7 Appeals to the Commissioners from initial denials; reconsideration by the Secretary.

(a) When the Secretary or delegate of the Secretary has denied a request for records in whole or in part, the requester may, within 30 days of its receipt, appeal the denial to the Commissioners of the Consumer Product Safety Commission by writing to the Consumer Product Safety Commission, attention of the Chairman, Washington, D.C. 20207.

(b) The Commissioners, or the Secretary upon reconsideration, will act upon an appeal within 20 working days of its receipt. The time limitations on an appeal begin to run as of the time an appeal is received by the Office of the Chairman and date stamped. Upon receipt of an appeal, the staff shall prepare a briefing package for the Commissioners setting forth the reasons for either disclosing or withholding the records. The briefing package shall be submitted to the Commissioners through the Office of the Secretary.

(c) After reviewing the staff's briefing package to the Commissioners, the Secretary will reconsider his/her initial denial. If the Secretary upon reconsideration decides to release any or all of the information requested on appeal, an appeal as to the information released will be considered moot, and the Secretary will so inform the requester and submitter of the information in accordance with §§ 1015.6(a) and 1015.18(b). If the Secretary decides to affirm the initial denial, in whole or in part, the staff's briefing package will be forwarded to the Commissioners for a decision on the denial within the 20-day time limit or any extension thereof in accordance with section 1015.5.

(d) The Commissioners' action on appeal shall be in writing, signed by the Chairman of the Commission if the appeal is denied and shall identify the Commissioners who voted for a denial. A denial in whole or in part of a request on appeal shall set forth the exemption relied on, a brief explanation consistent with the purpose of the exemption of how the exemption applies to the records withheld, and the reasons for asserting it. A denial in whole or in part shall also inform the requester of his/her right to seek judicial review of the Commission's final determination in a United States District Court, as specified in 5 U.S.C. 552(a)(4)(B).

(e) If no response is made to the requester within 20 working days or any extension thereof, the requester can consider his/her administrative remedies exhausted and seek judicial relief in a United States District Court as specified in 5 U.S.C. 552 (a)(4)(B). When no response can be made within the applicable time limit, the Chairman or delegate of the Chairman may ask the requester to forego judicial review until a response can be made. The Chairman or the Chairman's delegate shall inform the requester of the reason for the delay, of the date on which a response may be expected, and of the requester's right to seek judicial review as specified in 5 U.S.C. 552(a)(4)(B).

(f) Copies of all appeals and copies of all actions on appeal shall be furnished to and maintained in a public file by the Secretary.

§ 1015.8 Requests received during the course of administrative hearings. [Reserved]

§ 1015.9 Fees for production of records.

(a) Fees shall be charged in accordance with the schedule contained in paragraph (f) of this section for services rendered in responding to requests for Consumer Product Safety Commission records under this subpart; however certain information provided routinely in the normal course of doing business will be provided at no charge.

(b) Fees may be determined and levied only by the Secretary or delegate of the Secretary. The Secretary may waive or reduce fees beyond the waiver provisions of paragraph (c) of this section when the furnishing of the information can be considered as primarily benefiting the general public or when special circumstances warrant. The Secretary's determination may be appealed to the Commissioners in the same manner as appeals from denials under § 1015.7 hereof.

(c) There shall be no fee charged for services rendered in connection with the production or disclosure of records unless the charges, calculated according to the schedule contained in paragraph (f) of this section, exceed the sum of $25.00. Where the charges are calculated to be an amount in excess of $25.00, the fee charged shall be the difference between $25.00 and the calculated charges.

(d) No fee shall be levied where the records requested are not provided or made available.

(e) The payment of fees should be made by check or money order payable to the Consumer Product Safety Commission.

(f) The schedule of charges for services regarding the production or disclosure of Consumer Product Safety Commission records is as follows:

(1) Search for records and information (calculated from the time when the person making the search obtains the relevant files and begins the actual search) $1.50 per one-quarter hour.

(2) Computer time, Central Processing:

Unit, $6.00 per minute; card reader, $1.00 per 1,000 cards; card punching, $3.00 per 1,000 cards; printer, $.90 per 1,000 lines; tape or disk, $.40 per 1,000 number of reads or line; minimum charge, $1.50.

Nothing in this paragraph shall be construed to entitle any person, as of right, to any services in connection with computerized records, other than services to which such person may be entitled under 5 U.S.C. 552.

(3) Reproduction, duplication, or copying of records: 10 cents for each page.

(4) Postage: Actual cost basis.

§ 1015.10 Commission report of actions to Congress.

On or before March 1 of each calendar year, the Commission shall submit a report of its activities with regard to freedom of information requests during the preceding calendar year to the Speaker of the House of Representatives and to the President of the Senate. This report shall include:

(a) The number of determinations made by the Commission not to comply with requests for records made to the Commission under the provisions of this part and the reasons for each such determination.

(b) The number of appeals made by persons under such provisions, the result of such appeals, and the reason for the action upon each appeal that results in a denial of information.

(c) The names and titles or positions of each person responsible for the denial of records requested under the provisions of this part and the number of instances of participation for each.

(d) The results of each proceeding conducted pursuant to subsection (a)(4)(f) of FOIA as amended November 21, 1974, including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken.

(e) A copy of every rule made by the Commission implementing the provisions of the FOIA, as amended November 21, 1974.

(f) A copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section.

(g) Such other information as indicates efforts to administer fully the provisions of the FOIA, as amended.

§ 1015.11 Disclosure of trade secrets to consultants and contractors; nondisclosure to advisory committees and other government agencies.

(a) In accordance with section 6(a)(2) of the CPSA, the Commission may disclose information which it has determined to be a trade secret under 5 U.S.C. 552(b)(4) to Commission consultants and contractors for use only in their work for the Commission. Such persons are subject to the same restrictions with respect to disclosure of such information as any Commission employee.

(b) In accordance with section 6(a)(2) of the CPSA, the Commission is prohibited from disclosing information which it has determined to be a trade secret under 5 U.S.C. 552(b)(4) to advisory committees, except when required in the official conduct of their business, or to other Federal agencies and state and local governments.

§ 1015.12 Disclosure to Congress.

(a) All records of the Commission shall be disclosed to Congress upon a request made by the chairman of a committee or subcommittee of Congress acting pursuant to committee business and having jurisdiction over matter about which information is requested.

(b) An individual member of Congress who requests a record for his or her personal use or on behalf of any constitutent shall be subject to the same rules that apply to members of the general public.

Subpart B—Exemptions From Production and Disclosure Under 5 U.S.C. 552(b).

§ 1015.15 Purpose and scope.

(a) The regulations of this subpart provide information concerning the types of records which may be withheld from production and disclosure by the Consumer Product Safety Commission and the internal Commission procedure for withholding exempt records. These regulations also provide information on the method whereby persons submitting information to the Commission may request that the information be considered exempt from disclosure, and information concerning the Commission's treatment of documents submitted with a request that they be treated as exempt from disclosure.

(b) No identifiable record requested in accordance with the procedures contained in this part shall be withheld from disclosure unless it falls within one of the classes of records exempt under 5 U.S.C. 552(b). To the extent permitted by law, the Commission will make available records authorized to be withheld under 5 U.S.C. 552(b) unless the Commission determines that disclosure is contrary to the public interest. In this regard the Commission will not ordinarily release documents that provide legal advice to the Commission concerning pending or prospective litigation where the release of such documents would significantly interfere with the Commission's regulatory or enforcement proceedings. Similiarly, draft documents which require review or approval by the author's immediate supervisor are releasable only after such review or approval. In cases where multiple levels of review are required, documents are releasable when they have received the first level of review or approval. When no review is required, a document is releasable when it is transmitted to the person for whom it is intended. Draft documents, including summaries, outlines and analyses, intended for the sole use of the author are releasable only if the author agrees to disclosure.

(c) In order to avoid any misunderstanding of the preliminary nature of a draft document, the Commission will release a prepared statement with the draft describing its tentative nature. The Commission will also release upon request documents or briefing packages which have been completed by the staff but not approved by the Commission. These documents will be marked to indicate that they have not been approved by the Commission and will be publicly available when forwarded by the Secretary's Office to the Commissioners.

(d) The exceptions contained in § 1015.16 are as contained in 5 U.S.C. 552(b). These exemptions will be interpreted in accordance with the applicable law at the time a request for production or disclosure is considered.

§ 1015.16 Exemptions (5 U.S.C. 552 (b)).

(a) Records specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

(b) Records related solely to the internal personnel rules and practices of the Commission.

(c) Records specifically exempted from disclosure by statute.

(d) Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(e) Interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency.

(f) Personnel and medical files and similar files the disclosure of which would consitute a clearly unwarranted invastion of personal privacy.

(g) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential informaton furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel.

(h) Records contained in or related to examinations, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(i) Records of geological and geophysical information and data, including maps, concerning wells.

§ 1015.17 Internal Commission procedure for withholding exempt records.

Paragraphs (a) and (b) of this section describe the internal Commission procedure to be followed for requesting that a record or draft document, exempt from disclosure under the inter- intra-agency memorandum exemption, 5 U.S.C. 552(b)(5), or the investigatory file exemption, 5 U.S.C. 552(b)(7), not be disclosed.

(a) If a bureau or office director believes that it is against the public interest to disclose a Commission record or draft document prepared by his/her bureau or office, he/she may request in writing that the Secretary withhold the document. The request must specify why the release would be against the public interest.

(1) If the Secretary agrees to withhold the document, the requester shall be notified in writing of the denial and of his/her right to appeal in accordance with § 1015.6(b).

(2) If the Secretary decides to release the document, the bureau or office director shall be notified and given two working days wtihin which to appeal to the Commissioners. An appeal by a bureau or office director shall be in writing addressed to the Chairman. If an appeal is taken by a bureau or office director, the Secretary will not disclose the document. The Commissioners' action on appeal shall be in accordance with § 1015.7(d).

(b) If a Commissioner believes that it is not in the public interest to disclose a Commission record or draft document prepared by himself/herself or by his/her office personnel, the Commissioner shall so inform the Secretary and shall specify in writing why the release would be against the public interest. The Secretary shall notify the requester in writing of the denial in accordance with § 1015.6(b). Any appeal by a requester shall be in accordance with § 1015.7 except the provision for reconsideration by the Secretary is not applicable. On appeal, the Commissioner who withheld the document shall not participate in the decision.

§ 1015.18 Information submitted to the Commission; requests for treatment as exempt material.

(a) A person who is submitting information to the Commission, after being notified by the Commission of his/her opportunity to request confidential treatment for information, must accompany the submission with a request that the information be considered exempt from disclosure or indicate that a request will be submitted within 10 working days of the submission. The failure to make a request within the prescribed time limit will be considered an acknowledgment that the submitter does not wish to claim exempt status.

(b) A person who has previously submitted information to the Commission, that is now the subject of a Freedom of Information request, after being notified by the Commission of his/her opportunity to request confidential treatment for the information, must submit a request that the information be considered exempt from disclosure within 5 working days from receipt of notification. The failure to make a request within the prescribed time limit will be considered an acknowledgment that the submitter does not wish to claim exempt status.

(c) Each request for exemption from disclosure under 5 U.S.C. 552(b)(4) as a trade secret or privileged or confidential commercial or financial information must:

(1) Specifically identify the exact portion(s) of the document claimed to be confidential;

(2) State whether the information claimed to be confidential has ever been released in any manner to a person who was not an employee or in a confidential relationship with the company;

(3) State whether the information so specified is commonly known within the industry or is readily ascertainable by outside persons with a minimum of time and effort;

(4) State how release of the information so specified would be likely to cause substantial harm to the company's competitive position; and

(5) State whether the submitter is authorized to make claims of confidentiality on behalf of the person or organization concerned.

(d) Material received with a request that it be considered exempt shall not be maintained in a public file. If, in complying with a request for the disclosure of records, it is determined that some or all of the material relative to the request has been claimed to be exempt from disclosure, the requester will be supplied with a list of this material and informed that those portions found not to be exempt will be made available as soon as possible.

(e) No request for exemption from disclosure under 5 U.S.C. 552(b)(4) should be made by any person who does not intend in good faith to assist the Commission in the defense of any judicial proceeding that might thereafter be brought to compel the disclosure of information which the Commission has determined to be a trade secret or privileged or confidential commercial or financial information.

§ 1015.19 Decisions on requests for exemption from disclosure under 5 U.S.C. 552(b)(4).

(a) The Commission generally will not decide whether material received with a request for exemption from disclosure under 5 U.S.C. 552(b)(4) is entitled to be withheld until a request for production or disclosure is made for that information. The determination will be based on the most authoritative judicial interpretations available at the time a request for disclosure or production is considered. Any reasonably segregable portion of a record will be disclosed to any person requesting such record after deletion of any portions determined to be exempt under 5 U.S.C. 552(b)(4). The requester will be given a brief description of any information found to be exempt.

(b) If material received with a request for exemption from disclosure under 5 U.S.C. 552(b)(4) is found to be disclosable, in whole or in part, the person submitting the material will be notified in writing and given 10 calendar days from the receipt of the letter to seek judicial relief. In no event, however, will the material be returned to the person submitting it.

Subpart C—Disclosure of Commission Accident or Investigation Reports Under 15 U.S.C. 2074(c)

§ 1015.20 Public availability of accident or investigation reports.

(a) Accident or investigation reports made by an officer, employee, or agent of the Commission are available to the public under the procedures set forth in Subpart A of this Part 1015. No portion of such report are subject to the investigatory file exemption contained in the Freedom of Information Act (as restated in § 1015.16) except that portions identifying any injured person or any person treating such injured person will be deleted in accordance with section 25(c)(1) of the CPSA. Where disclosure of an accident or investigation report is requested by supplying the name of the person injured or other details of a specific accident (other than cases where the report is requested by the injured person or the injured person's legal representative), the Commission will offer to obtain the written consent of the injured party or the injured party's representative to the disclosure of the report without deleting the party's identity. No deletion of identifying portions of such reports or refusal to disclose without the Commission having first obtained written consent shall be considered as a denial by the Commission of disclosure of Commission records.

(b) Research reports, demonstration reports, and reports of other related activities of the Commission are available to the public under the procedures set forth in Subpart A of this Part 1015.

Dated: November 5, 1976.

SADYE E. DUNN,
Secretary, Consumer Products Safety Commission.

[FR Doc.76-33074 Filed 11-9-76;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 22]

DRAWBACK

Proposed Amendment to the Customs Regulations Relating to the Accelerated Payment of Drawback Claims

Notice is hereby given that under the authority of R.S. 251, as amended (19 U.S.C. 66), and sections 313, 623, 624, 46 Stat. 693, as amended, 759, as amended (19 U.S.C. 1313, 1623, 1624), it is proposed to amend § 22.20a of the Customs Regulations (19 CFR 22.20a) to provide an alternate method of securing bond coverage for accelerated payment of drawback claims.

Section 22.20a currently provides, in part, that a claimant for drawback requesting accelerated payment of a claim, shall submit with the claim a computation of the amount due thereon and shall also file with Customs, for approval by the regional commissioner, a bond on either Customs Form 7609 or 7611, guaranteeing the refund of any excess payment. Under this alternative procedure, a rider could be attached to the General Term Bond for Entry of Merchandise (Customs Form 7595), which would stipulate that the principal and surety assume the additional liability for refund of any excess accelerated drawback payments. When this rider is attached to the Customs Form 7595, the amount of the bond would be increased to include the added coverage for draw-

back claims so that the overall amount of protection afforded Customs would not be reduced.

The proposed rider would read as follows:

RIDER TO A GENERAL TERM BOND FOR ACCELERATED PAYMENT OF DRAWBACK CLAIMS

ACCELERATED PAYMENT OF DRAWBACK CLAIMS-TO BE ADDED TO CUSTOMS FORM 7595

In addition to the conditions appearing in the bond dated _____, in the amount of _____, executed by _____, as principal, and _____ as surety, to which this stipulation relates, it is hereby expressly agreed by the principal and surety thereon that the following additional condition shall apply:

The above-bounden principal, in consideration of the receipt of drawback upon which he has requested accelerated payment based on the principal's computation of the amount due, and upon said computation the amount has been paid to the latter prior to the liquidation of said claim, agrees, to refund, upon demand, the full amount paid on any drawback claim secured by this bond in excess of the amount which is established by liquidation of such claim (it being understood and agreed that for purposes of this bond the amount due on a claim as determined by liquidation shall be binding on all parties to this obligation).

Witness our hand and seals this _____ day of _____ 19__.

_____ (Seal)
(Principal)
_____ (Seal)
(Surety)

To reflect this alternative procedure, it is proposed to amend § 22.20a of the Customs Regulations relating to accelerated payment of drawback claims.

Accordingly it is proposed to amend § 22.20a of the Customs Regulations (19 CFR 22.20a) by adding the following between the second and third sentences therein:

§ 22.20a Accelerated payment of drawback claims.

* * * In lieu of filing Customs Form 7609 or 7611, a claimant may provide appropriate coverage by executing and attaching an approved rider to a General Term Bond for Entry of Merchandise, Customs Form 7595, at the time of filing Customs Form 7595. When a rider is to be attached to Customs Form 7595, the amount of the bond shall be increased by the estimated amount of accelerated drawback to be claimed during the term of the bond. If actual accelerated drawback claims exceed the estimated amount of accelerated drawback, additional bond coverage shall be required. * * *

Prior to the adoption of the foregoing proposal, consideration will be given to any relevant data, views, or arguments which are submitted to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received on or before December 10, 1976.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

VERNON D. ACREE,
Commissioner of Customs.

Approved: November 1, 1976.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.76-33068 Filed 11-9-76;8:45 am]

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

[22 CFR Part 1200]

PRIVACY ACT OF 1974

Proposed Regulations for Implementation

The following proposed regulations, drafted in accordance with section (f) of 5 U.S.C. 552a, the Privacy Act of 1974, are hereby offered for public comment. Interested parties should submit comments on or before December 13, 1976. Comments should be addressed to the Executive Director, Japan-United States Friendship Commission, 1875 Connecticut Avenue, N.W., Washington, D.C. 20009.

Signed this 3rd day of November 1976, by

FRANCIS B. TENNY,
Executive Director.

It is proposed to add the following Part 1200 to Title 22 of the CFR:

PART 1200—PRIVACY ACT IMPLEMENTATION

Sec.
1200.1 Purpose and scope.
1200.2 Definitions.
1200.3 Procedures for requests pertaining to individual records in a record system.
1200.4 Times, places, and requirements for the identification of the individual making a request.
1200.5 Disclosure of requested information to the individual.
1200.6 Request for correction or amendment to the record.
1200.7 Agency review of request for correction or amendment of the record.
1200.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
1200.9 Disclosure of record to a person other than the individual to whom the record pertains.
1200.10 Fees.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93-579.

§ 1200.1. Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Japan-United States Friendship Commission (hereafter known as the Commission) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 1200.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifyng number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term "system of records" means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 1200.3 Procedures for requests for access to individual records in a record system.

An individual shall submit a request to the Assistant Executive Director of the Commission to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Assistant Executive Director of the Commission which states the individual's desire to review his or her record.

§ 1200.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Assistant Executive Directir of the Commission pursuant to § 1200.3 of this Part shall present the request at the Commission offices, 1875 Connecticut Avenue, N.W., Washington, D.C. 20009, on any business day between the hours of 9 a.m. and 5 p.m. The individual submitting the request should present himself or herself at the Commission's offices with a form of identification which will permit the Commission to verify that the individual is the same individual as contained in the record requested.

§ 1200.5 Access to requested information to the individual.

Upon verification of identity the Commission shall disclose to the individual the information contained in the record which pertains to that individual.

§ 1200.6 Request for correction or amendment to the record.

The individual should submit a request to the Assistant Executive Director of the Commission which states the individual's desire to correct or to amend his or her

record. This request is to be made in accord with the provisions of § 1200.4 of this Part.

§ 1200.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Assistant Executive Director of the Commission will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 1200.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Assistant Executive Director of the Commission to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Director, Japan-United States Friendship Commission, 1875 Connecticut Avenue, N.W., Washington, D.C. 20009. The Executive Director will, not later than thirty working days from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the Executive Director extends such thirty day period. If, after his or her review, the Executive Director also refuses to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Commission and may seek judicial review of the Executive Director's determination under 5 U.S.C. 552a(g)(1)(A).

§ 1200.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Commission will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Commission's notices of its systems of records.

§ 1200.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search or review of the record, in advance of receipt of the pages.

[FR Doc.76-32982 Filed 11-9-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-2340]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Township of Sugarcreek, Greene County, Ohio.

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Sugarcreek, Greene County, Ohio.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Township Hall, 26 East Franklin Street, Bellbrook.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Robert Downey, Chairman of the Board of Trustees of Sugarcreek, Township Hall, 26 East Franklin Street, Bellbrook, Ohio 45305. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Little Miami River	Corporate limits (north)	789	120	700
	Upper Bellbrook Rd	784	300	410
	Washington Mills Rd	779	400	1,990
	Lower Bellbrook Rd	771	600	540
	State Highway 725	765	1,000	400
	Corporate limits (east)	761	1,350	(1)
Little Miami River bypass.	Lower Bellbrook Rd	774	670	550
Sugar Creek	Ferry Rd	779	360	210
	Upper Bellbrook Rd	774	180	70
Little Sugar Creek	Corporate limits (north)	956	100	100
	Little Sugarcreek Rd	939	90	40
	Swigart Rd	907	340	80
	Feed Wire Rd	872	20	20
Possum Run	Wilmington Pike	940	70	20
	Bellbrook corporate limits	915	100	40

[1] Corporate limit.

(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: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-32851 Filed 11-9-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2341]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Township of Nockamixon, Bucks County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 § 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Nockamixon, Bucks County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information show-

ing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Township Building, Ferndale, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. John Budd, Chairman of the Board of Supervisors of Nockamixon, Box 479, Kintersville, Pennsylvania 18930. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean lea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Delaware River	Downstream corporate limit	150	150	(1)
	Mouth of Gallows Run	154	300	(1)
Gallows Run	Fireline Rd	158	330	110
	Ealer Rd	184	10	160
Gallows Run Tributary No. 1.	Traugers Crossing Rd	210	90	20
	Church Hill Rd	280	80	130
Gallows Run	T-478	400	10	10

[1] Outside corporate limit.

(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: September 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-32852 Filed 11-9-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2342]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Borough of Mount Union, Huntingdon County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Mount Union, Huntingdon County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Borough Hall, 9-11 West Market Street, Mount Union, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Honorable Robert Zimmerman, Mayor of Mount Union, Borough Hall, PO Box 88, Mount Union, Pennsylvania 170666. The period for comment will be ninety day following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Juniata River	Northwestern corporate limits	570	----------	140
	U.S. Route 522	567	----------	260
	Conrail	560	----------	40
	Pennsylvania Ave	559	----------	40
Hill Valley Creek	Southern corporate limits	584	270	10
	Halley St. (extended)	583	250	10
	Moore Ave	571	150	50
	U.S. Route 522	564	10	----------
	Abandoned railroad	555	20	20

(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: September 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-32853 Filed 11-9-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2343]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Township of Robeson, Berks County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determination of flood elevations for the Township of Robeson, Berks County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Robeson Elementary School, Hall Way Bulletin Board, Mohnton, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Lloyd Huyett, Sr., Chairman of the Board of Supervisors of Robeson, R. D. 1, Mohnton, Pennsylvania 19540. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Schuylkill River	Indian Corn Creek confluence	169	(1)	
	Seidel Creek confluence	173	(1)	
	Gibraltar Rd	174	(1)	80
	Allegheny Creek confluence	175	(1)	
Allegheny Creek	Schuylkill River confluence	175		
	Old River Rd	175	1,000	1,060
	State Route 724	178	30	30
	Conrail	183	40	120
	State Route 568	242	90	230
	Seton Rd	305	30	235
Seidel Creek	Schuylkill River confluence	173		
	State Route 724	176	120	20
	Old River Rd	182	20	20
Hay Creek	Rock Hollow Rd	331	380	230
	LR 6087	337	250	180
	Conrail	338	680	200
	State Route 82	342	440	20
Cold Run	Downstream corporate limits	358	660	430
	Bridge	362	200	80

(1) Outside of corporate limits.

(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: September 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-32854 Filed 11-9-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2344]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Township of South Whitehall, Lehigh County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of South Whitehall, Lehigh County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Municipal Building, South Whitehall

Township, RD 1, Allentown, Pennsylvania 18104.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Merritt E. Hein, Township Manager of South Whitehall RD 1, Allentown, Pennsylvania 18104. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Cedar Creek	Main Blvd	302	20	20
	Cedarbrook Rd	324	260	280
Little Cedar Creek	U.S. Highway 309 (State Route 29)	380	240	4
	Hausman Rd	392	80	100
	Lehigh Vall Thruway	410	20	30
Jordan Creek	Mauch Chunk Rd	306	440	10
	Whitehall Ave. (extended)	314	300	100
	Cedar Crest Blvd	325	660	100
	Lapp Rd	331	140	10
	Wehr Rd	339	120	540
	Northeast extension of Pennsylvania Turnpike.	343	1,260	880
	U.S. Highway 309 (State Route 29)	344	700	500
Hassen Creek	Jordan Rd	355	240	380
	Valley Rd	360	90	380
	Orchard Dr. (extended)	364	260	100

(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: September 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–32855 Filed 11–9–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI–2345]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Borough of Mapleton, Huntingdon County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Mapleton, Huntingdon County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the home of the Secretary, Mr. Vernon Anderson, Mapleton Depot, Mapleton, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Vernon Anderson, Secretary of Mapleton, Mapleton Depot, Mapleton, Pennsylvania 17052. The period of comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Juniata River	East corporate limits	585		135
	State Road 655	586		160
	Northwestern corporate limits	586		340
Hares-Valley Creek	Western corporate limits	586		230
	Penn Central Railroad	586		20

(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: September 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76–32856 Filed 11–9–76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2346]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Borough of West Newton, Westmoreland County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of West Newton, Westmoreland County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Council Room, Borough Building, 112 South Water Street, West Newton, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable Thomas Filbern, Mayor of West Newton, 130 South Second Street West Newton, Pennsylvania 15089. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Youghiogheny River	Short St. (extended)	771	120	700
	Route 136	771	80	420
	Northern corporate limits	770		180
Vernon Drive Run	Southern corporate limits	890		25
	Buddtown Rd	884		20
	Private Rd	861	20	30
	Vernon Dr	829	20	150
	do	798	200	15
	Cemetary roadway	777	15	15
	do	771	40	20
Scholls Run	8th St	776	30	30

(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: September 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-32857 Filed 11-9-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2347]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Township of East Goshen, Chester County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of East Goshen, Chester County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Township Hall, 1580 Paoli Pike, West Chester, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Burgess Rhodes, Chairman of the Board of Supervisors of East Goshen, Township Hall, 1580 Paoli Pike, West Chester, Pennsylvania 19380. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
East Branch Ridley Creek.	Confluence with Ridley Creek	379.5	400	900
	Boot Rd	383.0	50	200
	Monte Vista Dr	389	60	100
	Private Dr	399	80	40
	Taylor Ave. (extended)	404	480	40
	Paoli Pike	414	100	80
	Foot Bridge	417	70	100
	Warrior Rd	432	40	20
	Private drive located at RM 20	452	100	40
	Limited detailed study near Forrest Lane	467	90	110
West Branch Ridley Creek.	Confluence with Ridley Creek	379	100	110
	Chester Rd	383	90	120
	Paoli Pike	391	200	40
	Dam	395	280	60
	Reference mark 10 near Linden Lane (extended) footbridge (from south channel).	401	220	260
	Confluence with Boot Rd. Run	409	180	230
	Reference mark 14 near private road	422	310	100
	Green Hill Rd at RM 22	441	160	80
	RM 13 near confluence with King James Run.	458	220	20
King James Run	At dam near mouth	465	100	60
	Mill Stream Rd	484	30	30
	North northwest corporate limits	501	80	80
Ridley Creek	Northeast corporate limits	338	20	120
	Ditton Mill Rd	348	60	80
	Strasburg Rd	354	380	40
	Dam (downstream)	356	300	80
	Ridley Creek opposite dam of tributary	365	200	240
	Confluence with East and West Branches Ridley Creek.	380.0	100	110
East Branch Chester Creek.	Southeast corporate limits	306.0	100	400
	Westtown Way near RM 6	311.0	80	40
	West Chester Pike	328.0	100	80
	Dam and RM 9	332.0	[1] 100	90
		348.0	[2] 320	80
	Strasburg Rd. and RM 4	352.0	200	20
	Footbridge	357.0	30	160
	90° turn in creek, Northwest to Southwest direction extend new road under construction from Paoli Pike.	368.0	600	320
	Paoli Pike and RM 2	382.0	280	100
	Private drive	382.0	280	160
	West corporate limits near RM 24	391.0	50	50
Clarks Creek	Paoli Pike near confluence with East Branch Chester Creek.	382.0	260	100
	Linden Lane and RM 4	388.0	120	180
	Heather Lane (extended)	400.0	250	100
	Private road near RM 23, new road under construction.	442.0	120	100
Hunters Run	Southeast corporate limits	321.0	120	140
	Manley Rd	328.0	260	120
	Williams Way (extended)	350.0	120	120

[1] Downstream.
[2] Upstream.

(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: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-32858 Filed 11-9-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2348]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Township of Lower Alsace, Berks County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Township of Lower Alsace, Berks County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood ele-

vations are available for review at the Municipal Building, 25th and Harvey Streets, Reading, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Barry Vogt, Chairman of the Board of Supervisors, Municipal Building, 25th and Harvey Streets, Reading, Pennsylvania 19606. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Schuylkill River	Southern corporate limit	181	40	(1)
	Northern corporate limit	183	67	(1)
Antietam Creek	Myrtle Ave	397	20	267
	Marshall Ave. (extended)	411	70	40
Tributary C	T 413	537	80	67
Tributary B	Lewis Rd. (extended)	436	250	160
	Butter Lane	497	(2)	253
	T 454	560	133	187
	Pennsylvania Route 73 (T 413)	572	25	67

[1] Corporate limit of stream is boundary
[2] Outside corporates limit.

(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: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-32859 Filed 11-9-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2349]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Borough of West Chester, Chester County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4 (a)) hereby gives notice of his proposed determination of flood elevations for the Borough of West Chester, Chester County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Borough Hall, 15 South High Street, West Chester.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable J. Herbert Chambers, Mayor of West Chester, 15 South High Street, West Chester, Pennsylvania 19380. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Goose Creek	Upstream corporate limits	421	400	190
	Along Adams St	417	190	150
	Along Barnard St	415	320	25
	Along Nields St	404	170	80
	Downstream corporate limits	401	220	490

(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: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-32860 Filed 11-9-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2350]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for City of Lebanon, Lebanon County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4 (a)) hereby gives notice of his proposed determinations of flood elevations for the City of Lebanon, Lebanon County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the City Clerk's Windows, City Hall, 400 South 8th Street, Lebanon.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor George H. Heverling, Jr., 400 South 8th Street, Lebanon, Pennsylvania 17042. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Brandywine Creek	Baldwin St	507	225	100
	North 7th St	507	150	400
	North 8th St	500	150	625
	State Route 72	496	[1] 175	[1] 175
	Lehman St	469	350	1,350
	Conrail	465	25	25
	Willow St	453	250	350
Quittapahilla Creek	5th Ave	470	250	350
	Lincoln Ave	469	300	500
	4th St	466	500	475
	North 5th St	465	800	350
	North 7th St	464	1,050	550
	North 8th St	460	150	400
	North 9th St	457	150	250
	North 10th St	455	700	200
	Willow St	455	250	200
	North 12th St	455	1,300	400
	Corporate limits (downstream)	451	225	800
Hazel Dyke Creek	3d Ave	478	[1] 250	[1] 250
	State Dr	477	[1] 150	[1] 150
	Noble St	471	150	250
	3d St	470	50	50
	Broad St	468	400	150
	South 6th St	467	1,000	75
	South 7th St	465	1,200	450
	South 8th St	463	750	500
	Quenton Rd	461	550	450
	Cornwall Rd	459	375	900
	Walnut St	458	200	600
	Chesnut St	456	600	150
Tributary of Brandywine Creek.	Center St	507	25	50
	Magnolia Ave	507	100	160

[1] Measured from centroid of 100-yr flood plain.

(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: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-32861 Filed 11-9-76;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2351]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for Borough of Morrisville, Bucks County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the Borough of Morrisville, Bucks County, Pennsylvania.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the Borough must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Administrative office, Borough Hall, 35 Union Street, Morrisville, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable William Thompson, Mayor of Morrisville, Borough Hall, 35 Union Street, Morrisville, Pennsylvania 19067. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Delaware River	Southeast corporate limits	17	(1)	280
	Bowling Green Ave. (extended)	18	(1)	580
	East Cleveland St. (extended)	19	(1)	460
	Philadelphia Ave. (extended)	20	(1)	140
	Moreau St. (extended)	22	(1)	1,300
	East Palmer St. (extended)	25	(1)	100
	East Trenton Ave	27	(1)	25
	North corporate limits	28	(1)	300

(1) Outside corporate limits.

(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: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-32862 Filed 11-9-76;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Reserves for Losses on Loans of Banks; Extension of Time for Comments

Proposed regulations under section 585 of the Internal Revenue Code of 1954, relating to reserves for losses on loans of banks, appear in the FEDERAL REGISTER for September 20, 1976 (41 FR 40477).

Written comments pertaining to the proposed regulations and requests for a public hearing by persons submitting written comments were required to be submitted by November 4, 1976. The time for submission of written comments pertaining to the proposed regulations and for requesting a public hearing is hereby extended to November 26, 1976.

JAMES F. DRING,
Director, Legislation and Regulations Division.

[FR Doc.76-33082 Filed 11-9-76;8:45 am]

[26 CFR Part 48]

MANUFACTURERS AND RETAILERS EXCISE TAXES

Special Provisions

Correction

In FR Doc. 76-32109 appearing at page 48346 in the issue of Wednesday, November 3, 1976, in the first column on page 48346, in the thirteenth line of the first paragraph, the date now reading "October 1, 1977", should read "January 10, 1977".

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1611]

PRIVACY ACT REGULATIONS

Proposed Amendments

Notice is hereby given that the Equal Employment Opportunity Commission (hereinafter, the Commission) proposes to amend Part 1611, which implements the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, with regard to systems of records maintained by the Commission.

These regulations set forth the procedures whereby individuals can request information about, access to, or amendment of records pertaining to them which are contained in a system of records maintained by the Commission. They also set forth the procedures the Commission is to follow in processing those requests.

The recommended amendments are being proposed to conform the Commission's procedures with those established by the Civil Service Commission (hereinafter, CSC) for systems of records under CSC jurisdiction. The following are the major changes to be accomplished by the proposed amendments:

(1) Section 1611.1 is amended to clarify that CSC Privacy Act Regulations apply to Commission records which are contained in the government wide systems of personnel records, of which notices have been published by the CSC;

(2) In § 1611.3(a) a provision is added whereby individuals can obtain access to an accounting of disclosures made about them from Commission maintained systems of records;

(3) In § 1611.3(a) it is also clarified that individuals can request access to a record or an accounting by appearing in person at the office where the system is maintained;

(4) Section 1611.3(b) has been substantially amended to reflect the provisions of the CSC Privacy Act Regulations which specify the offices to which requests for access to government wide systems should be directed;

(5) A new subsection (d) is added to § 1611.4. This new subsection provides for the verification of the identity of those requesting access to a system by mail;

(6) Current subsection (d) of § 1611.4 is designated as new subsection (e);

(7) Current subsection (e) of § 1611.4 is designated as new subsection (f);

(8) Subsection (g) of § 1611.4 is added as a new subsection;

(9) Sections 1611.7(c), (8) and (9) have been amended to bring them into conformity with the provisions of CSC Privacy Act Regulations;

(10) Section 1611.14 has been amended by adding a statement as to the reasons the Commission has determined to exempt system EEOC–3, Charge of Discrimination Case Files, from all of the allowable provisions of the Privacy Act.

The amendments to the Commission's Privacy Act Regulations are proposed under the authority of the Privacy Act of 1974, 5 U.S.C. 552a, and section 713(a), Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–12(a).

The Equal Employment Opportunity Commission has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Comments on the proposed amendments to the Commission's Privacy Act regulations may be submitted to the Associate General Counsel, Legal Counsel Division, Office of General Counsel, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506.

Comments received on or before December 11, 1976 will be considered.

Signed: November 4, 1976.

ETHEL BENT WALSH,
Vice-Chairman.

In consideration of the foregoing, the Commission proposes to amend 29 CFR Part 1611 to read as follows:

PART 1611—PRIVACY ACT REGULATIONS

Sec.

1611.1 Purpose and scope.
1611.2 Definitions.
1611.3 Procedures for requests pertaining to individual records in a record system.

Sec.

1611.4 Times, places and requirements for identification of individuals making requests.
1611.5 Disclosure of requested information to individuals.
1611.6 Special procedures; medical records.
1611.7 Request for correction or amendment to record.
1611.8 Agency review of request for correction or amendment to record.
1611.9 Appeal of initial adverse agency determination on correction or amendment.
1611.10 Disclosure of record to person other than the individual to whom it pertains.
1611.11 Fees.
1611.12 Penalties.
1611.13 General exemptions [Reserved].
1611.14 Specific exemptions.

AUTHORITY: 5 U.S.C. 552a.

§ 1611.1 Purpose and scope.

This Part contains the regulations of the Equal Employment Opportunity Commission (Commission) implementing the Privacy Act of 1974, 5 U.S.C. 552a. It sets forth the basic responsibilities of the Commission with regard to the Commission's compliance with the requirements of the Privacy Act (the Act) and offers guidance to members of the public who wish to exercise any of the rights established by the Act with regard to records maintained by the Commission. Those Commission records which are contained in the government wide systems of personnel records, of which notices have been published by the Civil Service Commission, are subject to the Civil Service Commission's Privacy Act Regulations, 5 C.F.R. Part 297. Where Civil Service Commission Privacy Act notices permit access to these records through the employing agency, the individual should submit requests for access or for an accounting of disclosures to the Commission offices as described in § 1611.3(b) below.

§ 1611.2 Definitions.

For purposes of this Part, the terms "individual," "record," and "system of records" shall have the meanings set forth in 5 U.S.C. 552a.

§ 1611.3 Procedures for requests pertaining to individual records in a record system.

(a) Any person who wishes to be notified if a system of records maintained by the Commission contains any record pertaining to him or her, or to request access to such records or to an accounting of disclosures made of such records, shall submit a written request, either in person or by mail, in accordance with the instructions set forth in the system notice:

(1) The name of the individual making the request;

(2) The name of the system of records (as set forth in the system notice to which the request relates);

(3) Any other information specified in the system notice; and

(4) When the request is one for access, a statement as to whether the requester desires to make a personal inspection of the records, or be supplied with copies by mail.

(b) Requests pertaining to personnel records contained in system CSC/GOVT–1 (Appeals, Grievances and Complaints Records) of which notice has been published by the Civil Service Commission in the FEDERAL REGISTER should be directed to the Director, Office of Personnel, EEOC, Washington, D.C. 20506. Requests pertaining to personnel records contained in system CSC/GOVT–2 (Confidential Employment and Financial Interest Statements) should be directed to the Office of General Counsel, U.S. Civil Service Commission, Washington, D.C. 20415, or the Office of General Counsel, EEOC, Washington, D.C. 20506. Requests pertaining to personnel records contained in systems CSC/GOVT–3 (General Personnel Records) and CSC/GOVT–5 (Recruiting, Examining and Placement Records) should be directed to Commission offices as follows.

(1) For present Commission employees of GS–13 and lesser grade or non-General Schedule employees of equivalent grade, whose normal duty station is a District or Regional Office of the Commission, requests may be directed to the Regional Director having jurisdiction over the duty station. The locations of the Regional Offices are set forth in 29 CFR § 1610.21(b).

(2) For all other present Commission employees, requests may be directed to the Director, Office of Personnel, EEOC, Washington, D.C. 20506.

(3) For all former Commission employees, requests for access to government-wide system CSC/GOVT–3 (General Personnel Records) shall be directed to the National Personnel Records Center, General Services Administration, St. Louis, Missouri 63118.

(c) Any person whose request for access under paragraph (a) of this section is denied, may appeal that denial in accordance with § 1611.5(c).

§ 1611.4 Times, places, and requirements for identification of individuals making requests.

(a) If a person submitting a request for access under § 1611.3 has asked that the Commission authorize a personal inspection of records pertaining to that person, and the appropriate Commission official has granted that request, the requester shall present himself or herself at the time and place specified in the Commission's response or arrange another, mutually convenient time with the appropriate Commission official.

(b) Prior to inspection of the records, the requester shall present sufficient personal identification (e.g., driver's license, employee identification card, social security card, credit cards). If the requester is unable to provide such identification, the requester shall complete and sign in the presence of a Commission official a signed statement asserting his or her identity and stipulating that he or she understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is a misdemeanor punishable by fine up to $5,000.

(c) Any person who has requested access under § 1611.3 to records through personal inspection, and who wishes to be accompanied by another person or persons during this inspection, shall submit a written statement authorizing disclosure of the record in such person's or person's presence.

(d) If an individual submitting a request by mail under § 1611.3 wishes to have copies furnished by mail, he or she must include with the request a signed and notarized statement asserting his or her identity and stipulating that he or she understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is a misdemeanor punishable by fine up to $5,000.

(e) A request filed by the parent of any minor or the legal guardian of any incompetent person shall: state the relationship of the requester to the individual to whom the record pertains; present sufficient identification; and, if not evident from information already available to the Commission, present appropriate proof of the relationship or guardianship.

(f) A person making a request pursuant to a power of attorney must possess a specific power of attorney to make that request.

(g) No verification of identity will be required where the records sought are publicly available under the Freedom of Information Act.

§ 1611.5 Disclosure of requested information to individuals.

(a) Upon receipt of request for notification as to whether the Commission maintains a record about an individual and/or request for access to such record:

(1) The appropriate Commission official shall acknowledge such request in writing within 10 working days of receipt of the request. Wherever practicable, the acknowledgement should contain the notification and/or determination required in paragraphs (a)(2) of this section.

(2) The appropriate Commission official shall provide, within 30 working days of receipt of the request, written notification to the requester as to the existence of the records and/or a determination as to whether or not access will be granted. In some cases, such as where records have to be recalled from the Federal Records Center, notification and/or a determination of access may be delayed. In the event of such a delay, the Commission official shall inform the requester of this fact, the reasons for the delay, and an estimate of the date on which notification and/or a determination will be forthcoming.

(3) If access to a record is granted, the determination shall indicate when and where the record will be available for personal inspection. If a copy of the record has been requested, the Commission official shall mail that copy or retain it at the Commission to present to the individual, upon receipt of a check or money order in an amount computed pursuant to § 1611.11.

(4) When access to a record is to be granted, the appropriate Commission of-

ficial will normally provide access within 30 working days of receipt of the request unless, for good cause shown, he or she is unable to do so, in which case the requester shall be informed within 30 working days of receipt of the request as to those reasons and when it is anticipated that access will be granted.

(5) The Commission shall not deny any request under § 1611.3 concerning the existence of records about the requester in any system of records it maintains, or any request for access to such records, unless that system is exempted from the requirements of 5 U.S.C. 552a in §§ 1611.13 or 1611.14.

(6) If the Commission receives a request pursuant to § 1611.3 for access to records in a system of records it maintains which is so exempt, the appropriate Commission official shall deny the request.

(b) Upon request, the appropriate Commission official shall make available an accounting of disclosures pursuant to 5 U.S.C. 552a(c)(3).

(c) If access to a record is denied pursuant to pargraph (a)(2) of this section, the determination shall specify the reasons therefor, and shall advise the individual that he or she may appeal that denial in writing to the Chairman, Equal Employment Opportunity Commission, Washington, D.C. 20506, if the request was for access to a system designated as an EEOC system of records. An appeal from a denial of access to a government-wide system of records, CSC/GOVT 1–5, shall be made to the Director, Bureau of Manpower Information Systems, U.S. Civil Service Commission, Washington, D.C. 20415 (See 5 CFR 297.113). When taking an appeal, the requester should clearly label the envelope "Personal Information Access Appeal."

(d) In the event that upon an appeal under paragraph (c) of this section, access to a record is denied by the Chairman, the Chairman shall advise the individual of his or her right to bring a civil action in federal district court to seek review of the denial, in accordance with 5 U.S.C. 552a(g).

(e) Nothing in 5 U.S.C. 552a or this Part allows an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

§ 1611.6 Special procedures: Medical records.

In the event the Commission receives a request pursuant to § 1611.3 for access to medical records (including psychological records) the disclosure of which the appropriate Commission official determines could be harmful to the individual to whom they relate, he or she may refuse to disclose the records directly to the requester but shall transmit them to a physician designated by that individual.

§ 1611.7 Request for correction or amendment to record.

(a) Any person who wishes to request correction or amendment of any record pertaining to him or her, which is contained in a system of records maintained by the Commission, shall submit that request in writing in accordance with the instructions set forth in the system notice for that system of records. If the request is submitted by mail, the envelope should be clearly labeled "Personal Information Amendment." The request shall include:

(1) The name of the individual making the request;

(2) The name of the system of records (as set forth in the system notice to which the request relates);

(3) A description of the nature (e.g., modification, addition or deletion) and substance of the correction or amendment requested; and

(4) Any other information specified in the system notice.

(b) Any person submitting a request pursuant to paragraph (a) of this section shall include sufficient information in support of that request to allow the Commission to apply the standards set forth in 5 U.S.C. 552a(e).

(c) All requests to amend pertaining to personnel records described in § 1611.3 (b) shall conform to the requirements of paragraphs (a) and (b) of this section and may be directed to the appropriate officials as indicated in § 1611.3(b). Such requests may also be directed to the system manager specified in the Civil Service Commission's systems notices.

(d) Any person whose request under paragraph (a) of this section is denied may appeal that denial in accordance with § 1611.9(a).

§ 1611.8 Agency review or request for correction or amendment to record.

(a) When the Commission receives a request for amendment or correction under § 1611.7(a), the appropriate Commission official shall acknowledge that request in writing within 10 working days of receipt. He or she shall promptly either:

(1) Determine to grant all or any portion of a request for correction or amendment; and

(i) Advise the individual of that determination;

(ii) Make the requested correction or amendment; and

(iii) Inform any person or agency outside the Commission to whom the record has been disclosed, and where an accounting of that disclosure is maintained in accordance with 5 U.S.C. 552a(c), of the occurrence and substance of the correction or amendments, or

(2) Inform the requester of the refusal to amend the record in accordance with the request; the reason for the refusal; and the procedures whereby the requester can appeal the refusal to the Chairman of the Commission.

(b) If the Commission official informs the requester of the determination within the 10-day deadline, a separate acknowledgment is not required.

(c) In conducting the review of a request for correction or amendment, the Commission official shall be guided by the requirements of 5 U.S.C. 552a(e).

(d) In the event that the Commission receives from the agency which maintains the record a notice of correction or amendment to information in a record contained in a system of records which the Commission also maintains, it shall comply with paragraph (a)(1) of this section in the same manner as if the Commission itself had made the original correction or amendment.

(e) Requests for amendment or correction of records maintained in the government-wide systems for which notices have been published by the Civil Service Commission shall be governed by § 297.112 of the CSC Privacy Act regulations, 5 CFR 297.

§ 1611.9 Appeal of initial adverse agency determination on correction or amendment.

(a) If the appropriate Commission official determines not to grant all or any portion of a request for correction or amendment, the requester may appeal this determination in writing to the Chairman, Equal Employment Opportunity Commission, Washington, D.C. 20506. When taking such an appeal, the requester should clearly label the envelope "Personal Information Amendment Appeal." With respect to the personnel records maintained in the government-wide systems of records for which notices were published by the Civil Service Commission, the appeal of a Commission decision pertinent thereto shall be made to the Director, Bureau of Manpower Information Systems, U.S. Civil Service Commission, Washington, D.C. 20415. The Civil Service Commission Privacy Act regulations, 5 CFR 297.113, shall govern said appeals.

(b) The Chairman shall make a final determination with regard to an appeal submitted under paragraph (a) of this section not later than 30 working days from the date on which the individual requests a review, unless, for good cause shown, the Chairman extends this 30-day period and so notifies the requester together with an estimate of the date on which a final determination will be made. The authority to extend this period may not be delegated. Such extension should be utilized only in exceptional circumstances and should not normally exceed 30 days.

(c) In conducting the review of an appeal submitted under paragraph (a) of this section, the Chairman shall be guided by the requirements of 5 U.S.C. 552a(e).

(d) If the Chairman determines to grant all or any portion of a request on an appeal submitted under paragraph (a) of this section, he or she shall so inform the requester, and the appropriate Commission official shall comply with the procedures set forth in § 1611.8(a)(1)(ii) and (iii).

(e) If the Chairman determines in accordance with paragraphs (b) and (c) of this section not to grant all or any portion of a request on an appeal submitted under paragraph (a) of this section, he or she shall inform the requester:

(1) Of this determination and the reasons therefor;

(2) Of the requester's right to file a concise statement of reasons for dis-

agreement with the determination of the Chairman;

(3) That such statements of disagreement will be made available to anyone to whom the record is subsequently disclosed, together with (if the Commission deems it appropriate) a brief statement summarizing the Commission's reasons for refusing to amend the record;

(4) That prior recipients of the disputed record will be provided with a copy of the statement of disagreement together with (if the Commission deems it appropriate) a brief statement of the Commission's reasons for refusing to amend the record, to the extent that an accounting of disclosures is maintained under 5 U.S.C. 552a(c); and

(5) Of the requester's right to file a civil action in federal district court to seek a review of the Chairman's determination, in accordance with 5 U.S.C. 552a(g).

(f) The Chairman shall ensure that any statements of disagreement submitted by a requester are handled in accordance with paragraphs (e)(3) and (4) of this section.

§ 1611.10 Disclosure of record to person other than the individual to whom it pertains.

The Commission shall not disclose any record which is contained in a system of records it maintains, by any means of communication to any person or to another agency, except pursuant to a written request by or with the prior written consent of the individual to whom the record pertains, unless the disclosure is authorized by one or more provisions of 5 U.S.C. 552a(b).

§ 1611.11 Fees.

(a) No fee shall be charged for searches necessary to locate records. No charge shall be made if the total fees authorized are less than $1.00. Fees shall be charged for services rendered under this Part as follows:

(1) Copies made by photocopy device or otherwise (per page), $.05.

(2) Attestation of each record as a true copy, $.75.

(3) Certification of each record as a true copy under the seal of the Commission, $1.00.

(b) All required fees shall be paid in full prior to issuance of requested copies of records. Fees are payable to "Treasurer of the United States."

§ 1611.12 Penalties.

The criminal penalties which have been established for violations of the Privacy Act of 1974 are set forth in 5 U.S.C. 552a(i). Penalties are applicable to any officer or employee of the Commission; to contractors and employees of such contractors who enter into contracts with the Commission on or after September 27, 1975, and who are considered to be employees of the Commission within the meaning of 5 U.S.C. 552a (m); and to any person who knowingly and willfully requests or obtains any record concerning an individual from the Commission under false pretenses.

§ 1611.13 General exemptions. [Reserved]

§ 1611.14 Specific exemptions.

Pursuant to subsection (k)(2) of the Act, 5 U.S.C. 552a(k)(2), the following system of records is exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Act, and from the corresponding provisions of this part:

(a) *Charge of Discrimination Case Files.* The Commission has determined to exempt this system from the above-named provisions of the Privacy Act for the following reasons:

(1) The files in this system contain information obtained by the Commission in the course of investigations of charges that violations of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e et seq., have occurred. As part of its investigation, the Commission often obtains information regarding unlawful employment practices other than those complained of by the subject individual of the file. Therefore, it would impede the law enforcement activities of the Commission for it to be restricted to maintaining in an individual's case file only information which is relevant and necessary to the subject individual's allegations.

(2) The subject individuals of the case files in this system know that the Commission is maintaining a file on their charges, and the general nature of the information contained therein.

(3) The subject individuals of this system have been provided a means of access to their records by the Commission's Freedom of Information Act Regulations, 29 CFR Part 1610, and by Section 83 of the Commission's Compliance Manual.

(4) The Commission has determined that the non-exemption of system EEOC–3 from the above-named subsections of the Privacy Act would impede the agency's law enforcement efforts.

[FR Doc.76-33006 Filed 11-9-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20977; RM-2733]

FM BROADCAST STATIONS, SULPHUR SPRINGS, TEXAS

Table of Assignments

Adopted: October 29, 1976.
Released: November 4, 1976.

1. *Petitioner, proposal, and comments.*—(a) Notice of proposed rule making is given concerning the amendment of the FM Table of Assignments (§ 73.202 (b) of the Commission's Rules and Regulations) as concerns Sulphur Springs, Texas.

(b) A "Petition for Rule Making" was filed by Mr. Galen O. Gilbert, "petitioner," through his attorney, proposing the assignment of Channel 240A to Sulphur Springs as its first FM assignment. No oppositions have been received.

2. *Community data.*—(a) *Location.* Sulphur Springs, county seat of Hopkins County, is located in northeast Texas, approximately 80 kilometers (50 miles) south of the Oklahoma state line and approximately 129 kilometers (80 miles) northeast of Dallas, Texas.

(b) *Population.* Sulphur Springs, 10,642; Hopkins County, 20,710 (1970 U.S. Census figures). Petitioner has furnished data indicating that a 1975 Census showed Sulphur Springs' population had increased to 14,974 (approximately a 50% increase in five years) and Hopkins County to 24,300 (a 25% increase). The source of these 1975 figures is unclear, and the latest official 1973 figures show Sulphur Springs at only 11,005 and Hopkins County at 22,044. Since, according to the Bureau of the Census, official 1975 figures have not been released yet, it is not clear where petitioner obtained his numbers and the source of petitioner's 1975 population figures should be furnished by petitioner to the Commission if reliance is to be placed on this data.

(c) *Local broadcast service.* Sulphur Springs currently has only one local broadcast facility, fulltime AM Station KSST, 1230 kHz, licensed to Hopkins County Broadcasting Company. This petition involves a first FM service proposal.

(d) *Economic data.* Sulphur Springs is a growing town of substantial size without local FM service. Petitioner indicates that Sulphur Springs produces more milk and dairy products than any other county in Texas, and is also the largest beef cattle producer in the state. Without detailing all the demographic data petitioner attached in support of his proposal, it will suffice to say that the data indicates a growing area, first in the state in agriculture income. This justifies the initiation of a rule making proceeding to consider a first local FM assignment to complement the only other local aural service available to the community.

3. *Preclusion studies.*—As the petition is for a first Class A assignment, preclusion effects need not be considered under current Commission policy.

4. *Additional considerations.*—According to the engineering affidavit attached in support of petitioner's request, the distance from Sulphur Springs to the KKTX transmitter in Kilgore, Texas, is calculated at approximately 106 kilometers (66 miles) while a minimum distance of approximately 105 kilometers (65 miles) is required by § 73.207(a) of the Commission's rules. These distances indicate a close spacing situation, which should be carefully considered in determining a transmitter site for the proposed assignment.

Proposed amendment to the FM Table of Assignments

5. Accordingly, the Commission proposes to amend the FM Table of Assignments (§ 73.202(b) of the Commission's Rules and Regulations) with regard to the community listed below as follows:

City	Channel No.	
	Present	Proposed
Sulphur Springs, Tex.	------	240A

6. *Authority.*—The Commission's authority to institute rule making proceedings; showings required; cut-off procedures, and filing requirements are shown below and are incorporated by reference herein.

7. *Comments and replies.*—Interested persons and parties may file comments on or before December 13, 1976, and reply comments on or before January 3, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Section 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, It is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of proposed rule making.

2. *Showings require.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 (d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulation, interested parties may file comments and reply comments on or before the dates set forth in the Notice of proposed rule making. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.76-33033 Filed 11-9-76;8:45 am]

notices

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

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

COMMITTEE OF NINE

Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of a meeting of the Committee of Nine at 8:30 A.M., December 14–16, 1976, at the College of Agriculture and Home Economics Building, New Mexico State University, Room 297, Las Cruces, New Mexico.

The purpose of the meeting is to evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations. The meeting is open to the public and written statements can be filed with the Committee before or after the meeting.

The names of the members of the Committee, the agenda, minutes, and other information pertaining to the meeting may be obtained from the Recording Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Washington, D.C. 20250, telephone 202–447–5260.

Dated: October 29, 1976.

T. S. RONNINGEN,
Acting Administrator.

[FR Doc.76–33001 Filed 11–9–76;8:45 am]

Forest Service

SEQUOIA NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Land Use Plan, Little Kern Unit, Sequoia National Forest, California, USDA–FS–R5–DES (Adm) 77–1.

The environmental statement concerns the proposed land use plan for 111,763 acres of National Forest lands known as the Little Kern Planning Unit of the Sequoia National Forest, located in Tulare County, California. About 102,000 acres within the Planning Unit have been previously inventoried as "roadless area."

This draft environmental statement was transmitted to the Council on Environmental Quality (CEQ) on November 3, 1976.

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

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. & Independence Ave., SW., Washington, D.C. 20250.
Regional Forester, U.S. Forest Service, Rm. 529, 630 Sansome Street, San Francisco, Calif. 94111.
Forest Supervisor's Office, Sequoia National Forest, 900 W. Grand Avenue, Porterville, Calif. 93257.
Forest Service, District Ranger, 32588 Highway 190, Porterville, Calif. 93257.

A limited number of single copies are available upon request to the Forest Supervisor, John Leasure, Sequoia National Forest, 900 W. Grand Avenue, Porterville, CA 93257.

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

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

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor John Leasure, Sequoia National Forest, 900 W. Grand Avenue, Porterville, CA 93257. Comments must be received within 60 days after transmittal to CEQ in order to be considered in the preparation of the final environmental statement.

T. W. KOSKELLA,
Deputy Regional Forester.

[FR Doc.76–33062 Filed 11–9–76;8:45 am]

[INT FES 76–56]

PROPOSED DOLORES NATIONAL WILD AND SCENIC RIVER

Availability of Final Environmental Statement

CROSS REFERENCE: For a document relating to the prepared environmental statement for the proposed Dolores National Wild and Scenic River in Colorado by the Bureau of Outdoor Recreation and the Forest Service, see FR Doc. 76–33055 appearing in the Notices Section in this issue.

NORTH KAIBAB GRAZING ADVISORY BOARD

Public Meeting

The North Kaibab Grazing Advisory Board will meet at 10:00 a.m., Friday, December 17, 1976, at the Coconino County Building, Fredonia, Arizona.

The following items will be discussed:

1. FY 77 Program of Work Overview—Allotments to be affected by the Program.
2. Overview of the Ten Year Range Environmental Study Program—North Kaibab Ranger District.
3. Review Regional Range Suitability Standards.
4. Summarize BLM Organic Act—National Forest policy and/or procedural modifications arising from the passage of the Act.
5. Annual Permittee Plans.
6. Review By-Laws, and proposed revisions of the North Kaibab Grazing Advisory Board to comply with 36 CFR 232.20(h).
7. Discuss predator situation on the North Kaibab Ranger District.
8. Discuss status of Allotment Boundary Adjustment between the Ryan and Central Summer Allotments.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Kaibab National Forest, P.O. Box 817, Williams, Arizona, telephone 635–4481. Written statements may be filed with the board before or after the meeting.

Those attending may express their views when recognized by the Chairman.

Dated: November 2, 1976.

LEONARD A. LINDQUIST,
Forest Supervisor.

[FR Doc.76–33043 Filed 11–9–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 29844; Order No. 76–9–149] [1]

DELTA AIR LINES, INC.

Order of Investigation and Suspension; Erratum

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of September, 1976.

Rule revision denying density discount rates to live animal shipments proposed by Delta Air Lines, Inc.

The following paragraph is to be added immediately after ordering paragraph 4 on page 3.

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[1] Published at 41 FR 43762 October 4, 1976.

5. Except to the extent granted herein, the complaint of the Animal Shipper Parties in Docket 29771 is dismissed.

Dated: October 6, 1976.

By the Civil Aeronautics Board,

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-33070 Filed 11-9-76;8:45 am]

PICK-UP AND DELIVERY ZONE

Notice of Application for Tariff Filing Authority

NOVEMBER 5, 1976.

In accordance with Part 222 (14 CFR Part 222) of the Board's Economic Regulations (effective June 12, 1964), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 30020, from Airborne Freight Corporation, 190 Queen Anne Avenue North, P. O. 662, Seattle, Washington 98111, for authority to provide pick-up and delivery service between Tampa Airport and Bartow, Florida.

Under the provisions of § 222.3(c) of Part 222, interested persons may file an answer in opposition to or in support of this application on or before November 26, 1976. An executed original and nineteen copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and include such economic data and facts as are relied upon, and shall be served upon the applicant and state the date of such service.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-33069 Filed 11-9-76;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES OF POPULATION

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on relationship to the head of the household, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the Decennial Census.

Summary results of special censuses are published semiannually in the "Current Population Reports"—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since December 31, 1975, for which tabulations were completed between October 1, 1976, and October 31, 1976.

Dated: November 4, 1976.

ROBERT L. HAGAN,
Acting Director,
Bureau of the Census.

State/place or special area	County	Date of census	Population
Arkansas:			
Hampton City	Calhoun	Aug. 23	1,651
Rogers City	Benton	Aug. 4	14,982
Yellville City	Marion	July 30	1,031
Idaho:			
Aberdeen City	Bingham	Aug. 9	1,663
Wilder City—Annexed areas only	Canyon	Aug. 23	647
Illinois:			
Addison village	Du Page	July 29	28,019
Algonquin village	Kane and McHenry	July 8	3,962
Arlington Heights village	Cook and Lake	July 13	71,012
Ashmore village	Coles	Aug. 25	822
Barrington village	Cook and Lake	July 7	9,410
Burbank City	Cook	July 22	29,448
Catlin village	Vermilion	Aug. 20	2,321
Colona village	Henry	Aug. 10	1,570
Effingham City	Effingham	Aug. 17	10,772
Indian Head Park village	Cook	Aug. 25	2,057
Lake Barrington village	Lake	Aug. 25	1,173
Schaumburg village	Cook and Du Page	July 20	43,580
Indiana:			
Batesville City	Franklin and Ripley	Aug. 24	3,919
New Whiteland town	Johnson	Aug. 9	4,600
Michigan:			
Chesterfield Township	Macomb	Aug. 19	14,270
Clinton Township	do	July 27	63,115
Hudsonville City	Ottawa	Aug. 9	4,161
Rapid River Township	Kalkaska	July 6	519
South Lyon City	Oakland	Aug. 10	4,378
Mississippi: Isola town	Humphreys	Aug. 11	876
Nebraska:			
Milford City	Seward	Aug. 13	1,906
Santee village	Knox	Aug. 10	297
New Jersey: Little Egg Harbor Township	Ocean	Aug. 13	6,983
Pennsylvania:			
Athens Township	Bradford	Aug. 2	4,622
Dover Borough	York	Aug. 16	1,861
Economy Borough	Beaver	Aug. 10	8,379
Hempfield Township	Westmoreland	July 13	40,248
Ross Township	Allegheny	do	35,823
South Middleton Township	Cumberland	Aug. 3	8,176
Wisconsin: Friendship town	Fond du Lac	Aug. 9	2,234

[FR Doc.76-32389 Filed 10-9-76;8:45 am]

Domestic and International Business Administration

STANFORD UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00417-01-46040. Applicant: Stanford University, 820 Quarry Road, Palo Alto, California 94304. Article: Electron Microscope, Model EM 201C. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the examination of DNA, RNA, proteins, and protein-nucleic acid interactions. The experiments to be conducted and objectives pursued concern isolation of fragments of the genetic DNA of bacterial cells, studying their behavior both in vivo (transformation) and in vitro (expression), seeking the origins of new cellular organelles. These studies encompass interactions with different proteins and fine substructure of these proteins. The article will also be used by undergraduate resident assistants, medical, graduate, and post-graduate students who will make some use of an electron microscope to answer specific scientific questions in connection with their work being carried out in various laboratories in this department.

Comments: No comments have been received with respect to this application.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in

the United States at the time the article was ordered (January 31, 1975).

Reasons: The applicant in response to Questions 7 and 8 alleges that the following are pertinent features of the article:

(1) Capability for 3 to 4 Angstroms (Å) point to point (point).

(2) 35 millimeter (mm) camera covering about 80 percent of the field placed in the microscope column.

(3) Reliable and proven performance, with a minimum risk of delays and discrepancies whose cost in the interruption of research is incompensable.

(4) Camera placed in the microscope column which is convenient as it allows taking photographs in dim light and allows taking photographs with about 1/9 exposure of the sample to the beam of what it would be with the camera placed below the viewing screen.

(5) Minimum of instruction with consistent results in high resolution images.

We note that the applicant's intended use of the article (including the educational aspects) is essentially research-oriented with no formal courses planned. The domestic instrument which was most closely comparable to the foreign article at the time the article was ordered was the Model EMU-4C electron microscope, manufactured by the Adam David Company. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated March 17, 1976 that the application be denied because the applicant provides no pertinent characteristic within the meaning of Subsection 301.2(n) of the regulations upon which duty-free entry could be based. As to the specific allogations of the applicant in reply to Questions 7 and 8, in the order listed above, the following is noted:

(1) § 301.11(a) of the regulations stipulates that guaranteed specifications are to be utilized in the comparison of the foreign article with available domestic instruments. The Model EMU-4C provides a guaranteed resolution of 5Å point whereas the article provides a guaranteed resolution of 4Å point. HEW advises that the difference in guaranteed resolution (between the EMU-4C and the foreign article) does not have scientific significance for the intended work. Accordingly, the Department finds that this difference is not pertinent.

(2) HEW advises that the EMU-4C provides a 35 mm camera and further, that photographic conveniences, including percent of field covered, are not pertinent.

(3) The applicant has placed certain material in the record relating to the question of reliability, proven performance, etc. For example, the applicant states inter alia, "We have made extensive surveys in order to compare performances of the EM201 and EMU4C, which included meeting with experts in the field, * * * and contracts with users of the two types of instruments * * *. Without a single exception we were advised that the most suitable instrument for our application would be a Philips EM201. Users of the EMU4C experienced need for extensive servicing * * * to get it operational, special modifications and additions (not done by Adam David) to reach the resolution claimed by specifications * * * and in general obtained satisfactory results only for their low resolution requirements. * * * In view of the information received from the various users which had been provided as reference * * * [by Adam David] * * * we attempted to obtain a Dunn and Bradstreet report on the Adam David Company in hope of determining their financial strength and resources. We were advised by Dunn and Bradstreet that they had no listing on the Adam David Company. * * * We would contend that at the present time there is no firm within the United States actively engaged in the manufacture and sale of research grade electron microscopes. The Adam David Company as producer of electron microscopes is not truly a viable factor in the U.S. market. In view of the discussions with the users whose names were provided by the Adam David Company and their responses to questions on performance of the electron microscope after installation, its ability to meet specifications and the sources provided by the Supplier, we conclude, at best, the Adam David Company is a marginal producer."

In connection with the foregoing discussion of the applicant, HEW advises that "consideration of testimonials, statements of general suitability or the relative rating of the producers in resources, reputation or by a business magazine, while proper for prudent purchase analysis, are not scientifically relevant for the purposes of duty-free entry." In this connection, HEW also advises that risk of delay is basically cost-related and not pertinent. In connection with a prior case, Docket Number 75-00230-33-46040, which HEW cites as a reference for this case, HEW has pointed out that reliability which is associated with the level of maintenance and hence, cost of ownership, is not a pertinent specification (as defined by § 301.2(n) of the regulations).

Further on the point of reliability, we note that information which can lead to a direct quantitative comparison of the reliability (i.e., ability to conform to specifications without excessive breakdown) of two instruments is almost never available. When a specification is "guaranteed" the manufacturer is stating, in effect, that the necessary steps have been taken to verify ability to meet this obligation. Thus a guaranteed specification presupposes a determination of reliability to some "engineered-in" degree. Customarily, manufacturers neither issue quantitative specifications on reliability nor guarantee reliability. Moreover, the reliability of a single instrument can, and frequently does, improve abruptly with time (for example, as the manufacturer gains experience and makes minor modifications dictated by such experience). No two instruments of the same model supplied by the same manufacturer will have identical records insofar as reliability is concerned and a documented history of poor reliability does not mean that such performance will not vastly improve with the very next instrument (and subsequent instruments) produced. Without strong and substantive supporting evidence in the record that the reliability of two instruments were measurably different and the difference in reliability precluded performance of the work intended, reliability could not be considered a justifiable basis for duty-free entry under P.L. 89-651. While reputations with respect to reliability which are derived from subjective, word-of-mouth allegations or even personal experience may, reasonably or otherwise, enter into a person's decision to buy a particular instrument as noted by HEW, such a yardstick could not serve as a clear-cut objective basis for duty-free entry.

Moreover, we would reemphasize that reliability is considered a cost-related consideration for duty-free entry purposes which by regulation and by Congressional intent is not a sufficient basis for the granting of duty-free entry.

Relative to the appellant's assertion that Adam David is not "actively" engaged in the manufacture of electron microscopes, is "not truly a viable factor in the U.S. market", and is at best "a marginal producer", reference is made to the decision of the U.S. Court of Customs and Patent Appeals upholding the Department of Commerce's denial of a Philips EM 201 on the basis of the Adam David EMU-4C (*Leo Goodwin Institute for Cancer Research Inc.* v. *United States* ("*Leo Goodwin*"). 521 F.2d 801 (1975). In connection with similar assertions in the *Leo Goodwin* case, the Court ruled that "the fact that a domestic manufacturer of an article is assembling completed units from parts in its inventory, which it had previously manufactured or purchased elsewhere, should be sufficient to support the conclusion of the Secretary of Commerce that an instrument of equivalent value was being manufactured in the United States during the relevant time period."

Moreover, with respect to the Secretary's (Secretary of Commerce) finding of scientific equivalency, the Court in the *Leo Goodwin* cases notes the Secretary relied on the report of NIH's (HEW's) Florence Agreement Committee. The Court advised that "this was a judgmental determination made on the basis of a report from a committee with particular expertise in the field, and the Secretary correctly considered this advice * * *"

(4) We note that Adam David, in its letter dated January 2, 1975 to the applicant, offered to place the 35 mm camera where the applicant desired at a competitive price. We further find that camera placement is a convenience which is not pertinent. Indeed in response to question 8.c(3) the applicant refers to camera placement in terms of convenience. Finally, HEW advises that the taking of photographs in dim light versus dark-

ness is a convenience which is not pertinent.

(5) We find that feature 5 is related to ease of operation which (inasmuch as the applicant's use in research-oriented) is a nonpertinent convenience (or is cost-related).

For these reasons, we find that the Model EMU-4C is of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-32984 Filed 11-9-76;8:45 am]

TENNESSEE STATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00042-33-46040. Applicant: Tennessee State University, 3500 Centennial Blvd., Nashville, Tennessee 37203. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in extensive studies of the development of a better than 90 percent incidence of leukemia in young AKR mice. In addition, the article will be used for educational purposes in the courses:

(1) Bio 460—Junior Honors Research designed to acquaint outstanding students with modern tools of research and research techniques, and

(2) Bio 511 and 512—Graduate research in which students will be taught the routine procedures employed in transmission electron microscopy.

Comments: No comments have been received with respect to this application.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Number 75-00182-33-46040 which was denied without prejudice to resubmission on March 13, 1975 for informational deficiencies. The applicant in his response to Question 8 alleges the foreign article provides the following pertinent features:

(1) Undistorted pictures with a minimum amount of contamination.

(2) Guaranteed point-to-point (point) resolution of 3.5 Angstroms (Å). This excellent resolving power is due to the use of a very short focal length objective lens.

(3) Good stability is provided by a short rigid column design, ripple free high voltage, and objective lens current supplies.

(4) A single mini-condenser lens that forms a bright circular spot of 6 μm. This allows for the formation of high intensity images at high magnifications and work normally requiring a double condenser can be carried out.

(5) Magnifications from 1500-200,000X can be selected in 14 steps without a change of pole pieces/or specimen holders.

(6) A special wobbler for precise focusing throughout the entire magnification range and a proximity focusing circuitry which keeps the image close to focus over wide changes of magnification and acceleration voltage.

(7) Two fluorescent viewing screens. The main one is for direct viewing through a large front window. A smaller one is for critical viewing and focusing. It is inserted in the beam for use with a 9X binocular magnifier which has large exit pupils for easy viewing of low intensity details.

(8) Capbility of being equipped with three cameras; a plate, 70mm. and 35mm roll film thus, the particular camera can be chosen for high resolution, selected area diffraction or high speed work. Up to 106 exposures can be held under vacuum ready for use in any sequence. A highly sensitive exposure mater (sic) is supplied as standard.

(9) Simple accurate gun alignment. The combination of lens currents required for the alignment procedure is pre-programmed on fine special positions of the magnification switch. The condenser, intermediate and projector lenses need no aligning.

(10) Vacuum system. The ideal vacuum system is one that can be forgotten once the start button has been pressed. The system should be foolproof and pump down should be quick.

(11) Specimen airlock. The specimen air lock of the high resolution stage is pre-pumped. This means that when specimen (SIC) are changed, no air or water vapor is admitted to the column. Specimen contamination is minimized and it is unnecessary to switch off the high voltage (H.V.) In this way H.V. build up time is eliminated and the stability remains inaffected (sic).

(12) A pumping system with a low back streaming rate because the oil diffusion pump is filled with polyphenyl ether and is combined with a water-cooled baffle valve. Coupled with this vacuum design an anticontamination device may be fitted to the article for high critical work.

(13) A goniometer stage where the specimen are (sic) of interest can be tilted through angles as high as ±60° and rotation through a full 360° and yet remain in position in focus and at constant magnification and camera length.

(14) Minimum of maintenance service and the availability of service and relative ease and speed of operation. We note that the intended use of the article is essentially research oriented with the educational aspect at a relatively sophisticated level. (Research courses for graduate students; in Bio 460 the stated objective is to acquaint outstanding students with modern tools of research and research techniques.) The only comparable domestic instrument available at the time the article was ordered (August 13, 1974) was the EMU-4C electron microscope manufactured by the Adam David Company.

The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated November 10, 1975 that this application should be denied because the applicant provides no pertinent feature within the meaning of Subsection 301.2(n) of the regulations upon which duty-free entry could be based. As to the specific allegations of the applicant, in the order listed above, the following is noted:

(1) HEW advises that features, such as the degree of distortion or contamination are not pertinent in view of equivalent resolution and magnification range of the article and the Model EMU-4C.

(2) According to Subsection 301.11(a) of the regulations, the determination of scientific equivalency is based upon the guaranteed specifications of both the article and the most closely comparable domestic instrument. HEW advises that (a) the article is the lower capability model in the foreign manufacturer's line with 4Å point resolution guaranteed as compared with 5Å point guaranteed for the EMU-4C (b) the difference does not have scientific significance for the work and (c) lens focal length is not pertinent in view of equivalent resolution and magnification range.

(3) HEW advises that stability and degree of ripple are not pertinent in view of equivalent resolution and magnification range.

(4) The EMU-4C provides a high intensity grid cap for adequate illumination and contrast with either a single or double condenser system. Thus high intensity single or double condenser work can be performed on the EMU-4C. Moreover, HEW advises that the number of condensers is not pertinent and that the EMU-4C provides a magnification range equivalent to that of the article.

(5) The article provides a standard pole-piece with a magnification range of 1500 to 200.000X. The EMU-4C provides a standard pole-piece with a magnification range of 1400 to 240,000X. Neither instrument requires a pole-piece change over the standard pole-piece range. HEW advises that the EMU-4C provides a magnification range equivalent to that of the article.

(6) Specifications for the EMU-4C provide that there shall be no change in magnification with change in accelerating voltage; magnification at each mag-

nification step reproducible to within 2 percent; a fine focusing control calibrated in fixed steps of 60Å to one micron per step to insure perfect focus; and a wobbler focusing device which HEW advises is equivalent to that of the article. It is noted that accurate focusing can be obtained with the EMU–4C. If there is any difference in the focusing capability of this instrument and the foreign article, such a difference would fall into the category of convenience which is not pertinent. In this connection HEW advises that the article is not established as a simple instrument or easiest to use.

(7) HEW advises that the two viewing screens of the article are not shown to be pertinent and are matched by the EMU–4C.

(8) The EMU–4C provides a 35 millimeter, a 70 millimeter, and a plate camera. As to the simultaneous availability of the three cameras in the article, we note that only a plate camera was ordered for the article. According to Subsections 301.2(d) and 301.6(a) of the regulations features not ordered with the article cannot be considered in the Department's determination. Therefore, only the plate camera can be considered in this determination. Moreover, we note that the use of three cameras in the article provides more than 150 exposures (the applicant claimed a need for 106) whereas the EMU–4C using its plate camera can provide a maximum of 240 exposures. The EMU–4C also provides a sensitive exposure meter as a standard feature. HEW advises that the photographic facilities of the article are not pertinent and, at any rate are matched by the EMU–4C.

(9) HEW advises that ease of alignment in the article is a convenience which is not pertinent.

(10) HEW advises that vacuum system automation is a convenience which is not pertinent.

(11) HEW advises that the EMU–4C provides an equivalent prepumped specimen air lock and that this feature in the article is not pertinent.

(12) The EMU–4C provides an optional anticontamination device with a contamination rate of 0.0017Å per second or less. The article provides an optional anticontamination device with a contamination rate of less than 0.01Å per second. We find that contamination rates of the article and EMU–4C are equivalent. Moreover, HEW advises that (1) the degree of contamination is not pertinent in view of equivalent resolution and magnification range and (2) the pumping system is not pertinent and is matched by the EMU–4C.

(13) The goniometer stage was not ordered with the foreign article. According to Subsections 301.2(d) and 301.6(a) (3) of the regulations only a feature ordered with the article can be considered in the determination of scientific equivalency. Thus the goniometer stage is not a factor in the Department's determination.

(14) The EMU–4C is serviced by the Radio Corporation of America (RCA) service organization. The RCA Service is nationwide. We note that availability of service and degree of service required are cost-related features which, according to Subsection 301.2(n) of the regulations are not pertinent. As to the reference to relative ease and speed of operation we note that HEW has found that a number of features contributing to ease and speed of operation (Wobbler, viewing screens, photographic facilities, specimen air lock, pumping system, ease of alignment, vacuum system automation, etc.) are not pertinent and some are matched in the EMU–4C. Also, as previously noted, HEW advises that the article is not established as a simple instrument or easiest to use. For the foregoing reasons, we find that the Model EMU–4C is of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76–32986 Filed 11–9–76;8:45 am]

UNIVERSITY OF NEBRASKA—LINCOLN

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Sec. 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76–00203–33–46040. Applicant: University of Nebraska-Lincoln, School of Life Sciences, Lincoln, Nebraska 68588. Article: Electron Microscope, Model 201C. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for multiple research purposes which will include the following:

1. High resolution autoradiography of melanogenesis in cultured chick embryo cells.
2. Relationship of microfilaments and/or microtubules to pigment dispersal and transfer in mutant melanocytes.
3. The effects of hormonal and tumorigenic regimens upon mouse mammary glands in vitro.
4. Cell surface alterations in normal irradiated, and irradiated-transplanted mouse spleens.
5. Macrophage responses to different species and strains of leishmania and leishmania-like organisms.
6. The effects of plant hormones upon ribosomal configurations.
7. Studies of membrane transport.
8. Fine structural studies of viruses.

In addition, the article is to be used for educational purposes in the following courses:

(1) Life Sciences 915, Transmission Electron Microscopy, in which students are taught the elements of transmission electron microscopy.

(2) Life Sciences 999, Doctoral Dissertation and Life Sciences 899, Master Thesis for graduate students.

(3) Zoology 399H Honors Course for outstanding undergraduates participating in research.

Comments: No comments have been received with respect to this application.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States when the foreign article was ordered (March 25, 1976).

Reasons: This application is a resubmission of Docket Number 75–00479–33–46040 which was denied without prejudice to resubmission on August 13, 1975 for informational deficiencies.

In this application the applicant alleges in response to Questions 7 and 8 that the article provides the following pertinent features:

(a) Higher resolution—4 Angstroms (Å) point-to-point (point).

(b) High Magnifications requiring high resolution.

(c) Unique single condenser minilens system which provides a six micron spot which is easier to align and at high magnifications specimen damage is restricted to the area being examined.

(d) Fast specimen change of seven seconds.

(e) Easier to operate and maintain:

(1) Filament change time is less than ten minutes.

(2) Single condenser system which is easy to align.

(f) Design which is not obsolete.

In general, HEW advises, these instruments (EMU–4C and EM201C) have scientific equivalence precluding duty-free entry under the purview of Pub. L. 89–651. The domestic instrument most closely comparable to the foreign article is the Model EMU–4C electron microscope manufactured by the Adam David Company.

HEW also advises in its memorandum of March 5, 1976, that this application be denied on the basis that the description of research or teaching does not provide a pertinent specification (within the meaning of Subsection 301.2(n) of the regulations) upon which duty-free entry could be based. As to the specific allegations of the applicant in reply to Questions 7 and 8, in order listed above, the following is noted:

(a) HEW advises that the small difference in guaranteed resolutions of the article (4Å point) and the EMU–4C (5Å point) does not have significance for the applicant's work and is not pertinent.

(b) The EMU–4C has magnifications of 1400 to 240,000X with 400X (and low-

er) for survey without a pole piece change. The article has 1500 to 200,000X with 200X for survey without a pole-piece change. HEW advises in its memorandum relating to the applicant's initial submission (Docket Number 75–00479–33–46040; incorporated by reference in HEW's memorandum of March 6, 1976) that the EMU–4C and the article have equivalent magnifications ranges. HEW also advises that the difference in the guaranteed resolutions of the EMU–4C and the article is not pertinent and does not have significance for the applicant's work.

(c) The EMU–4C is available with either a single condenser (with a spot size of about 50 microns) or double condenser system (with a spot size of 2 microns or less). HEW advises that the difference in spot size produced by the single condenser system of the article and EMU–4C does not have scientific significance for the applicant's work and is not pertinent. Thus the alleged benefits conferred by the difference in spot size of the article and domestic instrument are likewise not pertinent.

Furthermore, HEW advises that ease of alignment is a convenience which is not pertinent. Thus advantage could be taken of the 4C's double condenser.

(d) HEW advises that the difference in speed of specimen change is a convenience which is not pertinent. As to the applicant's assertion that certain of his research involved a "near production like procedure," HEW noted in its advice on the prior submission that "electron microscopy is not a production operation therefore, speed of sample changes is irrelevant."

(e) This feature is related to fast filament change time and ease of alignment of a single condenser system. HEW advises that relative ease of column alignment, as in single condenser systems and fast filament change are conveniences which are not pertinent to the applicant's intended uses. Moreover, HEW finds that ease of operation is not pertinent and notes in its memorandum relating to Docket Number 75–00479–33–46040 incorporated by reference in its memorandum of March 5, 1976, that it is not established that the foreign article is a simple instrument. As to maintenance, HEW advises that this feature as well as consistency of operation at specific performance levels are cost-related matters which are not pertinent.

(f) Newness of design has no significance if no unique and pertinent performance capabilities are identified. We note also that the article is an updating of the Model EM 201 whereas, in a similar fashion, the EMU–4C has certain advantages over the EMU–4A.

As to the applicant's statement that the University's transmission electron microscope be used for both research and teaching, we note the applicant concedes that these may be antagonistic purposes. In Docket Number 75–00230–33–46040, which HEW incorporates by reference in its advice on this application and which similarly involves a combination of research and education, HEW cited that simplicity (leading to ease of operation) was claimed "but the article is not a simple instrument * * *", advice reiterated on the initial submission of this application.

For the foregoing reasons, we find that the Model EMU–4C, electron microscope, is of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76–32985 Filed 11–9–76;8:45 am]

Travel Service

JACQUES MEDECIN

Luncheon

A luncheon will be held in honor of Monsieur Jacques Medecin, Secretary of State for Tourism for France, on November 18, 1976.

Mr. Medecin will address government and industry officials on the cooperative government, private and public sector tourism program in France.

The luncheon will begin at 12:30 p.m., in the Pan American Room, at the Statler-Hilton Hotel, Washington, D.C.

A limited number of seats will be available to observers from the public and the press to listen to Mr. Medecin's presentation which will begin at 1:15 p.m.

Melinda Carr, Acting Director of Media Services Division, the United States Travel Service, Room 1519, U.S. Department of Commerce, Washington, D.C. 20230 (telephone 202–377–4987) will respond to public requests for information about the luncheon.

CREIGHTON HOLDEN,
Assistant Secretary for Tourism,
Department of Commerce.

[FR Doc.76–33280 Filed 11–9–76;10:22 am]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, January 4, 1977; Tuesday, January 11, 1977; Tuesday, January 18, 1977; and Tuesday, January 25, 1977 at 9:45 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower and Reserve Affairs) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, the Federal Advisory Committee Act, meetings may be closed to the public when they are concerned with matters listed in section 552(b) of Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency, (5 U.S.C. 552(b)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 U.S.C. 552(b)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that this meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 USC 552(b)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 USC 552(b)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D281, The Pentagon, Washington, D.C.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

NOVEMBER 5, 1976.

[FR Doc.76–33038 Filed 11–9–76;8:45 am]

DESIGN AWARDS JURY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1) notice is hereby given of a meeting of the Department of Defense Design Awards Jury to be held on December 6 and 7 in the Pentagon Building, Washington, D.C.

The meeting will begin at 9:00 a.m. on December 6 and continue until completion of the Jury's business which is the review of entries submitted to the Office of the Secretary of Defense by the Military Departments for consideration for the Department of Defense Design Award; the assessment of the merits of each and the selection of the projects to receive awards.

Attendance is open to the public. Any member of the public may present a written statement to the Design Awards Jury. Additional information may be obtained from Office of the Director of Construction Standards and Design, Room 3E763, Pentagon Building, Wash-

ington, DC, 20301, telephone 202–695–2712.

Persons wishing to attend should notify the above office not later than December 3, 1976.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

NOVEMBER 5, 1976.

[FR Doc.76–33037 Filed 11–9–76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 630–1]

DRAFT PROGRAM STRATEGIES

Comment Availability

The Environmental Protection Agency announces the availability of draft program strategy documents that describe the goals and priorities of various Agency pollution control and abatement programs. These documents are designed to clarify Agency policy regarding implementation of legislation; to assist Federal, State, and local officials in understanding Agency programs; and to provide a framework for developing and strengthening Federal-State efforts to solve problems of mutual concern.

It is Agency policy and practice to ensure to the greatest extent possible that persons who are affected by any major sponsored legislation, regulation, policy decision, or program action are provided with sufficient information to understand the Agency's intent, and are given the opportunity to have their views on the subject considered in the Agency's decision-making process. Accordingly, the Agency is soliciting public comment on the draft strategy documents, and will consider all such comments before issuing the strategies in final form.

Individual documents are available covering the following program areas: Air Pollution Control; Noise Abatement; Radiation; and Safe Drinking Water. (Draft documents on Water Quality, Solid Waste Management, Pesticides, and Toxic Substances will be developed at a later date. The public will be notified and comment solicited at such time).

Persons desiring copies of the individual draft documents may obtain them by writing:

Raymond G. Holmes, Office of Public Affairs (A107), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Comments on the draft documents should be received on or before January 10, 1977.

ALVIN L. ALM,
Acting Administrator.

NOVEMBER 4, 1976.

[FR Doc.76–33097 Filed 11–9–76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

NATIONAL INDUSTRY ADVISORY COMMITTEE, AMATEUR RADIO SERVICES SUBCOMMITTEE

Meeting

Pursuant to the provisions of Pub. L. 92–463, announcement is made of a public meeting of the Amateur Radio Services Subcommittee of the National Industry Advisory Committee to be held Tuesday, December 7, 1976. The Subcommittee will meet at the Federal Communications Commission Annex Building, 1229 20th Street, N.W., in the Training Room (A–110), at 10 a.m.

Purpose: To define problems in the amateur radio emergency communications sphere; discuss the status of amateur radio service emergency facilities, capabilities; and deficiencies; and ascertain future Amateur Radio Services Subcommittee goals, objectives, tasks, and methodology.

AGENDA

ITEM

1. Chairman's opening remarks.
2. Statement of problems in amateur radio emergency Communications sphere by representatives of government and other served agencies.
3. Current status of amateur radio service emeregency facilities, capabilities, and deficiencies.
4. Discussion of lessons learned by Amateur Radio Service participation in recent emergencies.
5. Listing of major national problem areas relating to Amateur Radio Service operations.
6. Assignment of working groups to study problems requiring further study and recommended solutions.
7. Discussion of future NIAC, Amateur Radio Services Subcommittee goals, objectives, tasks and methodology.
8. Consideration of criteria for subcommittee meetings.
9. Closing comments and adjournment.

Any member of the general public may attend the meeting or file a written statement with the Subcommittee either before or after the meeting. Members of the general public wishing to attend the meeting will be accommodated up to the limited seating capacity of the room. Any member of the general public wishing to make an oral statement must consult with the Executive Secretary, National Industry Advisory Committee prior to the date of the meeting. Those desiring additional information about the meeting may telephone the Emergency Communications Division, FCC, (202) 632–7232.

FEDERAL COMMUNICATIONS COMMISSION
VINCENT J. MULLINS,
Secretary.

[FR Doc.76–33036 Filed 11–9–76;8:45 am]

[FCC 76–960; Docket Nos. 20968 and 20969; File Nos. BP–19979 and BP–20119]

RADIO LARES AND LARES BROADCASTERS

Construction Permits; Designating Applications for Hearing

Adopted: October 20, 1976.

Released: November 4, 1976.

In re applications of Jose David Soler and Luis A. Velez, d/b/a Radio Lares, Lares, Puerto Rico; Requests: 1200 kHz, 250 W, Day; Wilfredo A. Soto, Jesus M. Solo and Ricardo L. Segarra, d/b/a, Lares Broadcasters, Lares, Puerto Rico; Requests: 1200 kHz, 250 W, Day.

1. The Commission has before it for consideration (i) the above-captioned application of Jose David Soler and Luis A. Velez, d/b/a Radio Lares for a construction permit for a new commercial standard broadcast station in Lares, Puerto Rico (Soler); (ii) the above-captioned application of Wilfredo A. Soto, Jesus M. Soto, and Ricardo L. Segarra, d/b/a Lares Broadcasters for a construction permit for a new commercial standard broadcast station at Lares, Puerto Rico (Soto); (iii) a petition to deny Soler's application filed by Pepino Broadcasters, Inc., licensee of station, WFBA, San Sebastian, Puerto Rico (Pepino); and (iv) an opposition to Pepino's petition to deny filed by Soler.

2. Pepino states that as licensee of a broadcast station in San Sebastian, eight miles from Lares, it will compete with Soler's proposed station for audience and revenues. Hence, it is a party aggrieved or one whose interests would be adversely affected by a grant of Soler's application, and has standing to petition to deny the application. *Sanders Brothers Radio Station* v. *F.C.C.*, 309 U.S. 470 (1940).

3. The sole ground for denial raised by Pepino is the possibility of prohibited overlap of contours by Soler's proposed station and a station operating in the Dominican Republic. According to Pepino, the World Radio TV Handbook 1975 lists station HIBS at San Pedro de Macoris, Dominican Republic as operating on 1200 KHz, the same frequency proposed by Soler, with power of one kilowatt. Admitting that it has no knowledge of the operation of station HIBS except for the 1975 Handbook's reference, Pepino has submitted an engineering exhibit which indicates that operation of station HIBS as reported in the Handbook would produce a 0.025 mV/m groundwave contour falling 20 miles beyond and east of the Lares site. Further, it is asserted that Soler's proposed station would produce a 0.025mV/m groundwave contour which would fall within three miles of San Pedro de Macoris, thereby producing overlap with the 0.5 mV/m contour of station HIBS.

4. In opposition Soler states that operation of station HIBS as reported in the Handbook would be unlawful and not entitled to protection by United States broadcast stations. Soler notes that the Dominican Republic is a signatory to the North American Regional Broadcasting Agreement (NARBA), and is bound by the terms of that agreement. Under NARBA, the United States has priority on the frequency of 1200 KHz and the U.S. class I–A station operating in that frequency is entitled to protection. Further, Soler points out that the Dominican Republic has failed to give notification with respect to the operation of station HIBS, as required by NARBA, and that therefore it is operating illegally and not entitled to protection under the agreement.

5. By letter dated June 28, 1976, the government of the Dominican Republic advised the Commission that stations HIBS and HIMR are operating on 1200 KHz and expressed its concern about interference to those stations from the Lares proposals. Studies show that mutual interference would occur between the Lares proposals and HIBS. Unlike the situation in Arroyo Broadcasters, Inc., 49 FCC 2d 578, 31 RR 2d 1119 (1974), where the proposed service would have been reduced by more than 90 percent, the nature of the overlap involved in this case would not reduce Soler's service area to an unsatisfactory level. Hence, Pepino's petition will be denied. Regarding the interference caused by both proposals to HIBS, a condition is being included in the event of a grant of either application looking toward resolution of the interference problem with the Dominican Republic.

6. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive primary service together with the availability of other primary aural services (1 mV/m or greater in the case of FM) in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference would accrue to either of the applicants.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, *it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

9. *It is further ordered*, That, the petition to deny filed by Pepino Broadcasters, Inc., is denied.

10. *It is further ordered*, That, in the event of a grant of either application, such grant will contain the following condition:

> This grant is subject to acceptance of any interference that may be caused by operation of station HIBS at San Pedro de Macoris, Dominican Republic, on 1200 KHz and the technical facilities authorized herein may be modified in any manner as may be appropriate after discussion with the Dominican Republic.

11. *It is further ordered*, That to avail themselves of the opportunity to be heard, both applicants shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

12. *It is further ordered*, That, the applicants shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, give notice of the hearing within the time and in the manner prescribed by the rules, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS COMMISSION,[1]
VINCENT J. MULLINS,
Secretary.

[FR Doc.76–33035 Filed 11–9–76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

PETROLEUM AND NATURAL GAS EXPLORATION, DEVELOPMENT AND PRODUCTION ADVISORY COMMITTEE

Cancelled Meeting

A meeting of the Petroleum and Natural Gas Exploration, Development, and Production Advisory Committee to the Federal Energy Administration, scheduled for 9 a.m., Monday, November 15, 1976, Room 5041B, FEA Headquarters Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C. has been cancelled. A notice of meeting was published in the issue of October 22, 1976, (41 FR 46649).

Issued at Washington, D.C. on November 5, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76–33042 Filed 11–5–76;3:15 pm]

[1] Commissioner Hooks concurring in the result; Commissioner White not participating.

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

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

Certificate No.	*Owner/Operator and Vessels*
01185	Aksjeselskapet Kosmos: *Jarmona.*
01426	Kuwait Shipping Co. (S.A.K.): *IBN Qutaibah, IBN Asakir, IBN Khaldoon, IBN Al Roomi.*
01641	The Bank Line Ltd.: *Firbank.*
01935	Partnership between Steamship Co. Svendborg Ltd. and Steamship Co. of 1912 Ltd.: *Sine Maersk, Jeppesen Maersk.*
02034	Australind Steam Shipping Co. Ltd.: *Ajana.*
02040	Odra-Swinoujscie: *Tazar.*
02120	Ulysses Tanker Corp.: *Spyros.*
02199	Atlantic Richfield Co.: *Arco Endeavor.*
02241	Cape Continent Shipping Co. (Proprietary) Ltd.: *Maritime Transporter.*
02473	Irish Shipping Ltd.: *Irish Rowan.*
03389	Shell Tankers B.V.: *Fossarina.*
03433	Hiroumi Kisen Kabushiki Kaisha: *Japan Cherry.*
03441	Japan Line K.K.: *Godwit.*
03447	K.K. Kyokuyo: *Wakaba Maru No. 2*
03452	Kyoei Tanker Kabushiki Kaisha: *Arita Maru.*
03484	Sanko Kisen K.K.: *Hakuko Maru, Hazel Prosperity.*
03521	Tokushima Kisen K.K.: *Sun Diamond.*
03614	A/S Kristian Jebsens Rederi: *Bergnes, Reksnes, Radnes, Rafnes, Brooknes.*
03893	Skaarup Shipping Corp.: *Lake Nipigon.*
04458	Naviera Artola, S.A.: *Iranzu.*
04503	Okutsu Suisan K.K.: *Zenko Maru No. 83.*
04542	Mr. Choei Okado: *Chokyu Maru No. 2.*
04675	Naviera Santa Catalina S.A.: *Pola De Allande.* G.m.b.H.: *ESSO Deutschland.* G.m.b.H.: *ESSO D utschland.*
05155	Bultema Dock & Dredge Co.: B–15.
05437	The Dow Chemical Co.: *DC–301, DC–302, DC–303, DC–304.*
05579	Black Sea Shipping Co.: *Akademik Millionschikov.*
05670	Vasco Madrilena De Navegacion S.A.: *Valle De Carranza.*
05736	Flota Cubana De Pesca: *Las Guasimas.*
06248	Commercial Corp. Sovrybflot: *Atlant, Pioner Latvii, Andrus Yokhany, Anchar, Argus, Bakhchisaray, Yubilejniy, Langust, Saturn, Antares, Stvor, Spektr.*
06352	London Shipowning Co. Ltd.: *London Glory.*
06359	Malaysian International Shipping Corp., Berhad: *Rimba Balau.*

Certificate No.	Owner/Operator and Vessels
06487---	Naviera Ason S.A.: *Pedro Ramirez, Patricio, Jose Maria Ramon.*
07362---	Primorsk Shipping Co.: *Ajon, Pyotr Shirshov, Anyuy, Aykhal, Aktyubinsk, Pamyat Lenina.*
07640---	EXXON Co. U.S.A.: EXXON Barge No. 334.
08990---	Compagnie Navale Des Petroles: *Opale, Saphir, Turquoise, Rubis, Jade, Emeraude, Onyx.*
09021---	Daeyang Shipping Corp., Ltd.: *Aeneas.*
09693---	Luna Steamship S.A.: *Ocean Prospect.*
09849---	International Steamship Corp.: *Bona.*
10136---	Oriental Armonia Vapor S.A.: *Bela Nickerie.*
10293---	South Marine Corp.: *AGP No. 9.*
10569---	Peavey Co.: *Gremco.*
11015---	Mitsui & Co. Europe (Netherlands) B.V.: *Sovereign Express.*
11078---	AS-Safina Co.: *Safina Star.*
11138---	A/S Nakskov Skibsvaerft: *Pasadena.*
11140---	Olympic Shipping Lines, Inc.: *United Star, United Sun.*
11272---	Corriente Navegacion Panama S.A.: *Pacific Leader.*
11398---	Mallow Line Shipping Corp.: *Brilliancy.*
11417---	Etablissement Maritime Camille: *Nopal Camille.*
11447---	Belcher Oil Co. of Pensacola: *Belcher No. 29, Belcher No. 30, Belcher No. 31, Belcher No. 32.*
11536---	Empresa Maritima de Ultramar S.A.: *Sea Hawk.*
11541---	Hancock Shipping Co., Ltd.: *Casper Trader.*
11620---	Lenal Shipping Corp.: *Cherry.*
11623---	Gregal Compania Naviera S.A.: *George F.*
11653---	Utah Transport, Inc.: *Lake Shasta.*
11675---	Bayswater Shipping Co., Ltd.: *Violetta.*
11684---	Tramp, S.A.: *Valtierra.*
11698---	Pacific Gulf Marine, Inc.: *Sugar Islander.*
11710---	Celsius Shipping, Inc.: *Eleusis.*
11723---	Iris Shipping Co. S.A.: *Iris.*
11724---	Pentland Management Services, Ltd.: *Pentland Glen.*
11729---	Asiatic Intermodal Seabridge S.A.: *Terry M.*
11737---	Bolton Shipping Co., Inc.: *Pisces.*
11738---	Colby Shipping Co., Inc.: *Virgo.*
11746---	Partenreederei MV Zeppacific: *Gulftrader.*
11755---	Newgate Shipping Co., Ltd.: *Causeway, Bonnieway.*
11760---	T.T. Barge Service, Inc.: *Powell.*
11769---	Santa Teresa Maritima S.A.: *Santa Teresa.*
11783---	Armadora Naviera Proestos S.A.: *Giannis Xilas.*
11788---	Western Towboat Co., Inc.: *Alaska.*
11792---	Partrederiet For MS Arctic: *Arctic.*
11794---	Skyros Maritime S.A.: *Thasos Island.*
11796---	Pelawan Shipping, Inc.: *Pelawan.*
11800---	Marlineas Nacional Naviera S.A.: *Kavos Longos.*
11803---	Hapco Compania Naviera S.A.: *Stelios II.*
11807---	Trygiova Shipping Co. S.A.: *Faneromeni.*
11809---	Vitello Shipping, Inc.: *Eurocarrier.*
11811---	Killala Bay Shipping Co., Ltd.: *Tolmi.*
11812---	Kilmore Shipping, Ltd.: *Timi.*
11813---	G.A.G. Shipping Co., Ltd.: *Georgis A. Georgilis.*
11814---	Crescent Marine Co., Inc.: *Merchant Prince.*
11815---	Ark Shipping, Ltd.: *Newark.*
11816---	Crest Shipping, Ltd.: *Newcrest.*
11817---	Marlin Steamship Co., Inc.: *Mary.*
11818---	Vola Shipping Co., Ltd.: *Atlantic Highway.*
11819---	Grace Transatlantic, Ltd.: *Aquagrace.*
11822---	Aquatronics International, Ltd.: *Aqua Star.*
11826---	Erinas Shipping Corp.: *Seapnord.*
11827---	Triumph Steamship Co., Ltd.: *Fotini Carras.*
11828---	Kosmos Bulkschiffahrt GMBH: *Borneheim, Eschersheim, Kelkheim, Manneheim, Bockenheim, Griesheim.*
11832---	Rederiet Knud Jensen: *Polar.*
11835---	Chi Ching Navigation S.A.: *Chi Ching.*
11836---	R/A Trajan: *Gordian, Gratian.*
11837---	A/S Havfugl: *Havorn.*
11838---	Bard Tanker Corp : *Rosebay.*
11839---	Bayard Tanker Corp.: *Primrose.*
11841---	Duchess Comp. Nav. S.A.: *Selas.*
11842---	SAO Financing & Trading S.A.: *Spio.*
11843---	Sceptre Marine Corp.: *Vomar.*
11847---	Rigdale Shipping Co., S.A.: *Kato.*
11849---	Compania Naviera Flamboyant S.A.: *Maya V.*
11850---	Marine Drilling S.A.: *Sedco 707.*
11853---	Navios Patriot, Inc.: *Navios Patrio.*
11854---	Bettydiana Shipping Corp.: *New Diana.*
11855---	Partrederiet Pacific Coast.: *Pacific Coast.*
11856---	United Freighter Corp., Panama S.A.: *Baipao.*
11857---	Poppy Bulk Transport, Inc.: *Pine Light.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-33081 Filed 11-9-76;8:45 am]

COMPANHIA DE NAUEGACAO LLOYD BRASILEIRO AND COMPANHIA DE NAUEGACAO MARITIMA NETUMAR

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York., N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before November 30, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Neal M. Mayer, Esquire, Coles & Goertner, 1000 Connecticut Avenue, NW., Washington, D.C. 20036.

Agreement No. 9938-2, between the above named parties, extends the basic cooperative working arrangement from December 31, 1976 to December 31, 1979. All of the other terms and conditions of the basic agreement, as amended, shall continue in full force and effect.

By Order of the Federal Maritime Commission.

Dated: November 5, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-33080 Filed 11-9-76;8:45 am]

SOUTH LOUISIANA PORT COMMISSION AND PEAVEY CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before November 22, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter)

and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Donald R. Herbert, Attorney, Peavey Company, Peavey Building, 730 Second Avenue South, Minneapolis, Minnesota 55402.

Agreement No. T-3373, between South Louisiana Port Commission (Port) and Peavey Company (Peavey) provides for the issuance of bonds for the acquisition of land and the construction and operation by Peavey of a public terminal grain elevator with adjoining wharves to be located in St. James Parish, Louisiana. The term of this agreement will be for a period of not less than 30 years as provided for in the agreement. As rental, Peavey guarantees a sum which will include but not be limited to the interest, principal, and premium, if any, on the issued bonds as well as any other incidental fees, as further detailed in the agreement. The Port shall have the exclusive right to assess and collect dockage and port fees against vessels, provided that such rates shall not at any time exceed those charged at competing facilities at New Orleans or Baton Rouge. Certain portions of the revenue generated by such dockage and port fees shall be deducted from the rental due payable by Peavey, as further described in the basic agreement.

By Order of the Federal Maritime Commission.

Dated: November 5, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-33079 Filed 11-9-76;8:45 am]

FEDERAL MEDIATION AND CONCILIATION SERVICE

FMCS HEALTH CARE INDUSTRY LABOR-MANAGEMENT ADVISORY COMMITTEE

Re-establishment and Certification

Pursuant to section 9(a)(2) of the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Federal Mediation and Conciliation Service announces the certification of the re-establishment of the following Public Advisory Committee:

Designation. FMCS Health Care Industry Labor-Management Advisory Committee.

Purpose. The Committee will (1) advise the Director of FMCS on the means and methods of improving the climate of collective bargaining in the health care industry; (2) advise the Director of FMCS on ways to utilize training programs and other technical assistance to aid in improving collective bargaining; (3) identify problems common to the health care industry and impacting on collective bargaining; (4) identify and advise the Director of FMCS of existing State resources to aid in improving the collective bargaining climate; and (5) serve as a forum for exchange of ideas and opinions of interested persons, agencies, and institutions.

The Director of the Federal Mediation and Conciliation Service, with the approval of the Office of Management and Budget, has made a written determination that continuation of this advisory Committee is in the public interest. The Committee will be re-established effective of the notice of the filing of the charter in the FEDERAL REGISTER.

Dated: November 5, 1976.

JAMES F. SCEARCE,
National Director.

[FR Doc.76-33091 Filed 11-9-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-7775, et al.[1]]

APPALACHIAN POWER CO.

Order Approving Settlement Agreement

NOVEMBER 2, 1976.

On May 21, 1976, Appalachian Power Company (APCO) along with all of its wholesale customers [2], with the exception of the City of Radford, Virginia [3], filed with the Commission a joint motion for approval of a proposed settlement agreement to terminate the proceedings in ten related dockets (as captioned above). For the reasons hereinafter stated, the Commission will approve the proposed settlement agreement.

These proceedings commenced with the filing by APCO on September 21, 1972, in Docket No. E-7775 of a proposed increase in rates to its wholesale customers amounting to approximately $1,981,718 annually, based on the test period ended December 31, 1971. The rate increase was suspended for five months for all but six customers,[4] who were determined to have contracts not subject to unilaterial change and for whom a Section 206 investigation was ordered. At a subsequent hearing, APCO was held to have failed to carry its Section 206 or Section 205 burdens, but was permitted by the Administrative Law Judge, as affirmed by the Commission, to file new evidence to support its proposed rate and refund obligations.

DOCKET NOS. E-9101 AND E-9518

In these dockets APCO filed on November 8, 1974, an original and on June 23, 1975, a revised unexecuted service agreement with VPI to supersede that customer's fixed rate contract which expired on October 29, 1974. The service agreement as revised was suspended for one day, set for hearing on the justness and reasonableness of its terms and conditions of service, and the proposed rate issue consolidated with Docket No. E-7775.

DOCKET NO. ER76-24

In this docket APCO filed on July 25, 1975, a revised fuel adjustment clause, purported to comply with Order No. 517, which clause was suspended and consolidated with Docket No. E-7775.

DOCKET NOS. ER76-126, ER76-137 AND ER76-321

In these dockets APCO filed its Rate Schedule WS and its revised fuel adjustment clause for service to Danville, Salem and Martinsville [5] upon expiration of their fixed rate contracts. The filings were each suspended for one day, subject to refund, and consolidated with Docket No. E-7775.

DOCKET NO. E-9448

This docket consisted of a complaint filed by Martinsville on May 9, 1975, alleging, inter alia, that APCO was billing it under two tariff rates for its initial blocks of capacity.[6]

DOCKET NOS. ER76-420 AND ER76-425

These dockets contain proposed revisions filed on December 31, 1975, to the fuel adjustment clauses applicable to Bedford and Radford, respectively, intended to comply with Order No. 517.

On May 21, 1976, APCO and the cities filed a joint motion with the Commission requesting approval of an attached settlement agreement intended to effect a full settlement of all issues which have arisen from the proceedings in Docket No. E-7775, et al. The motion states that the remaining wholesale customers, with the exception of Radford (see footnote 3), concur in the proposed settlement. Simultaneously, but by separate cover letters, APCO submitted for filing executed service agreements with each of its wholesale customers affected by the proposed settlement agreement.

The joint motion states that, by virtue of the negotiation and execution of a new service agreement between Martinsville and APCO, and of the execution of the proposed settlement agreement, it is

[1] Docket Nos. E-9101, E-9518, ER76-24, ER76-126, ER76-137, ER76-321, E-9448, ER76-420 and ER76-425.

[2] Cities of Danville, Bedford, Salem, Martinsville, Richland, (collectively referred to as "Cities"), Virginia Polytechnic Institute and State University (VPI), and Old Dominion Power Company, all of which are located in Virginia; Black Diamond Power Company, Elkhorn Public Service Company, Elk Power Company, Kimball Light and Water Company, Union Power Company, United Light and Power Company, and War Light and Power Company, (collectively referred to as the "Musser Companies"), Chesapeake Light & Water Company, and Standard Utility Service Corporation, all of which are located in West Virginia.

[3] APCO has indicated that the City of Radford enjoys Sierra-Mobile protection under its existing contract with APCO until some time in 1977 and as a result does not join in the proposed settlement. No opposition to the proposed settlement agreement has been received from Radford.

[4] VIP and the cities of Danville, Martinsville, Salem, Bedford and Radford, all located in Virginia.

[5] These filings were made by letter on September 9, September 17, and November 25, 1975 respectively.

[6] By order issued on February 14, 1973, in Docket No. E-7775, the Commission found that Martinsville enjoyed Sierra-Mobile protection for capacity delivered up to 18,000 kw. APCO's sales in excess of 18,000 kw were not protected under Sierra-Mobile and were subject to the increased rates and charges under APCO's rate schedule WS.

agreed that the complaint filed by Martinsville in Docket No. E–9448 should be withdrawn and that docket terminated. APCO and the cities in their joint motion also request that Docket Nos. ER76–420 and ER76–425 be terminated as attempts by APCO to be in technical compliance with Order No. 517 which are barred as a matter of law because of the fixed-rate nature of the contracts therein.[7]

The joint motion was noticed with comments due on or before June 11, 1976. On that date, the Commission Staff filed comments supporting the proposed settlement.

The proposed service agreements, which were filed simultaneously with the Joint Motion, contain two provisions which were not present in APCO's previous contracts. The first is a clause containing Memphis language which would permit APCO to file unilaterally changes in rates and terms and conditions of service, thereby foreclosing any potential Mobile-Sierra proceedings. The second is a clause which sets forth a maximum on the amount of capacity that may be reserved by a customer. Under this provision, APCO is not required to supply more than the maximum, but should a Customer exceed such a maximum usage, the contract provides that the parties will negotiate the rates, terms and conditions for such excess service. However, APCO is not barred from unilaterally filing a rate schedule for such service.

The proposed executed service agreements contain the same rates and charges (Rate Schedule WS) as those which APCO originally proposed in Docket No. E–7775, with the exception of the fuel adjustment clause which has been revised to conform to Section 35.14 of the Commission's present regulations. The terms and conditions of service set forth in the individual service contracts have been agreed to by APCO's wholesale customers. The proposed effective dates for the individual service agreements range from April 22, 1974, to October 20, 1975, depending on the dates at which the service agreements expired.

The proposed settlement also provides that for the period beginning March 22, 1973, (the date the proposed Rate Schedule WS became effective subject to refund) and ending April 30, 1974, for Cities (April 21, 1974, for the other resale Customers), APCO will refund all incremental increases collected under Rate Schedule WS. The parties have expressly agreed that the only interest which Appalachian shall be obligated to pay with respect to the above-described refunds shall be simple interest computed at 7% per annum for the period commencing with the date the Joint Motion was filed (May 21, 1976) and ending on the date the settlement is approved by the Commission.

Our Order Approving Settlement of July 27, 1976 in Northern Natural Gas Company, Docket Nos. RP74–75 and RP75–89 which required a 9% interest rate is hereby distinguished. There the Commission had no evidence before it to indicate that the interest rate was bargained out by the parties as an integral part of the settlement. In this case, interest was a key portion of the agreed upon settlement. The parties agreed on zero interest from time of rate increase to filing of the settlement agreement and 7% from filing of settlement until date of Commission approval. The opinion in *American Public Gas Association* v. *F.P.C.*, ____ Fd2d ____ (D.C. Cir. No. 75–1104 decided May 19, 1976) focused on interest applicable to contested cases and did not expressly apply Order 513 to settlement contexts. Consequently, in reviewing future uncontested pipeline and electric rate settlements we will not automatically apply Orders 513 and 513–A, because we believe such an inflexible approach could discourage settlements.

We shall therefore accept and approve the proposed settlement agreement and accept for filing the executed service agreements reflecting the proposed settlement rates, terms and conditions of service.

The Commission finds: (1) The proposed settlement agreement filed in this proceeding by APCO and the Cities on May 21, 1976, is reasonable and proper and in the public interest in carrying out the provisions of the Federal Power Act and should be approved, as hereinafter ordered and conditioned.

(2) Good cause exists to terminate Docket Nos. ER76–420 and ER76–425.

The Commission orders: (A) The proposed settlement agreement filed in this proceeding by APCO and the Cities on May 21, 1976, is hereby accepted, incorporated herein by reference, and approved and permitted to become effective as provided therein, subject to the following conditions.

(B) The executed service agreements filed by APCO on May 21, 1976, are accepted for filing to be made effective and designated as shown on Attachment A hereto.

(C) Within thirty days of the issuance of this order APCO shall make refunds of all revenues collected under its Rate Schedule WS in excess of the settlement rates from March 22, 1973, to April 30, 1974, for the Cities, and from March 22, 1973, to April 21, 1974, for its other wholesale customers, together with simple interest computed at 7% per annum for the period May 21, 1976, through the date of issuance of this order.

(D) APCO is further directed to file a report of compliance, within 30 days of making the refunds ordered in paragraph (C), showing monthly billing determinants and revenues under prior and settlement rates, together with interest due on refund amounts. The report should show the monthly settlement increase, commencing with the effective dates under the settlement, and continuing through the month of most recent billing, and should include summary totals for the entire period.

(E) Upon approval by the Commission of the Company's compliance report, the proceedings in Docket Nos. E–7775, E–9101, E–9518, ER76–24, ER76–126, ER76–137, ER76–321, and E–9448 shall be terminated.

(F) Docket Nos. ER76–420 and ER76–425 are hereby terminated.

(G) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, APCO or by any other party or person affected by this order in any proceeding now pending or hereinafter instituted by or against APCO or any other person or party.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission,

LOIS D. CASHELL,
Acting Secretary.

ATTACHMENT A.—*Appalachian Power Co., filed May 21, 1976*

Designations and instrument dates	Other party	Effective date
(1) Rate schedule FPC No. 58 (dated Mar. 1, 1976) (supersedes FPC No. 26 as supplemented).	City of Danville	Oct. 10, 1975
(2) Supp. No. 1 to rate schedule FPC No. 58 (undated rate WS)	do	Do.
(3) Supp. No. 2 to rate schedule FPC No. 58 (undated fuel clause)	do	Do.
(4) Rate schedule FPC No. 59 (dated Mar. 1, 1976) (supersedes FPC No. 27 as supplemented).	City of Martinsville	May 1, 1974
(5) Supp. No. 1 to rate schedule FPC No. 59 (undated rate WS)	do	Do.
(6) Supp. No. 2 to rate schedule FPC No. 59 (undated fuel clause)	do	Do.
(7) Rate schedule FPC No. 60 (dated May 7, 1976) (supersedes FPC No. 30 as supplemented).	City of Salem	Oct. 20, 1975
(8) Supp. No. 1 to rate schedule FPC No. 60 (undated rate WS)	do	Do.
(9) Supp. No. 2 to rate schedule FPC No. 60 (undated fuel clause)	do	Do.
(10) Rate schedule FPC No. 61 (dated Apr. 15, 1976) (supersedes FPC No. 31 as supplemented).	Black Diamond Power Co. (Elkhurst).	Apr. 22, 1974
(11) Supp. No. 1 to rate schedule FPC No. 61 (undated terms and conditions).	do	Do.
(12) Supp. No. 2 to rate schedule FPC No. 61 (undated rate WS)	do	Do.
(13) Supp No. 3 to rate schedule FPC No. 61 (undated fuel clause)	do	Do.
(14) Rate schedule FPC No. 62 (dated Apr. 15, 1976) (supersedes FPC No. 32 as supplemented).	Black Diamond Power Co. (East Hartland).	Do.
(15) Supp. No. 1 to rate schedule FPC No. 62 (undated terms and conditions).	do	Do.
(16) Supp. No. 2 to rate schedule FPC No. 62 (undated rate WS)	do	Do.
(17) Supp. No. 3 to rate schedule FPC No. 62 (undated fuel clause)	do	Do.
(18) Rate schedule FPC No. 63 (dated Apr. 15, 1976) (supersedes FPC No. 33 as supplemented).	Black Diamond Power Co. (Chattaroy).	Do.
(19) Supp. No. 1 to rate schedule FPC No. 63 (undated terms and conditions).	do	Do.
(20) Supp. No. 2 to rate schedule FPC No. 63 (undated rate WS)	do	Do.
(21) Supp. No. 3 to rate schedule FPC No. 63 (undated fuel clause)	do	Do.
(22) Rate schedule FPC No. 64 (dated Apr. 15, 1976) (supersedes FPC No. 34 as supplemented).	Black Diamond Power Co. (Sophia).	Do.

[7] Commission Opinion No. 760 issued April 29, 1976 in FPC Docket No. E–9532.

Designations and instrument dates	Other party	Effective date
(23) Supp. No. 1 to rate schedule FPC No. 64 (undated terms and conditions.)	do	Do.
(24) Supp. No. 2 to rate schedule FPC No. 64 (undated rate WS)	do	Do.
(25) Supp. No. 3 to rate schedule FPC No. 64 (undated fuel clause)	do	Do.
(26) Rate schedule FPC No. 65 (dated Apr. 29, 1976) (supersedes FPC No. 35 as supplemented).	Chesapeake Light & Water Co.	Do.
(27) Supp. No. 1 to rate schedule FPC No. 65 (undated terms and conditions).	do	Do.
(28) Supp. No. 2 to rate schedule FPC No. 65 (undated rate WS)	do	Do.
(29) Supp. No. 3 to rate schedule FPC No. 65 (undated fuel clause)	do	Do.
(30) Rate schedule FPC No. 66 (dated Apr. 15, 1976) (supersedes FPC No. 36 as supplemented).	Elk Power Co.	Do.
(31) Supp. No. 1 to rate schedule FPC No. 66 (undated terms and conditions).	do	Do.
(32) Supp. No. 2 to rate schedule FPC No. 66 (undated rate WS)	do	Do.
(33) Supp. No. 3 to rate schedule FPC No. 66 (undated fuel clause)	do	Do.
(34) Rate schedule FPC No. 67 (dated Apr. 15, 1976) (supersedes FPC No. 37 as supplemented).	Elkhorn Public Service Co. (Elkhorn).	Do.
(35) Supp. No. 1 to rate schedule FPC No. 67 (undated terms and conditions).	do	Do.
(36) Supp. No. 2 to rate schedule FPC No. 67 (undated rate WS)	do	Do.
(37) Supp. No. 3 to rate schedule FPC No. 67 (undated fuel clause)	do	Do.
(38) Rate schedule FPC No. 68 (dated Apr. 15, 1976) (supersedes FPC No. 38 as supplemented).	Elkhorn Public Service Co.	Do.
(39) Supp. No. 1 to rate schedule FPC No. 68 (undated terms and conditions).	do	Do.
(40) Supp. No. 2 to rate schedule FPC No. 68 (undated rate WS)	do	Do.
(41) Supp. No. 3 to rate schedule FPC No. 68 (undated fuel clause)	do	Do.
(42) Rate schedule FPC No. 69 (dated Apr. 15, 1976) (supersedes FPC No. 40 as supplemented).	Kimball Light & Water Co.	Do.
(43) Supp. No. 1 to rate schedule FPC No. 69 (undated terms and conditions).	do	Do.
(44) Supp. No. 2 to rate schedule FPC No. 69 (undated rate WS)	do	Do.
(45) Supp. No. 3 to rate schedule FPC No. 69 (undated fuel clause)	do	Do.
(46) Rate schedule FPC No. 70 (dated Apr. 29, 1976) (supersedes FPC No. 43 as supplemented).	Standard Utility Service Corp.	Do.
(47) Supp. No. 1 to rate schedule FPC No. 70 (undated terms and conditions).	do	Do.
(48) Supp. No. 2 to rate schedule FPC No. 70 (undated rate WS)	do	Do.
(49) Supp. No. 3 to rate schedule FPC No. 70 (undatedfuel clause)	do	Do.
(50) Rate schedule FPC No. 71 (dated Apr. 15, 1976) (supersedes FPC No. 44 as supplemented).	United Light & Power Co.	Do.
(51) Supp. No. 1 to rate schedule FPC No. 71 (undated terms & conditions).	do	Do.
(52) Supp. No. 2 to rate schedule FPC No. 71 (undated rate WS)	do	Do.
(53) Supp. No. 3 to rate schedule FPC No. 71 (undated fuel clause)	do	Do.
(54) Rate schedule FPC No. 72 (dated Apr. 15, 1976) (supersedes FPC No. 46 as supplemented).	Union Power Co. (Rhodell)	Do.
(55) Supp. No. 1 to rate schedule FPC No. 72 (undated terms and conditions).	do	Do.
(56) Supp. No. 2 to rate schedule FPC No. 72 (undated rate WS)	do	Do.
(57) Supp. No. 3 to rate schedule FPC No. 72 (undated fuel clause)	do	Do.
(58) Rate schedule FPC No. 73 (dated Apr. 15, 1976) (supersedes FPC No. 47 as supplemented).	Union Power Co. (Mullens)	Do.
(59) Supp. No. 1 to rate schedule FPC No. 73 (undated terms and conditions).	do	Do.
(60) Supp. No. 2 to rate schedule FPC No. 73 (undated rate WS)	do	Do.
(61) Supp. No. 3 to rate schedule FPCNo. 73 (undated fuel clause)	do	Do.
(62) Rate schedule FPC No. 74 (dated Apr. 15, 1976) (supersedes FPC No. 49 as supplemented).	War Light & Power Co.	Do.
(63) Supp. No. 1 to rate schedule FPC No. 74 (undated terms and conditions).	do	Do.
(64) Supp. No. 2 to rate schedule FPC No. 74 (undated rate WS)	do	Do.
(65) Supp. No. 3 to rate schedule FPC No. 74 (undated fuel close)	do	Do.
(66) Supp. No. 3 to rate schedule FPC No. 57 (undated amendment)	Virginia Polytechnic Institute and State university.	(1)
(67) Supp. No. 3 to rate schedule FPC No. 54 (undated amendment)	Town of Richlands	(1)

[1] Issuance date of order.

[FR Doc.76-32942 Filed 11-8-76;8:45 am]

[Docket Nos. CI77-80 and CI77-81]

AMOCO PRODUCTION CO.

Applications for Certificates To Exchange and Transport Gas

NOVEMBER 8, 1976.

Take notice that on October 26, 1976, Amoco Production Company (Amoco), 200 East Randolph Drive, Chicago Illinois 60601 (Applicant) filed two applications with the Federal Power Commission for certificates of public convenience and necessity pursuant to Section 7 of the Natural Gas Act, as set out more fully below.

Applicant seeks to deliver natural gas from its interests in the East Cameron Block 33 Field, Offshore Louisiana, and the Lake Boudreaux Field, Terrebonne Parish, Louisiana to Columbia Gulf Transmission Company (Columbia Gulf) for redelivery for Applicants' account to Florida Gas Transmission Company pursuant to a Gas Exchange and Transportation agreement with Columbia Gulf dated July 31, 1972, as amended on April 22, 1974. The application by Columbia Gulf to engage in the proposed exchange and transportation is presently pending before the Commission in Docket No. CP73-70.

Applicant also seeks a certificate to permit the delivery of nautral gas from its interests in the West Johnson Bayou Field, Cameron Parish, Louisiana to Natural Gas Pipeline Company of America (Natural) in exchange for the redelivery of equal amounts of Amoco for ultimate delivery to Florida Gas Transmission Company at the Texaco Inc., Henry Processing Plant in Vermilion Parish, Louisiana pursuant to the Exchange Agreement dated August 7, 1972. The applictaion of Natural to engage in the proposed exchange is presently before the Commission in Docket No. CP73-157.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 16, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person that is a party to the proceeding in "Florida Gas Transmission Company, et al.", Docket Nos. CP65-393, et al., "Order Granting Interventions, Dismissing Proceeding, Consolidating Proceedings, And Setting Date For Hearing" (October 8, 1976) will be deemed to be a party to the proceedings in Docket Nos. CI77-80 and CI77-81 without the need for further filings of a petition to intervene or notice of intervention.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33224 Filed 11-9-76;8:45 am]

[Docket No. CP70-196]

DISTRIGAS CORP. AND DISTRIGAS OF MASSACHUSETTS CORP.

Petition

NOVEMBER 8, 1976.

Take notice that on October 20, 1976, Distrigas Corporation (Distrigas), and Distrigas of Massachusetts Corporation (DOMAC), 125 High Street, Boston, Massachusetts 02110, filed in Docket No. CP70-196 pursuant to Section 3 of the Natural Gas Act a petition to confirm the importation rate authorized to be paid by Distrigas to Alocean, Ltd. (Alocean) pursuant to Commission Opinion No. 613. In the alternative, it is requested that the Commission amend its Opinion 613, nunc pro tunc, to permit Distrigas to pay such full contract rate and to permit DOMAC to charge rates for resale to its customers which reflect the full liquefied natural gas (LNG) purchase cost of Distrigas. Such proposals are more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that in accordance with Opinion No. 613, Distrigas is currently importing substantial volumes of LNG at Everett, Masachusetts, by means of cryogenic tankers. It is further stated that under its original proposal Distrigas would import the LNG and, after terminalling at Everett, sell the LNG to distribution company customers. It is stated

that DOMAC was subsequently formed to operate the Everett terminal and make the sales to the customers. It is requested that the authorization issued in Opinon No. 613, which referred to Distrigas as both purchaser from Alocean and seller to distribution companies, be read in light of the aforementioned developments. Specifically Distrigas and DOMAC request that the Commission confirm that Distrigas can pay the full purchase price including seasonal adjustments for LNG purchased from Alocean and that DOMAC can make appropriate charges to its customers.

It is requested in the alternative that the Commission's Opinion No. 613 be amended, nunc pro tunc, to permit Distrigas to pay the full import price, including the seasonal adjustment, in the event that the Commission concludes that its intention in Opinion No. 613 was to disallow payment by Distrigas of the seasonal adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said petition should on or before November 15, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33222 Filed 11-9-76;8:45 am]

[Docket No. CP70-196, CP74-227, CP73-135]

DISTRIGAS CORP. AND DISTRIGAS OF MASSACHUSETTS CORP.

Petition

NOVEMBER 8, 1976.

Take notice that on November 4, 1976, Distrigas Gas Corporation (Distrigas), and Distrigas of Massachusetts (DOMAC), 125 High Street, Boston, Massachusetts 02110, filed in Docket Nos. CP70-196, CP74-227, and CP73-135 a petition pursuant to section 3 of the Natural Gas Act requesting an immediate ruling on their pending petition filed in Docket No. CP70-196 on October 20, 1976. In the alternative it is requested that the existing import authorization be modified to permit Distrigas to pay the full purchase price including seasonal adjustment and to permit DOMAC to charge rates for resale to its customers which reflect the full liquefied natural gas (LNG) purchase cost of Distrigas. Such proposals are more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that in a pending application filed in Docket No. CP70-196 on October 20, 1976, Distrigas and DOMAC requested confirmation on the importation rate authorized to be paid by Distrigas to Alocean, Ltd. pursuant to Commission Opinion No. 613. It is further stated that in the alternative Distrigas and DOMAC requested the Commission to amend its Opinion No. 613 to permit Distrigas to pay the full contract rate and to permit DOMAC to charge rates for resale to its customers which reflect fully the LNG purchase cost of Distrigas.

Distrigas and DOMAC now request that the Commission make an immediate ruling on their pending petition filed in Docket No. CP70-196 so as to authorize payment of the full purchase price including seasonal adjustment. In the alternative Distrigas and DOMAC request that the existing import authorization pursuant to Opinion No. 613 be modified to permit Distrigas to pay the full purchase price for a cargo of LNG said to be arriving in the United States on or about November 17, 1976. Additionally, Distrigas and DOMAC request authorization for Distrigas to pass through this rate for LNG to DOMAC and that DOMAC be allowed to charge rates which reflect the full purchase cost of Distrigas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said petition should on or before November 15, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-33223 Filed 11-9-76;8:45 am]

FEDERAL RESERVE SYSTEM

AMERICORP

Formation of Bank Holding Company

Americorp, Shawnee, Oklahoma, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of American National Bank and Trust Company of Shawnee, Shawnee, 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 Reserve Bank, to be received not later than December 1, 1976.

Board of Governors of the Federal Reserve System, November 4, 1976.

RICHARD D. ABRAHAMSON,
Assistant Secretary of the Board.

[FR Doc.76-33019 Filed 11-9-76;8:45 am]

EUROPEAN-AMERICAN BANCORP

Formation of Bank Holding Company

European-American Bancorp, New York, New York, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of direct ownership of approximately 91.3 percent of the voting shares of European-American Bank & Trust Company, New York, New York, and indirect ownership of approximately 8.7 percent of such shares. 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)).

European-American Bancorp, New York, New York, has also 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 voting shares of European-American Banking Corporation, New York, New York. Notice of the application was published on August 12, 1976 in The Jersey Journal; August 13, 1976 in The Wall Street Journal, The New York Times, and Los Angeles Times; and August 14, 1976 in San Francisco Chronicle, newspapers circulated in Jersey City, New Jersey; New York, New York; New York, New York; Los Angeles, California; and San Francisco, California, respectively.

Applicant states that European-American Banking Corporation an investment company organized and operating under Article XII of the New York State Banking Law, would engage in the following activities: lending and international banking services, including letters of credit, acceptances, and other financing facilities in connection with exports and imports, international transfers of funds and foreign exchange services; investments and foreign exchange transactions for its own account; leasing improved real estate and data processing equipment; international lending; and maintenance of credit balances incidental or related to the foregoing activities. Applicant believes that certain of the foregoing activities have been specified by the Board in subsections 225.4(a)(1) and (3) of Regulation Y as permissible for bank holding companies. Applicant has requested, however, that the Board determine that it is permissible for Applicant to acquire all the shares of European-American Banking Corporation

and issue a specific order under § 4(c)(8) of the Bank Holding Company Act to that effect. In the opinion of Applicant, the activities engaged in by European-American Banking Corporation as a New York Investment Company, are closely related to banking and therefore should be permissible for Applicant under section 4(c)(8) of the Act and Section 225.4 of Regulation Y.

The issue is presented in this application whether the activities engaged in by European-American Banking Corporation, as a New York Investment Company, should be permissible under § 4(c)(8) of the Act. Interested persons may therefore express their views on whether the activities of European-American Banking Corporation, as a New York Investment Company, are so closely related to banking or managing or controlling banks as to be a proper incident thereto. Interested persons may also 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, or on the question of whether the activities of European-American Banking Corporation, a New York investment company, are so closely related to banking or managing or controlling banks as to be a proper incident thereto, 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 New York.

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 November 26, 1976.

Board of Governors of the Federal Reserve System, November 2, 1976.

RICHARD D. ABRAHAMSON,
Assistant Secretary of the Board.

[FR Doc.76-33020 Filed 11-9-76;8:45 am]

FIRST BANCORP., INC.

Acquisition of Bank

First Bancorp., Inc., Corsicana, Texas, has applied for the Board's approval under § 3(a)(2) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(2) and § 225.2(b)(2) of the Board's Regulation Y (12 C.F.R. 225.2(b)(2)) regarding a rebuttable presumption of control, to continue its control relationship with First National Bank, Fairfield, Texas. 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 Dallas. 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 December 3, 1976.

Board of Governors of the Federal Reserve System, November 4, 1976.

RICHARD D. ABRAHAMSON,
Assistant Secretary of the Board.

[FR Doc.76-33021 Filed 11-9-76;8:45 am]

FIRST FREEPORT CORP.

Order Approving Formation of Bank Holding Company

First Freeport Corporation, Freeport, Illinois, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through the acquisition of all the voting shares (less directors' qualifying shares) of the successor by merger to First National Bank of Freeport, Freeport, Illinois ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired, and the application and all comments received have been considered in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant was recently organized for the purpose of becoming a bank holding company through the acquisition of Bank (deposits of $64.7 million).[1] Upon acquisition of Bank, Applicant would control the 129th largest bank in Illinois, holding .11 percent of total deposits in commercial banks in the State. Bank is the second largest of 12 banks competing in the relevant banking market (approximated by Stephenson County) and controls 30.7 percent of total commercial bank deposits therein.

A principal of Applicant is a principal in two other one-bank holding companies located in Illinois; however, the subsidiary banks of these holding companies operate in separate banking markets. Inasmuch as the proposal to form a bank holding company represents a restructuring of the existing ownership of Bank into corporate form, consummation of the proposed transaction would eliminate neither existing nor potential competition, nor does it appear that there would be any adverse effects on other banks in the relevant area. Accordingly, it is concluded that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, which are initially dependent upon those of Bank, are considered to be satisfactory, especially in view of Applicant's commitment to inject $750,000 additional equity capital into Bank. The debt to be incurred by Applicant appears to be serviceable from the income derived from Bank without having an adverse effect on the financial condition of either Applicant or Bank. Accordingly, considerations relating to banking factors are consistent with approval of the application. While no major changes are contemplated in Bank's services as a result of consummation of the proposed transaction, the increased flexibility of the holding company form of organization will allow Applicant to more readily provide new services to the area if and when future needs arise. Therefore, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It has been determined that the proposal to form a bank holding company would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective November 3, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.76-33022 Filed 11-9-76;8:45 am]

FIRST NATIONAL BOSTON CORP.

Acquisition of Bank

First National Boston Corporation, Boston, Massachusetts, 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 100 per cent of the voting shares of The First National Bank of Yarmouth, Yarmouth Port, Massachusetts. 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 Boston. Any person wishing to comment on the application should submit views in writ-

[1] All banking data are as of December 31, 1975.

ing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 3, 1976.

Board of Governors of the Federal Reserve System, November 4, 1976.

RICHARD D. ABRAHAMSON,
Assistant Secretary of the Board.

[FR Doc.76-33023 Filed 11-9-76;8:45 am]

MINGO BANCSHARES, INC.

Formation of Bank Holding Company

Mingo Bancshares, Inc., Puxico, Missouri, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 92.2 per cent or more of the voting shares of Puxico State Bank, Puxico, Missouri. 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 St. Louis. 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 no later than December 3, 1976.

Board of Governors of the Federal Reserve System, November 4, 1976.

RICHARD D. ABRAHAMSON,
Assistant Secretary of the Board.

[FR Doc.76-33024 Filed 11-9-76;8:45 am]

MOUNTAIN FINANCIAL SERVICES, INC.

Acquisition of Bank

Mountain Financial Services, Inc., Denver, Colorado, 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 98 percent or more of the voting shares of Southeast State Bank, Denver, Colorado. 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)).

Mountain Financial Services, Inc., Denver, Colorado, has also 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 engage in the activity of conducting an insurance agency business solely offering credit life, credit accident and health insurance directly related to extensions of credit by Southeast State Bank, Denver, Colorado. Such activity will be conducted from the premises of that bank. Notice of the application was published on September 10, 1976 in The Denver Post, a newspaper circulated in Denver, Colorado.

Applicant states that the aforementioned activity has 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 Kansas City.

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 December 1, 1976.

Board of Governors of the Federal Reserve System, November 2, 1976.

RICHARD D. ABRAHAMSON,
Assistant Secretary of the Board.

[FR Doc.76-33025 Filed 11-9-76;8:45 am]

STILLWATER HOLDING CO.

Formation of Bank Holding Company

Stillwater Holding Company, Stillwater, Minnesota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 80.02 percent or more of the voting shares of The First National Bank of Stillwater, Stillwater, Minnesota. 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 Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 26, 1976.

Board of Governors of the Federal Reserve System, November 2, 1976.

RICHARD D. ABRAHAMSON,
Assistant Secretary of the Board.

[FR Doc.76-33026 Filed 11-9-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disase Control

ANNUAL REPORTS

Availability of Filing

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463 (5 U.S.C. Appendix I), Annual Reports for the following Center for Disease Control Committees have been filed with the Library of Congress:

Coal Mine Health Research Advisory Committee
Safety and Occupational Health Study Section
Immunization Practices Advisory Committee
Medical Laboratory Services Advisory Committee
Tuberculosis Control Advisory Committee
Venereal Disease Control Advisory Committee

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, and on weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, HEW North Building, Room 1436, 330 Independence Avenue, SW., Washington, D.C. 20201, telephone (202) 245-6791.

Dated: November 2, 1976.

DAVID J. SENCER,
Director, Center for Disease Control.

[FR Doc.76-33220 Filed 11-9-76;8:45 am]

Office of Education

ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

Public Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the Advisory Committee on Accreditation and Institutional Eligibility will be held on December 8-10, 1976, beginning at 9:00 a.m., local time, each day, at the Stouffer's National Center Hotel, 2399 Jefferson Davis Highway, Arlington, Virginia.

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code). The Committee is established to advise the Commissioner of Education in fulfilling his statutory obligations to publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authorities concerning the quality of training offered by education institutions and programs. It also serves to advise the Commissioner in fulfilling his statutory obligation to publish a list of State agencies which he has determined to be reliable authorities concerning the quality of public postsecondary vocational education in their respective State, pursuant ot section 438 (b) of the Higher Education Act of 1965, as amended by P.L. 92-318.

The meeting shall be open to the public. The Committee will review petitions by accrediting and State approval agencies for initial or continued recognition by the Commissioner. The Committee also will hear presentations by representatives of the petitioning agencies and interested third parties, and will review policy items pertaining to accreditation

and institutional eligibility. In addition, the Committee will review a petition by the Community College of the Air Force for a favorable recommendation regarding the award of degree granting authority. Agencies having petitions and reports pending before the Committee are:

Accrediting Commission on Education for Health Services Administration.
American Bar Association, Council of the Section of Legal Education and Admissions to the Bar.
American Optometric Association.
American Physical Therapy Association, Committee on Accreditation in Education.
American Veterinary Medical Association.
Arkansas State Board for Vocational Education.
Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission.
Liaison Committee on Medical Education.
Montana State Board of Nursing.
National Association of Schools and Colleges.
New York State Board of Regents (for public postsecondary vocational education).
Northwest Association of Schools and Colleges, Commission on Colleges.
Southern Association of Colleges and Schools, Commission on Occupational Education Institutions.

Requests for oral presentations before the Committee should be submitted in writing to the Director, Division of Eligibility and Agency Evaluation, Bureau of Postsecondary Education, U.S. Office of Education, Room 3030—ROB 3, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Requests should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Requests must be received by the Division of Eligibility and Agency Evaluation by December 1, 1976. Time constraints may limit oral presentations. However, all additional written material that a party wishes to file will be considered by the Advisory Committee.

Records shall be kept of all Committee proceedings, and will be available in the office of the Division of Eligibility and Agency Evaluation.

Signed at Washington, D.C. on November 4, 1976.

JOHN R. PROFFITT,
Director, Division of Eligibility and Agency Evaluation, Office of Education.

[FR Doc.76-32981 Filed 11-9-76;8:45 am]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Social Services and Welfare Subcommittee of the Secretary's Advisory Committee on the Rights and Responsibilities of Women will meet on Thursday, and Friday, December 2–3, 1976, from 9:00 a.m. to 5:00 p.m. each day in Room 624–D, HEW—South Portal Building, 200 Independence Avenue, SW., Washington, D.C. The Social Services and Welfare Subcommittee is one of the five subcommittees of the Secretary's Advisory Committee on the Rights and Responsibilities of Women mandated to advise the Secretary concerning the needs of women for social services, including income-security programs and proposals. The agenda for the Social Services and Welfare Subcommittee will include a review of the 1976 work project and plans for 1977 activities.

Interested persons wishing to address the Committee, should contact the Secretary's Advisory Committee on the Rights and Responsibilities of Women by COB Wednesday, November 24. Phone: 202–245–8454. Written statements received by November 24 will be duplicated and distributed to the members. Members of the public are invited to attend the meeting.

Date: October 28, 1976.

SUSAN HONEYCUTT,
Special Assistant to the Under Secretary.

[FR Doc.76-32999 Filed 11-9-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

CHARLES SIVELLE

Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Charles Sivelle, 41 Westcliff Drive, Dix Hills, New York 11746.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (*Indicate only one*)
[X] IMPORT OR EXPORT LICENSE [ ] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To export in the course of a commercial activity 2 pair of captive reared Cros. cros. drouyni pheasants 1976.

3. APPLICANT. (*Name, complete address and phone number of individual, business, agency, or institution for which permit is requested*)
Charles Sivelle
41 Westcliff Drive
Dix Hills, N.Y. 11746
516-423-6146

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

[X] MR. [ ] MRS. [ ] MISS [ ] MS.	HEIGHT 5'11"	WEIGHT 190 lbs.
DATE OF BIRTH 9-24-18	COLOR HAIR Brown	COLOR EYES Blue
PHONE NUMBER WHERE EMPLOYED 516-423-6146	SOCIAL SECURITY NUMBER 125-07-0277	

OCCUPATION: Manufacturer

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: None

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: Not applicable

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: Not applicable

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: Not applicable

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Export from New York City to Belgium

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES [ ] NO
(*If yes, list license or permit numbers*)
PRT 8 306-C, 5-PR-1084
ES-68

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [X] YES [ ] NO
(*If yes, list jurisdictions and type of documents*)
Necessary Import Permit to be supplied by Importer

9. CERTIFIED CHECK OR MONEY ORDER (*if applicable*) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $ No fee required

10. DESIRED EFFECTIVE DATE: At once

11. DURATION NEEDED: 3 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (*See 50 CFR 13.12(b)*) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Attachment

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (*In ink*): Charles Sivelle — DATE: 10-4-76

3-200
(6/74)

CHARLES SIVELLE,
Dix Hills, Long Island, N.Y., October 4, 1976.

DIRECTOR (FWS),
U.S. Fish and Wildlife Service,
Washington, D.C.

DEAR SIR: The undersigned hereby applies for an Endangered Species Permit under Section 10 (a) of the Endangered Species Act of 1973. The following information is submitted pursuant to paragraph 17.22 of Volume 40, No. 188 of the Federal Register.

Request is made for a permit to export two pairs of 1976 White-eared pheasants, Crossoptilon crossoptilon drouyni in the course of a commercial activity for propagation purposes. The specimens referred to were propagated in the aviaries of the undersigned at 41 Westcliff Drive, Dix Hills, N.Y. 11746 during 1976 from specimens imported earlier in accordance with permits #ES-68 and #ES-422.

Mr. Van Endej is one of the foremost propagators of rare pheasants in Belgium. He has successfully raised quantities of Brown-eared and Blue-eared pheasants in the past 10 years. These are species related to the birds to be shipped. His pheasant aviaries contain insided protective enclosures of 1,000 cubic feet and outside runs of approximately 2,400 cubic feet. The enclosures are landscaped and his management techniques have proven successful in the past.

The undersigned is the principle propagator of pure Crossoptilon crossoptilon drouyni species in the world today and has already distributed many pairs of these birds thru out the United States, Canada, Mexico and Japan and desires to promote their propagation and preservation in Europe.

The recipient will participate in a cooperative breeding program which is one of the conditions of the sale and will contribute data to the Studbook that the undersigned now maintains.

Distribution of progeny from the original importation is necessary to establish captive self-sustaining populations in as many countries in the world as possible. Preservation of an endangered species which is threatened in its hibitat can only be accomplished thru such propagation. Birds will be shipped in crates similar and equal to International Air Transport Association taken from Live Animal Regulations 5th Edition, February 7, 1975, containing litter on bottom, containers for feed and water and a padded top for the protection of the birds.

Proper import permits including any permit that applies to the Convention on International Trade in Endangered Species will be provided by Mr. Van Edje.

Sincerely yours,

CHARLES SIVELLE.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 2-435-07; please refer to this number when submitting comments. All relevant comments received on or before December 10, 1976 will be considered.

Dated: November 3, 1976.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-33029 Filed 11-9-76;8:45 am]

JAMES D. GUNDERSON

Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: James D. Gunderson, 29312 Spotted Bull Way, San Juan Capistrano, California 92675.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To buy and transport interstate various endangered species of pheasants to inject new blood lines into my birds. Initially, I intend to buy from Charles Sivelle of New York, a Palawan Cock and 2 pair White Eared.

3. APPLICANT (Give complete address and phone number of individual, business, agency, or institution for which permit is requested)
JAMES D GUNDERSON
29312 Spotted Bull Way
San Juan Capistrano, CA 92675
Phone: (714) 495-4303

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING
☐ MRS. ☐ MISS ☒ MR.
HEIGHT: 5'10" | WEIGHT: 175
DATE OF BIRTH: 12-21-24 | COLOR HAIR: Gray | COLOR EYES: Gray
PHONE NUMBER WHERE EMPLOYED: (714) 837-1060 | SOCIAL SECURITY NUMBER: 474-18-7870
OCCUPATION: Attorney

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY OR INSTITUTION, COMPLETE THE FOLLOWING
EXPLAIN TYPE OF KIND OF BUSINESS, AGENCY OR INSTITUTION
Not applicable.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
Not applicable.

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Not applicable
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
Not applicable

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
I have approximately 15 acres adjacent to my home, above listed, where I have aviaries I intend to propogate the endangered species of pheasants

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)
1-SP-366

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdiction and type of document)
State of California -
Domesticated Game Breeders License

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE: 12-1-76
11. DURATION NEEDED: 2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.61) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50CFR part 17.22 Permits for scientific purposes or for the enchancement of propagation or survival

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE: James D Gunderson
DATE: 10-8-76

(1) *Pheasants:* White-eared (*Crossoptilon crossoptilon Drouyni*) 2 pair, all 1975 hatch; Palawan Peacock Pheasant (*Polyplectron emphanum*) 1 male, 1976 hatch; Brown-eared (*Crossoptilon mantchuricum*) 1 pair, 1975 hatch. Would like to be able to buy and/or sell the above for propagation purposes and to get new blood to keep my own stock strong.

(2) (iii) Wildlife—born in captivity.

(3) By purchasing the above pheasants that were raised in captivity, from breeders in the States. By having the above shipped or sent in padded crates to avoid any chance of injury.

(4) The White-eared pheasants and Palawan Peacock Pheasant were raised in captivity by Mr. Charles Sivelle, Long Island, New York. These, I intend to obtain immediately. The other birds have been raised at my place in San Juan Capistrano, California which I intend to sell or trade with other breeders who have the appropriate permit.

(5) The birds are and will be kept at my place. The aviaries are 18' x 8' x 8' high, and planted with trees and shrubs to assure contentment of the birds. All the aviaries are completely surrounded with fencing to exclude predators.

(6) (i)
Pens are 8' x 18' x 8' high. Each pen is covered with 1'' mesh netting and boarded up 2 ft. on the bottom. The roofs are cov-

ered in the rear with corrugated iron 8' long. The pens are located on a 15 acre tract adjacent to my home.

(ii) I have been raising different species of pheasant for approximately ten years. I have raised from young such species as Mikado, Blue-eared, Brown-eared, Impeyan, Golden, Silver, etc.

(iii) I would be more than willing to cooperate in a breeding program and keep accurate records as I believe the only reason some species exist today is from the dedicated people who raised them in captivity.

(iv) The containers used for shipping are 1 ft. wide, 18 inches high, and 2 ft. long, made of Masonite, and the top is lined with 1 inch foam rubber. Feed and water are placed in each box; the duration the birds would be in a box would be not over 36 hours.

(v) The only losses I have sustained with birds under this category are the loss of a male Palawan Peacock Pheasant, who died of old age, and a Brown-eared hen that injured itself when striking the perch with its head and breaking its neck. The pens are cleaned monthly and periodically disinfected. The perches have been rearranged to prevent further injury to the birds.

(7) There are no contracts or agreements. As stated before, if I get the permit I do plan to purchase 2 pair of White-eared pheasants and a male Palawan Peacock Pheasant from Mr. Charles Siville, Long Island, New York.

(8) (i) I plan on keeping, breeding, buying and selling for propogation only, Edward's, Brown-eared, White-eared and Palawan Peacock pheasants.

(ii) and (iii) I will supply adequate pens, housing, feed and care to insure the birds contentment in captivity, in order that they will breed—to keep the species going, so that when I speak of White-eared pheasants my grandchildren will know what I'm talking about because they saw them alive. With the growing world population the only way any of these birds will be saved is by captive propagation.

(iv) If I should decide to quite raising birds I would sell them to other breeders whom I felt were capable of raising them; or, in the alternative, I would donate them to the San Diego Zoo.

Dated: October 8, 1976.

JAMES D. GUNDERSON,
Applicant.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 2-437-07; please refer to this number when submitting comments. All relevant comments received on or before December 10, 1976 will be considered.

Dated: November 3, 1976.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-33030 Filed 11-10-76;8:45 am]

LEE E. THOMPSON

Threatened Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Mrs. Lee E. Thompson, Rock Ledge Farm, Union Valley Road, Mahopac, New York 10541.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R0170

1. APPLICATION FOR (check only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Purchase, sale, trade, and ship in interstate commerce, Crossoptilon mantchuricum (Brown eared pheasants) and/or Crossoptilon c. crossoptilon and Crossoptilon c. drouyni (species of White eared pheasants) for the purpose of the enhancement of the propagation, as well as further study of the genus.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Lee E. Thompson
Rock Ledge Farm
Union Valley Rd.
Mahopac, N.Y. 10541
Tel: 914 628 8947

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☒ MRS. ☐ MISS ☐ MS.
HEIGHT: 5 ft. WEIGHT: 7 1/2 inches
DATE OF BIRTH: Feb. 13, 1921
COLOR HAIR: D.Brwn-Gray COLOR EYES: Dk brown
PHONE NUMBER WHERE EMPLOYED: n/a — see home ph. SOCIAL SECURITY NUMBER: 133-16-4367
OCCUPATION: journalist, now self-employed
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: n/a

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: n/a
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: n/a
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: n/a

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Rock Ledge Farm
Union Valley Rd.
Mahopac, N.Y. 10541

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
n/a

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $

10. DESIRED EFFECTIVE DATE: as soon as possible

11. DURATION NEEDED: 2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Title 50, 17.33 Permits -captive, self-sustaining populationd

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Lee E. Thompson
DATE: Sept 20, 1976

3-200 (8/74) GPO 895-942

(1) Brown eared pheasants, *Crossoptilon mantchuricum*, and White eared pheasants, *Crossoptilon crossoptilon crossoptilon* and *Crossoptilon c. drouyni*.

(2) The pen area is 90 feet by 24 feet, on a slope shaded by tall trees, and is sheltered from prevailing winds by one solid wood pen wall. Breeding pens are a minimum size of 12 by 24 feet, and are 6 to 8 feet high, with facilities for separating male and female if necessary. Trees are planted in pens and additional tree cover (evergreens) are laid into the pens for cover and privacy during the breeding season.

Additional protection from wind and rain is provided by fibreglass roofing and side walls covered with heavy plastic to protect roosting areas.

Pen walls are of 12 gauge 1 inch square mesh wire in the older pens, and of 16 gauge vinyl covered 1 inch hex wire in the newer pens. Ceiling wire is of 1 inch poultry mesh in the older pens and of 1 inch hex vinyl covered wire in the new pens. All pen walls are dug 12 into the ground and six inches out underground in L formation to keep out predators and vermin. Quarter-inch hardware cloth is a further protection against vermin rising 3 ft. from ground level.

There are two brooder houses, one 12 ft by 20 feet with exterior runs for older chicks, and a second 4 ft. by 6 ft., thermostatically

controlled, for use in the early chilly part of the season, also with an outside run.

An electric fence surrounds the pen and large brooder house area to protect against dogs.

For diagram see attached sheet.

(3) I have raised Eared pheasants since 1969. I worked as a volunteer in the incubation room of the National Zoo's Bird Division and in 1970 and in 1971. In 1972 I was responsible for running the National Zoo's incubation and brooding program. For scientific and avicultural background I took a course in genetics at George Washington Univ. and a course in the Physiology of Hatchability at the Univ. of Maryland.

I have been working on a long-term research study on the behavior and vocalization of *Crossoptilon*, and have published an extensive report on the sexing of Eared pheasants in Avicultural Magazine and the American Pheasant and Waterfowl Society Magazine. In 1975 the National Zoo asked me to prepare a comprehensive study on pheasants suitable for their Research and Conservation Center at Front Royal, Va. This Center is dedicated to the propagation of endangered species.

My caretaker has had previous experience with pheasants—maintaining Ringnecks at a Rod and Gun Club. I also have a 4–H girl who raises show chickens as a part-time helper.

(4) I am indeed more than willing to participate in a cooperative breeding program, and to maintain or contribute data—on a studbook.

(5) Containers for birds shipped by me will be constructed of masonite and wood, with the top lined with foam. Size: 1 ft. by 2 ft. and 18 inches high. One bird is shipped per box. Fresh shavings, water and food boxes are provided. I always book birds for a specified flight, and advise flight number in advance so that the consignee can arrange to be at the airport to await the bird. It is rare that a bird is in the shipping box for as much as 24 hours.

(6) Mortalities of *Crossoptilon mantchuricum*:

1976: A 1973 hen. Autopsy showed enormous enlargement of the ceca with thickening of the cecal wall and still thicker roundish white areas * * * Snips of these lesions show a nematode. Later report indicated findings of heterakis. The flock was put on an anti-wormer, Tramison. Pen soil was turned over to a depth of 12 inches, and sprayed with Malathion.

1975: A 1974 hen. Autopsy report: "ceca enormous in size with cecal wall much thickened by tumor growth. The tumor growth also involved the large intestine." Since the Poultry Diagnostic Lab believed that this was an incident of a tumor-producing bird, no action was taken.

1974: 1 4-week-old chick, unsexed. Autopsy showed coccidiosis. Other chicks were treated with Sulfaquinoxaline on a preventative basis. No other chicks became ill. Before the next season the ground of the brooder house was turned over, 4 inches of fresh sand was laid on top. House and feeders and waterers were disinfected.

1973: Two chicks were euthanased for defects—crooked neck, spraddle legs. One chick euthanased for crooked neck defect.

1974: see also above. Three month old chick dashed head against pen when neighbors dogs tried unsuccessfully to dig their way into pens. Neighbors were warned since Mahopac has a leash law; burlap was tacked around chick pen walls to calm them.

Mortalities of *Crossoptilon auritum* (Blue eared pheasants):

1975: A 1973 hen died as a result of head injuries she got from dashing head against pen wire when neighbors' dogs tried to dig way into pens. A four foot high 4 strand electric fence has since been put up surrounding the entire pen and brooder house area.

1974: Two 3 month old birds killed by neighbor's huskies which chewed through 16 gauge vinyl-covered wire of pen door. Door was reinforced by extra reinforcement that covers pen walls.

1973: One 1969 male and one 1969 hen put down by Poultry Diagnostic Laboratory in Kingston, N.Y. when they reacted positive on pullorum-typhoid tested given the flock annually as part of the N.Y. state involvement with the National Poultry Improvement Plan. Birds were found to have a form of Paratyphoid. I was told by Dr. Nadler of the Division of Animal Industry of the N.Y. Dept. of Agri. that there were no special preventative measures to be taken, beyond our normal sanitation methods which are quite intensive.

We have had no re-occurence since.

(7) For seven years I have concentrated on studying and raising *Crossoptilon*. I believe this specialization stands me in good stead in pursuing the enhancement of propagation. My behavioral and avicultural research is building up a body of knowledge on the genus that will, I believe, be of interest to ornithologists as well as to aviculturalists, as well as helping to maintain these birds in captivity under the best possible circumstances with fuller knowledge of their needs.

(i) I would like a 2 year multi-transactional permit to enable me to purchase, sell and trade birds and ship them interstate, in order to bring in fresh blood, move out young birds for which I do not have space, and thus keep a strong breeding program going with stock as unrelated as possible.

(ii) I do not plan to terminate my breeding nor my research study. If for some unforseen reason this should be necessary to the birds would be given or sold only to reliable propagators who would be concerned with their welfare.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. This application has been assigned File Number PRT 2–409–25; please refer to this number when submitting comments. All relevant comments received on or before December 10, 1976 will be considered.

Dated: November 3, 1976.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76–33028 Filed 11–9–76;8:45 am]

Bureau of Land Management

ALASKA

Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10:00 a.m., December 15, 1976.

COPPER RIVER MERIDIAN, ALASKA

T. 3 N., R. 7 W.
Sec. 1: Lots 1, 2, N½, E½SW¼, SE¼
Sec. 2: Lots 1, 2, N½, SW¼, N½SE¼
Sec. 7: Lots 1 to 10 inclusive, N½NE¼, SW¼NE¼, S½W½, NW¼SE¼
Sec. 8: Lots 1 to 7 inclusive, N½, NE¼SW¼, N½SE¼
Sec. 9: Lots 1 to 8 inclusive, NE¼, N½NW¼, E½SE¼
Sec. 10: All
Sec. 11: Lots 1 to 9 inclusive, W½W½, SE¼SW¼, NE¼SE¼, S½SE¼
Sec. 16: Lots 1, 2, 3, NE¼NE¼, S½N½, S½
Sec. 17: Lots 1, 2, S½NE¼, NW¼, S½
Sec. 18: Lots 1 to 8 inclusive, S½NE¼, NE¼NW¼, SE¼SW¼, SE¼
Tract A
Tract B
Containing 22,350.29 acres.

2. The center of this township is located approximately 35 miles west of Glennallen, Alaska. The terrain is broken and slopes generally southeast.

Vegetation in the township is characterized by dense small spruce, traces of aspen timber, and scattered willow underbrush. Soil consists of sandy loam with a 3–4 inch moss overburden.

The Glenn Highway, an all weather asphalt surfaced road, runs generally East and West through the township.

There are several residences and two lodges scattered along the edges of the Glenn Highway.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules and regulations.

4. Inquiries concerning the lands should be addressed to the Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

IRVING ZIRPEL, Jr.,
Chief, Division of Cadastral Survey.

[FR Doc.76–33046 Filed 11–9–76;8:45 am]

ALASKA

Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10:00 a.m., December 15, 1976.

COPPER RIVER MERIDIAN, ALASKA

T. 4 N., R. 5 W.
Sec. 13: Lots 1 to 10 inclusive, N½NE¼, N½NE¼NW¼, S½SW¼
Sec. 14: Lots 1, 2, 3, 4, 5, W½, NW¼SE¼, S½SE¼
Sec. 23: All
Sec. 24: Lots 1, 2, 3, 4, 5, W½, SW¼SE¼
Sec. 25: Lot 1, N½, N½SW¼, SE¼SW¼, SE¼
Tract A

Containing 21,640.35 acres.

2. The center of this township is located approximately 19 miles west of Glennallen, Alaska. The eastern half of the township is nearly level, sloping generally easterly while the western half boasts a ridge approximately 700 feet

high which enters the township near the northwest corner and extends southeasterly, then southerly through the township.

The township contains numerous small lakes.

The Glenn Highway extends east-west through the township, entering approximately ½ mile south of Tolsona Lake and exiting on the west boundary, approximately 1½ miles north of the south boundary.

Vegetation consists of dense spruce stands with scattered willow and alder underbrush.

Soil consists of sandy loam with a humus and moss overburden in the easterly half of the township, and of clay in the westerly half.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules and regulations.

4. Inquiries concerning the lands should be addressed to the Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

IRVING ZIRPEL, Jr.,
Chief, Division of Cadastral Survey.

[FR Doc.76-33047 Filed 11-9-76;8:45 am]

[NM 29060]

NEW MEXICO

Application

NOVEMBER 1, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Continental Oil Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 31 E.,
Sec. 26, SW¼SE¼.

This pipeline will convey natural gas across .091 of a mile of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-33044 Filed 11-9-76;8:45 am]

[NM 29071, 29072 and 29073]

NEW MEXICO

Applications

NOVEMBER 2, 1976.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for two 4-inch and one 8-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 S., R. 26 E.,
Sec. 15, N½SW¼ and SW¼SW¼.
T. 20 S., R. 28 E.,
Sec. 35, S½N½.
T. 20 S., R. 29 E.,
Sec. 31, lot 2, S½NE¼ and SE¼NW¼;
Sec. 32, S½NW¼.

These pipelines will convey natural gas across 2.818 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-33045 Filed 11-9-76;8:45 am]

SEWARD MERIDIAN, ALASKA

Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10:00 a.m. December 15, 1976.

SEWARD MERIDIAN, ALASKA

T. 8 N., R. 71 W.
Sec. 2: Lots 1 to 7 inclusive, SW¼NE¼, S½NW¼, SW¼, W½SE¼
Sec. 3: Lots 1 to 7 inclusive, S½N½, N½SW¼, SW¼SW¼, N½SE¼
Sec. 4: Lots 1, 2, 3, 4, S½N½, S½
Sec. 5: Lots 1, 2, 3, 4, S½N½, S½
Sec. 6: Lots 1 to 7 inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼
Sec. 7: Lots 1 to 6 inclusive, NE¼, E½NW¼, E½SE¼, NW¼SE¼
Sec. 8: Lots 1, 2, 3, 4, 5, N½NE¼, NE¼NW¼, W½NW¼, W½SW¼
Sec. 9: Lots 1 to 12 inclusive, N½NE¼
Sec. 10: Lots 1 to 8 inclusive, SE¼NE¼, S½NW¼, NE¼SW¼, SE¼
Sec. 11: Lots 1 to 12 inclusive, NW¼, NE¼SW¼, W½SW¼, SE¼SE¼
Sec. 12: Lots 1, 2, 3
Sec. 13: Lots 1 to 8 inclusive, W½SW¼
Sec. 14: Lots 1 to 18 inclusive, E½SE¼
Sec. 15: Lots 1 to 7 inclusive, NE¼NE¼
Sec. 16: Lots 1 to 12 inclusive, NW¼SE¼
Sec. 17: Lots 1 to 7 inclusive
Sec. 18: Lots 1, 2, 3, 4, 5
Sec. 19: Lots 1, 2, 3, 4, E½, E½W½
Sec. 20: Lots 1, 2, 3, 4, W½, SE¼
Sec. 21: Lots 1 to 11 inclusive, SW¼SW¼
Sec. 23: Lots 1, 2, 3, 4, 5
Sec. 24: Lots 1, 2, 3, NW¼NW¼
Sec. 27: Lots 1, 2
Sec. 28: Lots 1 to 20 inclusive, NW¼NW¼, NE¼SW¼
Sec. 29: All
Sec. 30: Lots 1, 2, 3, 4, E½, E½W½
Sec. 31: Lots 1, 2, 3, 4, E½, E½W½
Sec. 32: Lots 1 to 7 inclusive, N½, W½SW¼, S½SE¼
Sec. 33: Lots 1 to 19 inclusive, N½SE¼, SW¼SE¼
Sec. 34: Lots 1 to 7 inclusive
Containing 12,070.34 acres.

2. The portion of this township surveyed is situated around the town of Bethel, Alaska. The survey consists of that portion of the township west of the Kuskokwim River, including three islands in the river.

The survey is divided into two distinct geographical areas. The easterly portion of the survey, bordering the Kuskokwim River, consists of flat river overflow land subjected to periodic flooding. There are several tidal sloughs in this area. The second area is the westerly half of the township that consists of open rolling tundra. The maximum elevation is 84 feet above sea level, compared to a minimum of 15 feet above sea level along the Kuskokwim River.

The overflow land is covered with alder, willow, and cottonwood brush, interspersed with lakes, and open boggy areas covered with mats of moss. The open rolling tundra is covered with tundra moss, interspersed with scattered alder and willow brush and a few small scattered spruce. The town of Bethel is situated mostly in sections 8, 9, and 17, on somewhat solid ground on the right bank of the Kuskokwim River. The area is a transportation and freight center for the Kuskokwim drainage. Bethel has a river port for barge service and an excellent airport. The population at the time of survey was approximately 3,000 people.

The quality of the land in the area is generally poor to fair. As soon as the moss cover is removed from the ground, the sandy soil quickly erodes. Boggy river overflow land is unstable for development.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Pub. L. 92-203, December 18, 1971, Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules and regulations.

4. Inquiries concerning the lands should be addressed to the Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

IRVING ZIRPEL, Jr.,
Chief, Division of Cadastral Survey.

[FR Doc.76-33048 Filed 11-9-76;8:45 am]

SEWARD MERIDIAN, ALASKA

Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10:00 a.m. December 15, 1976.

SEWARD MERIDIAN, ALASKA

T. 7 N., R. 72 W.
Sec. 1: Lots 1, 2, 3, 4, N½, N½S½
Sec. 2: Lots 1, 2, 3, 4, N½, N½S½
Sec. 3: Lots 1, 2, N½, SW¼, N½SE¼
Sec. 9: Lots 1, 2, NE¼, N½SE¼
Sec. 10: Lots 1, 2, 3, 4, N½NW¼, SW¼ NW¼
Sec. 11: Lot 1
Containing 2,318.66 acres.

2. The area embraced by this survey is located approximately 5 miles southwesterly of downtown Bethel, Alaska. The south boundary of the area surveyed is the right bank of an unnamed slough and the right bank of the main channel of the Kuskokwim River.

The area consists of flat boggy river overflow land next to the river and slough and open rolling tundra away from the river. Elevation ranges from sea level at the river to 125 feet above sea level away from the river. The open ground is covered with tundra moss and flat river overflow lands are covered with dense alder and willow brush. U.S. Coast and Geodetic Survey triangulation station "NIGHEAD 1949" is located in section 3. There are no made-made improvements in the area.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law; rules and regulations.

4. Inquiries concerning the lands should be addressed to the Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

IRVING ZIRPEL, JR.,
Chief, Division of Cadastral Survey.

[FR Doc.76-33049 Filed 11-9-76;8:45 am]

SEWARD MERIDIAN, ALASKA

Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10:00 a.m. December 15, 1976.

SEWARD MERIDIAN, ALASKA

T. 9 N., R. 70 W.
Sec. 31: Lots 1, 2, 3, 4, E½, E½W½
Sec. 32: All
Sec. 33: All

Containing 1,919.52 acres.

2. The land encompassed by this survey is situated approximately two miles north of downtown Bethel, Alaska. The land consists mostly of open rolling tundra interspersed with lakes and marshes. The east edge of the survey is located in the flat overflow land of the Kuskokwim River. The area next to the river is swamp covered with dense alder and willow brush.

The soil consists of sandy loam in the river overflow land area with sandy clay in the western portion.

There are no man-made improvements in the area.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules and regulations.

4. Inquiries concerning the lands should be addressed to the Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

IRVING ZIRPEL, JR.,
Chief Division of Cadastral Survey.

[FR Doc.76-33050 Filed 11-9-76;8:45 am]

SEWARD MERIDIAN, ALASKA

Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10:00 a.m. December 15, 1976.

SEWARD MERIDIAN, ALASKA

T. 18 N., R. 38 W.
Sec. 1 through 36: All
Containing 22,943.00 acres.

2. This survey is situated approximately 17 miles southeast of the small village of Stony River, Alaska.

The land, for the most part, is in a wet swampy area with water standing above the ground in the summer months and small streams in the southern half of the township. The Stony River runs from south to northwest in the southwest portion of the township. Elevations in this survey range from 400 feet in the southern portion to 350 feet above sea level in the northern portion.

The soil is composed of sandy silt and clay in the higher elevations and silt and muck at the lower elevations.

The timber consists of spruce, tamarack, birch and cottonwood; the underbrush is willow and alder.

There are no roads in the area. No improvements or evidence of mineral land were noted in this township.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules and regulations.

4. Inquiries concerning the lands should be addressed to the Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

IRVING ZIRPEL, JR.,
Chief, Division of Cadastral Survey.

[FR Doc.76-33051 Filed 11-9-76;8:45 am]

SEWARD MERIDIAN, ALASKA

Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10:00 a.m. December 15, 1976.

SEWARD MERIDIAN, ALASKA

T. 8 N., R. 72 W.
Sec. 1: Lots 1, 2, 3, 4, S½N½, S½
Sec. 2: Lots 1, 2, 3, 4, S½N½, S½
Sec. 3: Lots 1, 2, 3, 4, S½N½, S½
Sec. 4: Lots 1, 2, 3, 4, S½N½, S½
Sec. 9: All
Sec. 10: All
Sec. 11: All
Sec. 12: Lots 1 to 7 inclusive, N½NE¼, NW¼
Sec. 13: Lots 1, 2, 3, 4, 5, NW¼NW¼
Sec. 14: Lot 1, N½, SW¼, NE¼SE¼, W½ SE¼
Sec. 15: All
Sec. 16: All
Sec. 17: All
Sec. 20: All
Sec. 21: All
Sec. 22: All
Sec. 23: Lots 1, 2, W½NE¼, NW¼, S½
Sec. 24: Lots 1, 2, 3, 4, 5, SE¼NE¼, S½ SW¼, NE¼SE¼, S½SE¼
Sec. 25: All
Sec. 26: All
Sec. 27: All
Sec. 35: All
Sec. 36: All
Containing 13,772.87 acres.

2. The land surveyed is located around the Bethel White Alice Station and is approximately four miles from downtown Bethel, Alaska.

The entire area is open rolling tundra with elevation variations from 100 to 150 feet above sea level. The ground is covered with tundra moss and is interspersed with scattered alder brush and a very few scattered small spruce. There are numerous small and large lakes throughout the area.

The White Alice Site, part of which now belongs to the Bureau of Indian Affairs, dominates the highest ground in sections 14 and 15. An access road to the site runs through sections 11, 12, and 14, ending in section 15. The Bethel Municipal Airport, U.S. Survey No. 3729, occupies parts of sections 12, 13, 23, and 24. U.S. Survey No. 4383 is included in section 12. U.S. Coast and Geodetic Survey triangulation station "NIGHEAD AZI 1949" is located in section 15.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules and regulations.

4. Inquiries concerning the lands should be addressed to the Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

IRVING ZIRPEL, JR.,
Chief, Division of Cadastral Survey.

[FR Doc.76-33052 Filed 11-9-76;8:45 am]

SEWARD MERIDIAN, ALASKA

Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10:00 a.m., December 15, 1976.

SEWARD MERIDIAN, ALASKA

T. 9 N., R. 71 W.
Sec. 27: All
Sec. 28: All
Sec. 29: All
Sec. 32: All
Sec. 33: All
Sec. 34: All
Sec. 35: All
Sec. 36: All
Containing 5,120.00 acres.

2. The area embraced by this survey lies approximately three miles northwest of downtown Bethel, Alaska. The entire area consists of open rolling tundra interspersed with shallow lakes and marshy areas. No distinct line exists between solid and boggy ground. The entire area is covered with tundra moss. Elevations vary from 50 to 100 feet above sea level with no abrupt changes. There are no man-made improvements in the area surveyed.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules and regulations.

4. Inquiries concerning the lands should be addressed to the Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

IRVING ZIRPEL, Jr.,
Chief, Division of Cadastral Survey.

[FR Doc.76-33053 Filed 11-9-76;8:45 am]

National Park Service

BOSTON NATIONAL HISTORICAL PARK ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92-463, that a meeting of the Boston National Historical Park, Advisory Commission will be held at 11:00 a.m. on December 7, 1976, in Building 5, Charlestown Navy Yard, Boston, Massachusetts.

The Commission was established by Pub. L. 93-431 to advise the Secretary of the Interior on matters relating to the development of the Boston National Historical Park.

The members of the Advisory Commission are as follows:

Mr. Richard A. Berenson, Chairman, Brookline, Massachusetts.
Dr. Evelyn Murphy, Lexington, Massachusetts.
Mr. Byron D. Rushing, Boston, Massachusetts.
Mrs. Katherine D. Kane, Boston, Massachusetts.
Mr. Maurice F. O'Shea, Charlestown, Massachusetts.
Mr. Guy A. Beninati, Boston, Massachusetts.

The matters to be discussed at this meeting include:

1. Status report and further review of alternative plans for the management, development and use of the resources of Boston National Historical Park.
2. Report and review of proposed changes in the highway network in the vicinity of the Charlestown Navy Yard and the effect of such changes on the National Park sector of the yard.
3. Report and review of plans for the Park Visitor Center.
4. Report and review of progress in concluding cooperative agreements.
5. Report and review of park administration and operation.
6. Report and discussion of plans for the 1977 visitor season.

The meeting will be open to the public. However, facilities and space are limited, and it is expected that not more than 25 persons will be able to attend the session. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Hugh D. Gurney, Superintendent, Boston National Historical Park at 617-242-1700. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Superintendent, Building 136, Charlestown Navy Yard, Boston, Massachusetts.

Date: October 28, 1976.

DENIS P. GALVIN,
Acting Regional Director.

[FR Doc.76-33071 Filed 11-9-76;8:45 am]

Office of the Secretary

[INT FES 76-57]

BRUNEAU RIVER

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a final environmental impact statement for the proposed Bruneau National Wild and Scenic River.

The proposal involves the proposed designation of 71 miles of the Bruneau River, 29 miles of the Jarbidge River, and 21 miles of Sheep Creek—a total of 121 miles—Idaho, as a Bureau of Land Management-administered component of the National Wild and Scenic Rivers System.

Copies are available for inspection at the Bureau of Outdoor Recreation, Northwest Regional Office, 915 Second Avenue, Seattle, Washington 98174, and at the Bureau of Outdoor Recreation, Office of Communications, Room 237, Interior South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

A limited number of copies are also available and may be obtained by writing to the Regional Director, Northwest Regional Office at the address shown above.

Dated: November 4, 1976.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.76-33054 Filed 11-9-76;8:45 am]

[INT FES 76-55]

NATIONAL FISHERY RESEARCH AND DEVELOPMENT CENTER

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a final environmental statement for the National Fishery Research and Development Center, Wellsboro, Pennsylvania.

The proposed action is to construct and operate a National Fishery Research and Development Center, Wellsboro, Pennsylvania, to design and evaluate improved cost-beneficial fish production methods.

Copies of the final statement are available for inspection at the following locations:

U.S. Fish and Wildlife Service, Division of Cultural Methods Research, Washington, D.C. 20240.
U.S. Fish and Wildlife Service, Division of Ecological Services, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

Single copies may be obtained by writing the Chief, Division of Ecological Services, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Dated: November 4, 1976.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.76-33056 Filed 11-9-76;8:45 am]

[INT FES 76-56]

PROPOSED DOLORES NATIONAL WILD AND SCENIC RIVER

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Bureau of Outdoor Recreation and the Forest Service have prepared a final environmental statement for the proposed Dolores National Wild and Scenic River in Colorado.

The environmental statement considers the probable impact of establishing a segment of the Dolores River as a component of the National Wild and Scenic Rivers System.

Copies are available for inspection at the Bureau of Outdoor Recreation, Mid-Continent Regional Office, 603 Miller Court, Lakewood, Colorado, and at the Bureau of Outdoor Recreation, Office of Communications, Room 237, Interior

South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

A limited number of copies are also available and may be obtained by writing to the Regional Director, Mid-Continent Regional Office, Post Office Box 25387, Denver Federal Center, Denver, Colorado 80225.

Dated: November 4, 1976.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.76-33055 Filed 11-9-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (76-98)]

AMES RESEARCH CENTER

Draft Environmental Impact Statement; Availability

Notice is hereby given of the public availability of the draft Environmental Impact Statement (EIS) for the Modification of 40 x 80-Foot Subsonic Wind Tunnel, Ames Research Center, Moffett Field, California.

A revised draft institutional EIS for the existing facilities and ongoing activities of the Ames Research Center was released for comment on July 8, 1976, and its availability announced in the FEDERAL REGISTER on July 16, 1976. With some changes incorporated as a result of comments received, that statement will soon be available in final form. The proposed modification of the 40 x 80-foot Wind Tunnel will yield environmental effects different from those described for the existing facility in the revised institutional EIS. The present draft has therefore been prepared as Amendment No. 1 to the Institutional Environmental Impact Statement for the Ames Research Center and is being issued at this time.

Comments on the draft EIS and on matters set forth therein are solicited from and may be submitted by state and local agencies and members of the public. Such comments should be submitted to the Associate Deputy Administrator, National Aeronautics and Space Administration, Washington, DC 20546. All comments must be received by January 18, 1976, in order to be considered in the preparation of the final Environmental Impact Statement.

Copies of the draft statement may be obtained or examined at any of the following locations:

(a) National Aeronautics and Space Administration, Public Documents Room (Room 126), 600 Independence Avenue, SW., Washington, DC 20546.

(b) Ames Research Center, NASA (Building 201, Room 17), Moffett Field, CA 94035.

(c) Hugh L. Dryden Flight Research Center, NASA (Building 4800, Room 1017), P.O. Box 273, Edwards, CA 93523.

(d) Goddard Space Flight Center, NASAR (Building 8, Room 150), Greenbelt, MD 20771.

(e) Johnson Space Center, NASA (Building 1, Room 136), Houston, TX 77058.

(f) John F. Kennedy Space Center, NASA (Headquarters Building, Room 1207), Kennedy Space Center, FL 32899.

(g) Langley Research Center, NASA (Building 1219, Room 304), Hampton, VA 23365.

(h) Lewis Research Center, NASA (Administration Building, Room 120), 21000 Brookpark Road, Cleveland, OH 44135.

(i) George C. Marshall Space Flight Center, NASA (Building 4200, Room G-11), Huntsville, AL 35812.

(j) National Space Technology Laboratories, NASA (Building 1100, Room A-213), Bay St. Louis, MS 39520.

(k) Jet Propulsion Laboratory, (Building 180, Room 600), 4800 Oak Grove Drive, Pasadena, CA 91103.

(l) Wallops Flight Center, NASA (Library Building, Room E-105), Wallops Island, VA 23337.

Done at Washington, DC, this 4th day of November 1976.

By the direction of the Administrator.

DUWARD L. CROW,
Associate Deputy Administrator, National Aeronautics and Space Administrator.

[FR Doc.76-33031 Filed 11-9-76;8:45 am]

[Notice 76-99]

EARTH DYNAMICS ADVISORY SUBCOMMITTEE, APPLICATIONS STEERING COMMITTEE

Establishment

Pursuant to section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), and after consultation with the Office of Management and Budget, the National Aeronautics and Space Administration has determined that the establishment of the Applications Steering Committee, Earth Dynamics Advisory Subcommittee is in the public interest and is required for the performance of duties imposed upon NASA by law. The Applications Steering Committee, under which the Subcommittee will operate, is a NASA-sponsored interagency committee, composed wholly of government employees. The Subcommittee will comprise membership from both the public and private sectors.

The intent of this Advisory Subcommittee is to provide advice on the goals, objectives, general strategy, and content of the Earth Dynamics Program.

JOHN M. COULTER,
Acting Assistant Administrator for DOD and Interagency Affairs.

NOVEMBER 5, 1976.

[FR Doc.76-33032 Filed 11-9-76;8:45 am]

NATIONAL LABOR RELATIONS BOARD

CHAIRMAN'S TASK FORCE ON THE NATIONAL LABOR RELATIONS BOARD

1976 Interim Report and Recommendations

The Chairman's Task Force on the National Labor Relations Board has filed with that Agency its 1976 Interim Report and Recommendations. Interested persons may obtain a copy of the report and recommendations at a nominal cost ($1.00 per copy) by request directed to Mr. Earl D. Proctor, Secretary, Chairman's Task Force on the National Labor Relations Board, 1717 Pennsylvania Avenue, N.W., Room 620, Washington, D.C. 20570. A check made payable to "Treasurer of the United States" should accompany the request.

To assist the Board in its consideration of these recommendations, as well as to provide further assistance to the members of the Task Force in their continuing deliberations, the public is invited to submit comments and suggestions concerning these recommendations. Comments should identify by number the recommendations to which they relate. They should be submitted in an original and one copy to Mr. Earl D. Proctor, Secretary, Chairman's Task Force on the National Labor Relations Board, 1717 Pennsylvania Avenue, N.W., Room 620, Washington, D.C. 20570. Comments must be received no later than Monday, January 3, 1977.

Dated this 5th day of November 1976 in Washington, D.C.

JOHN C. TRUESDALE,
Executive Secretary.

[FR Doc.76-33094 Filed 11-9-76;8:45 am]

NATIONAL STUDY COMMISSION ON RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS

PUBLIC HEARINGS

Chairman: Hon. Herbert Brownell
Members:
Hon. Lucius D. Battle
Dr. Daniel J. Boorstin
Hon. Philip W. Buchen
Mrs. Ann Morgan Campbell
Hon. David O. Cooke
Prof. Frank B. Freidel, Jr.
Hon. Robert J. Lagomarsino
Prof. William E. Leuchtenburg
Hon. J. Edward Lumbard, Jr.
Prof. Ernest R. May
Hon. Edward Mezvinsky
Hon. Gaylord Nelson
Dr. James B. Rhoads
Hon. John M. Thomas
Hon. Michael M. Uhlmann
Hon. Lowell P. Weicker, Jr.
Director: Mr. Robert R. Brookhart
General Counsel: Ms. Dori Dressander

PUBLIC HEARINGS

The National Study Commission on Records and Documents of Federal Officials (created by Pub. L. 93-526, 93rd Cong., December 19, 1974) will hold public hearings at the time and place listed below:

New York, N.Y.—December 6 and 7, 1976, beginning at 9:30 a.m. in Room 305, Federal Building, 26 Federal Plaza.

Persons and organizations wishing to be heard at any one of these public hearings are requested to notify the Commission at 1000 Connecticut Avenue, NW., Washington, D.C. 20036, as soon as possible prior to the hearings, so that their appearances may be properly scheduled. Written statements without personal appearance will also be received by the Commission.

The topics to be considered at the public hearings are described in a memo-

randum prepared by the Commission. Copies of the memorandum may be obtained on request to the Commission. Persons appearing at the hearings will be heard on any one of these topics, within available time limits.

HERBERT BROWNELL,
Chairman.

[FR Doc.76-33057 Filed 11-9-76;8:45 am]

PRIVACY PROTECTION STUDY COMMISSION

EMPLOYMENT AND PERSONNEL RECORDKEEPING PRACTICES

Hearings

The privacy Protection Study Commission will hold public hearings on employment and personnel record-keeping practices between 9:30 a.m. and 5:30 p.m. on December 9 and 10, 1976 and December 16 and 17, 1976, in Room 2318, Rayburn House Office Building, Washington, D.C. These hearings are part of the Commission's consideration of the desirability and feasibility of extending the principles and requirements of the Privacy Act of 1974 to the private sector, and State and local governments.

To assist in the development of this inquiry, the Commission wishes to learn about the experiences and views of all persons, prior to the hearings. Written submissions should be made to the Executive Director, Privacy Protection Study Commission, Suite 424, 2120 L Street, N.W., Washington, D.C. 20506, and should be received in the Commission's office no later than November 29, 1976.

The Commission inquiry is directed at the employment and personnel record-keeping practices of private industry, State and local governments, and private nonprofit organizations, employment agencies, consumer investigative companies, private investigating agencies and labor unions.

The Commission is interested in views and statements about current employment and personnel record-keeping practices incident to the process of hiring, maintaining and terminating an employee. The records subject to these practices include pre-employment records, personnel records concerned with performance on the job, records of benefits, records required to be kept by Federal and State statutes and regulations, and records kept on an applicant and a terminated employee.

The Commission would like to receive information describing the extent to which employment and personnel record-keeping practices conform to the following five information practice principles:

There must be no personal data record-keeping system whose very existence is secret;

There must be a way for an individual to find out what information about him is in a record and how it is used;

There must be a way for an individual to prevent information about him that was obtained for one purpose from being used or made available for other purposes without his consent;

There must be a way for an individual to correct or amend a record or identifiable information about him; and

Any organization creating, maintaining, using, or disseminating records of identifiable personal data must assure the reliability (i.e., accuracy, relevance, timeliness, and completeness) of the data for their intended use and must take precautions to prevent misuse of the data.

The Commission seeks information on the following:

COLLECTION AND MAINTENANCE OF INFORMATION IN RECORDS

Are there established policies on the collection and maintenance of personal information about employees and applicants for employment? Do applicants and employees know about them? What infomation do outside organizations, such as credit investigating agencies or government background investigators collect in doing background checks on applicants and employees? What information do employment agencies provide employers about an applicant or an employee? Under what circumstances do applicants and employees not know that outside sources are collecting information about them? Are applicants and employees asked to consent to the collection of information about themselves, either by employers or outside sources? How do employers handle reference checks? Do employers collect sensitive information about an applicant or an employee such as criminal history, medical information, military discharge information, or credit information? What are the reasons for collecting this information? What sort of information about an applicant or an employee do employers keep pursuant to benefit programs, insurance claims, Federal statutory or regulatiry requirements, and union requirements? Do employers keep information on an applicant or an employee in the course of performing the employer's regular security functions? What is the role of polygraphs and other technological devices in collecting information about employees? How long is each of the various types of applicant and employee records maintained?

ACCESS TO AND CORRECTION OF RECORDS

Can applicants, employees and former employees inspect the records maintained about them by employers, prospective employers or other persons who supply information to employers or prospective employers? Can applicants, employees and former employees correct or amend such records, or otherwise challenge their accuracy, timeliness, relevance, and completeness? To which records are applicants, employees or former employees denied access? Are employees or former employees allowed access to evaluations of their performance? Is there a regular procedure for informing employees about performance evaluations? Are employees informed of the reasons behind decisions to demote or fire them? Do employees or former employees have access to promotion plans? Are applicants, employees and former employees allowed access to records resulting from investigations of them conducted by security personnel? Do applicants, employees and former employees have access to medical or psychological information about themselves? Do applicants, employees and former employees have access to the results of polygraph tests? Do applicants, employees and former employees have access to information obtained from reference checks? What are the consequences of permitting an applicant, employee or former employee access to employment and personnel records maintained about him?

DISCLOSURE TO THIRD PARTIES

To which outside sources are employment and personnel records commonly disclosed—labor unions, creditors, law enforcement agencies, auditors or program evaluators, researchers, insurance companies, prospective employers, physicians or hospitals, others not mentioned? To what extent do units within the employing organization, such as auditors, medical staff, security officers, personnel officers, and line supervisors, share personal information about applicants and employees? To what extent is information sharing built into a record are being made and to whom they are being made? Is the applicant or employee's consent always required before a disclosure is made? What information on individually identifiable subjects are employers required by statute or regulation to disclose to Federal and State governments? How are subpoenas for information maintained by employers about applicants, employees and former employees responded to by employers?

RESPONSIBILITIES OF THE EMPLOYER

Does the employer designate a person or office to oversee the use and disclosure of information in employment and personnel records? What measures do employers take to insure that persons responsible for overseeing the use and disclosure of information in employment and personnel records carry out their duties? Does an applicant or employee have any recourse if injured by failure of the responsible person or office to perform oversight functions adequately? Have organized labor agreements restricted or increased the amount of personnel information collected; or increased the employer's responsibility for accuracy, relevance, completeness or timeliness?

The Commission also wishes to receive information about: (1) How employers have gone about formulating policies concerning the collection, maintenance, use, and disclosure of information in employment and personnel records; (2) the cost of implementing these policies; (3) the limitations on conforming to the five

information practice principles set forth above; (4) experiences of employers who have implemented some or all of the five information practice principles set forth above; (5) the extent to which the social security number is used as an identifier in record systems containing information about employees, applicants, and former employees; and (6) what policies and practices of outside sources, such as insurance companies, have an impact on employers' ability to comply with the five information practice principles set forth above?

DAVID F. LINOWES,
Chairman.
CAROLE W. PARSONS,
Executive Director.

[FR Doc.76-33073 Filed 11-9-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 548; File No. 803-5]

DISCOUNT CORPORATION OF NEW YORK

Filing of Application Pursuant to Section 206A of the Investment Advisers Act of 1940 for an Order of Exemption From All Provisions of the Act Except Section 206 of the Act

NOVEMBER 2, 1976.

Notice is hereby given that Discount Corporation of New York, 58 Pine Street, New York, New York 10005, ("Discount") filed on October 6, 1976 and amended on October 26, 1976 an application pursuant to section 206A of the Investment Advisers Act of 1940 ("Act") for an order of exemption from all provisions of the Act, except the antifraud provisions in Section 206 of the Act, to the extent they may be applicable to Discount. All interested persons are referred to the application on file with the commission for a statement of the representations contained therein which are summarized below.

Discount, organized in 1918, is primarily in the business of underwriting, distributing and making a market in obligations of the United States government and its agencies and instrumentalities. It also serves as a market maker in bankers acceptances, finance bills, trade acceptances, bank certificates of deposit and commercial paper issued by bank holding companies. In 1976, Discount organized a wholly-owned subsidiary, Discount Corporation of New York Money Market Advisers ("Adviser"), which is registered under the Act as an investment adviser. Adviser was established to serve as an investment adviser to Union Cash Management Fund, Inc. ("Fund"), an open-end investment company registered under the Investment Company Act of 1940, which intends to invest in various types of money market instruments. Adviser will be responsible for providing Fund with investment recommendations concerning certain money market instruments but will not provide execution of, or have discretionary authority over, Fund's securities transactions. Fund's investment committee, composed of four of its officers, none of whom is affiliated with Adviser, will make Fund's investment decisions. Neither Discount nor Adviser will purchase any securities from or sell any securities to, or act as broker for, or in any transaction with, the Fund.

Every associated person of Adviser who will have a role in furnishing advisory services to Fund will be either an officer, a director or an employee of Discount. However, such persons will also be identified on Adviser's Form ADV, its application for registration, as associated persons of Adviser. Discount has provided Adviser with capitalization in the amount of $250,000, which it represents is adequate to enable Adviser to perform advisory services for Fund. There is no indebtedness between Adviser and Discount. Discount will furnish Adviser with office facilities and secretarial and administrative services. Adviser will reimburse Discount for its allocable share of both the direct and indirect costs of the services Discount will be providing.

Section 202(a)(11) of the Act provides:

> 'Investment adviser' means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities * * *.

The exemption from registration afforded by section 203(b)(3) of the Act for advisers having fewer than fifteen clients is not available to Discount or Adviser, since that exemption does not apply by its terms to an adviser to a registered investment company. Section 208(d) of the Act provides:

> It shall be unlawful for any person indirectly, or through or by any other person, to do any act or thing which it would be unlawful for such person to do directly under the provisions of this title or any rule or regulation thereunder.

Since Adviser, although a separate corporation, will be dependent on Discount for, among other things, its personnel, market information, office facilities, and recordkeeping, Discount itself might be subject to all provisions of the Act, including its registration provisions. Accordingly, Discount has filed this application seeking exemptions from all provisions of the Act, except the antifraud provisions in section 206 of the Act, to the extent they are applicable.

Section 206A of the Act provides:

> The Commission, by rules and regulations, upon its own motion, or by order upon application, may conditionally or unconditionally exempt any person or transaction, or any class or classes of persons, or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title.

The application states that every officer, director and employee of Discount who will be furnishing advisory services to the Fund will be an associated person of Adviser and, as such, will be subject to all provisions of the Act. Therefore, Discount represents that no regulatory purpose would be served by requiring it to register. Moreover, Discount has agreed that it will be subject to the antifraud provisions in Section 206 of the Act to the extent they are applicable to it.

Discount represents that the requested relief is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 26, 1976 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-33004 Filed 11-9-76;8:45 am]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Changes

NOVEMBER 3, 1976.

The Municipal Securities Rulemaking Board (the "MSRB"), Suite 507, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036, has filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of proposed rule changes: (i) to establish standards of operational capability and professional competence for municipal securities brokers and municipal securities dealers and

individuals associated with such firms; [1] (ii) to require that information concerning such individuals' education, business background, and disciplinary history be collected and maintained; [2] (iii) to amend the description of activities engaged in by separately identifiable departments or divisions of banks; [3] and (iv) to include, as municipal securities activities, financial advisory and consultant services for issuers in connection with the issuance of municipal securities.[4]

[1] Notice of the proposed rule changes contained in SR-MSRB-76-3 (filed on March 3, 1976) together with the terms of substance thereof was given by publication of Securities Exchange Act Release No. 12177 (March 8, 1976) (41 FR 10686 (1976)). On July 15, 1976, the MSRB made certain technical amendments. On July 20, 1976, the Commission approved proposed Rule G-6, concerning fidelity bonding requirements which was part of SR-MSRB-76-3, Securities Exchange Act Release No. 12644 (July 20, 1976) (41 FR 32803 (1976)). On September 9, 1976, the MSRB filed substantive amendments to certain of the remaining proposed rule changes notice of which was given together with the terms of substance thereof by publication of Securities Exchange Act Release No. 12794 (September 9, 1976) (41 FR 41171 (1976)). Rule G-3 classifies certain persons associated with municipal securities brokers and municipal securities dealers variously as municipal securities representatives, municipal securities principals and financial and operations principals. The MSRB has advised that it intends to consider developing separate or supplemental classifications and qualification examinations for persons, currently classified solely as municipal securities representatives or municipal securities principals, who supervise the "back-office" functions of bank municipal securities dealers or who provide financial advisory and consultant services to issuers in connection with the issuance of municipal securities.

[2] Notice of the proposed rule changes contained in SR-MSRB-76-5 (May 19, 1976) together with the terms of substance thereof was given by publication of Securities Exchange Act Release No. 12469 (May 20, 1976) (41 FR 22650 (1976)). On September 9, 1976, the MSRB filed certain technical changes. On October 29, 1976, the MSRB filed an additional technical amendment. Securities Exchange Act Rule 17a-3(a)(12) also requires the maintenance by brokers and dealers of information concerning employees, including information not required by Rule G-7 for the types of employees who would be covered by Rule G-7 as well as for certain additional types of employees. Brokers and dealers generally comply with Rule 17a-3(a)(12) and with similar requirements of state securities laws by obtaining a Form U-4 for each covered employee. The MSRB has indicated that a completed Form U-4 would satisfy the requirements of paragraph (c) of Rule G-7.

[3] Notice of the proposed rule changes contained in SR-MSRB-76-6 (July 15, 1976) together with the terms of substance of the proposed rule changes was given by publication of Securities Exchange Act Release No. 12657 (July 26, 1976) (41 FR 32803 (1976)).

[4] Notice of the proposed rules contained in SR-MSRB-76-7 (July 15, 1976) together with the terms of substance of the proposed changes was given by publication of Securities Exchange Act Release No. 12658 (July 26, 1976) (41 FR 32804 (1976)).

The Commission finds that the proposed rule changes, as amended, are consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the abovementioned proposed rule changes, as amended, be and hereby are, approved.

By the Commission,

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-33005 Filed 11-9-76;8:45 am]

[Release No. 19742; 54-254]

NEW ORLEANS PUBLIC SERVICE, INC.

Supplemental Notice Extending Period During Which Interested Parties May Request a Hearing

NOVEMBER 2, 1976.

By a notice dated October 20, 1976 (HCAR No. 19719), notice was given of a plan filed with this Commission by New Orleans Public Service, Inc. ("NOPSI"), P.O. Box 60340, New Orleans, Louisiana 70160, a wholly owned subsidiary of Middle South Utilities, Inc., a registered holding company, under Section 11(e) of the Public Utility Holding Company Act of 1935 ("Act") for the divestiture of its transit properties. The plan provides that NOPSI will tender the transit properties to the City of New Orleans ("City") for purchase at the option price provided in the franchise and transit permits granted NOPSI by the City; NOPSI plans to surrender its franchise and transit permits and discontinue transit operations no later than December 31, 1976, unless, in the meantime, the City exercises its option or makes other arrangements satisfactory to NOPSI for a sale of the properties to others. If a purchase by the City or other acceptable arrangements are not agreed to NOPSI will dispose of the properties in accordance with the applicable provisions of the Act and Rules thereunder.

In orer to clarify the record and the legal implications of the plan NOPSI was requested, in the notice, to supplement its application and submit a memorandum of law, within 15 days of the effective date of the notice, addressed to certain questions set forth in the notice.

NOPSI has found it impracticable to reply adequately to the Commission's request within the allotted 15 days. Accordingly, NOPSI has been granted by the Commission an extension until December 2, 1976, to file its reply. In order to afford interested persons an opportunity to respond to the application as it will be amended and clarified by NOPSI's response to the Commission's request, the period during which a request for a hearing may be made of the Commission has been extended until December 20, 1976.

Notice is hereby given, That any interested person may, not later than December 20, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-33003 Filed 11-9-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License Application No. 04/04-5122]

CAPITAL SERVICES AND RESOURCES, INC.

Application for License as a Small Business Investment Company

An application for license to operate as a small business investment company (SBIC) under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended, (15 U.S.C. 661 et seq.), has been filed by Capital Services and Resources, Inc., (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1976).

The officers, directors, and stockholders of the applicant are as follows:

Roland L. Frye, Sr., President, Director, 7 percent stockholder, 5693 Glenwild Cove, Memphis, Tennessee 38117.

Sylvia A. Joure, Vice President, Director, 7 percent stockholder, 367 Caraway Cove, Memphis, Tennessee 38117.

Charles Y. Bancroft, Secretary, Treasurer, General Manager, Director, 7 percent stockholder, 2578 Perthshire Cove, Memphis, Tennessee 38138.

11 other persons will each own less than 10 percent of the Licensee's common stock.

The applicant, a Tennessee Corporation, with its principal place of business located at 5580 Murray Road, Suite 5, Memphis, Tennessee 38117, will begin operations with $500,000 of paid-in capital and paid-in surplus, derived from the sale of 100,000 shares of common stock.

The applicant intends to conduct its operations on a national basis.

Applicant intends to provide assistance to all qualified socially and economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented. The applicant also intends to furnish management and technical assistance on a fee basis to eligible socially and/or economically disadvantaged businesses.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA rules and regulations.

Any person may, not later than November 26, 1976, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Memphis, Tennessee.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 3, 1976.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.76-33058 Filed 11-9-76;8:45 am]

[Proposed License No. 06/06-0187]

GROCERS SMALL BUSINESS INVESTMENT CORP.

Application for a License to Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1976)), under the name of Grocers Small Business Investment Corporation; Suite 101, 3131 East Holcombe Boulevard, Houston, Texas 77021, for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (the Act), and the rules and regulations promulgated thereunder.

The proposed officers, directors and shareholders are as follows:

Milton H. Levit, President, 5303 Braesheather, Houston, Texas 77096.
Max S. Levit, Vice President, 9627 Cedarhurst, Houston, Texas 77035.
George E. Levit, Secretary-Treasurer, 2100 Tanglewilde, No. 459, Houston, Texas 77063.
James A. Nelson, General Manager, 11218 Memorial Drive, Houston, Texas 77024.
Grocers Supply Company, Inc., 100 Percent Shareholder, Wholesale Grocer, 3131 East Holcombe Blvd., Houston, Texas 77021.

Only four individuals own more than ten percent of the voting securities of Grocers Supply Company, Inc. They are Milton H. Levit, Max S. Levit, George E. Levit and Joe Levit.

The Applicant has only one class of stock authorized. There are 500,000 shares of common stock authorized, and the initial capitalization will be $500,000 (250,000 shares issued).

The Applicant will conduct its operations principally in the State of Texas and in other areas within the United States and its territories and possessions as may be approved by SBA from time to time.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operations of the new company in accordance with the Act and regulations.

Notice is further given that any person may, not later than November 26, 1976, in the FEDERAL REGISTER, submit to SBA in writing, comments on the proposed licensing of this company. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published by the proposed Licensee in a newspaper of general circulation in Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59-011 Small Business Investment Companies)

Dated: November 3, 1976.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.76-33059 Filed 11-9-76;8:45 am]

DEPARTMENT OF STATE

[CM-6/125]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON MARITIME LAW

Meeting

A meeting of the Subcommittee on Maritime Law of the Shipping Coordinating Committee will be held at 10:00 a.m. on Thursday, December 16, 1976, in Room 1406 of the Department of State, 2201 C Street, N.W., Washington, D.C. The meeting will be open to the public.

The purpose of the meeting is to discuss preparations for the reconvened Third Session of the Intergovernmental Preparatory Group on International Intermodal Transport, which meets under the auspices of the United Nations Conference on Trade and Development (UNCTAD). The Third Session will meet in Geneva January 10-28, 1977. The principal item on the agenda of the December 16 meeting will be the consideration of the U.S. position for the Intergovernmental Preparatory Group. Issues to be reviewed include documentation questions, insurance and liability problems, customs, and other matters related to any proposed convention on international intermodal transportation.

Any questions concerning this meeting should be directed to Mr. Richard Johe, Office of Maritime Affairs, Department of State. He may be reached by telephone on (area code 202) 632-1313.

Comemnts from the public will be welcomed.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

OCTOBER 22, 1976.

[FR Doc.76-33061 Filed 11-9-76;8:45 am]

[CM-6/123]

STUDY GROUP 7 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 7 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on November 29, 1976, at the NASA/Goddard Space Flight Center, Greenbelt Road, Building 12, Room 13, Greenbelt, Maryland. The meeting will begin at 9:30 a.m.

Study Group 7 deals with time-signal services by means of radio-communications. The main purpose of the meeting will be a review of work assignments in preparation for the next international meeting of Study Group 7.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Entrance to the Goddard Space Flight Center is controlled and all non-NASA representatives will be required to register at whichever gate is used for entry to the area. Entry for members of the general public may be facilitated if arrangements are made in advance. Therefore, it is suggested that prior to November 29, 1976, members of the general public who plan to attend the meeting should inform their name, affiliation and address to Mr. Jacques S. Herman (Secretary, U.S. Study Group 7), National Scientific Laboratories. Mr. Herman can be reached by telephone on area code 703, 698-8500.

Dated: November 1, 1976.

GORDON L. HUFFCUTT,
Chairman, U.S. National Committee.

[FR Doc.76-33060 Filed 11-9-76;8:45 am]

Agency for International Development

[Loan No. 525-L-006]

DIRECTOR, USAID/PANAMA

Delegation of Authority

Pursuant to the authority vested in me as Deputy United States Coordinator, Alliance for Progress, by the Foreign Assistance Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the Director, USAID/Panama, the authority to negotiate, execute, and implement Amendment No. 1 to Loan Agreement No. 525-L-006 between the Desarrollo Industrial, S.A. and the United States pursuant to Loan Authorization Amendment No. 1 signed October 18, 1976.

This delegation of authority shall be effective for 120 days from the date of the signing of the amended Loan Authorization.

DONOR M. LION,
Acting Deputy U.S. Coordinator.

OCTOBER 18, 1976.

[FR Doc.76-33063 Filed 11-9-76;8:45 am]

[Loan No. 525-L-014]

DIRECTOR, USAID/PANAMA

Delegation of Authority

Pursuant to the authority vested in me as Deputy United States Coordinator, Alliance for Progress, by the Foreign Assistance Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the Director, USAID/Panama, the authority to negotiate, execute, and implement Amendment No. 2 for Loan Agreement No. 525-L-014 between the Desarrollo Industrial, S.A. and the United States pursuant to Loan Authorization Amendment No. 2 signed October 18, 1976.

This delegation of authority shall be effective for 120 days from the date of the signing of the amended Loan Authorization.

DONOR M. LION,
Acting Deputy U.S. Coordinator.

OCTOBER 18, 1976.

[FR Doc.76-33064 Filed 11-9-76;8:45 am]

DIRECTOR, USAID/COLOMBIA

Delegation of Authority

Pursuant to the authority vested in me as Assistant Administrator for Latin America, by the Foreign Assistant Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the Director, USAID/Colombia, the authority to negotiate, execute, and implement Loan Agreement No. 514-T-081A between Accion Cultural Popular ("ACPO") and the United States, and Loan 514-T-081B between Servicio Nacional de Aprendizaje ("SENA") and the United States for a program to increase income producing skills, knowledge and information available to the small farmer and the rural poor by expanding training and other programs pursuant to Loan Authorization signed June 25, 1976.

The delegation of authority to negotiate and execute shall be effective until December 22, 1976.

E. N. S. GIRARD II,
Assistant Administrator for Latin America.

OCTOBER 23, 1976.

[FR Doc.76-33065 Filed 11-9-76;8:45 am]

DIRECTOR, USAID/PARAGUAY

Delegation of Authority

Pursuant to the authority vested in the Assistant Administrator for Latin America, I hereby delegate to the Director, USAID/Paraguay, authority to negotiate, execute and implement Loan Agreement No. 526-T-028, Rural Enterprises Loan in accordance with and subject to the limitations in the Loan Authorization dated June 29, 1976, as amended October 26, 1976, authorizing said loan.

The authority delegated hereby to negotiate and execute the Loan Agreement shall remain effective for a period of 150 days from June 29, 1976, the date of the original Loan Authorization.

E. N. S. GIRARD, II,
Assistant Administrator for Latin America.

OCTOBER 26, 1976.

[FR Doc.76-33067 Filed 11-9-76;8:45 am]

MISSION DIRECTOR, USAID/EGYPT

Redelegation of Authority No. 164-6

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority No. 5, dated December 29, 1961 (27 FR 449), as amended, with respect to Loan Agreements; No. 38, dated April 10, 1964 (29 FR 5280), as amended, with respect to Project Agreements, Trust Fund Agreements, and Grant Agreements; No. 99, dated April 27, 1973 (38 FR 12834), with respect to Contracting and Related Functions, and No. 113, dated October 15, 1975, I hereby redelegate to the Mission Director, USAID/Egypt, authority to exercise any of the following functions assigned to me for Egypt, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to negotiate loan and grant agreements (including project agreements) and amendments thereto, with the Arab Republic of Egypt or agencies thereof with respect to loans and grants authorized under the Foreign Assistance Act of 1961, as amended (the Act) in accordance with the terms of the authorizations of such loans or grants.

2. Authority to execute and deliver such loan and grant agreements and amendments thereto, with respect to loans and grants authorized under the Act in accordance with the terms of the authorizations of such loans or grants.

3. Authority to implement loan and grant agreements (including project agreements), in accordance with Regulations, Policies and Procedures now or hereafter established or modified and promulgated within A.I.D. with the Arab Republic of Egypt or agencies thereof with respect to loans and grants authorized under the Act and loans authorized by the Board of Directors of the corporate Development Loan Fund. This authority is subject to direction by the office in A.I.D./Washington having primary responsibility for implementation of the activity and shall include the following:

(a) Authority to prepare, negotiate, sign and deliver letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such loan or grant agreements;

(c) Authority to negotiate, execute and implement all agreements and other documents ancillary to such loan and grant agreements;

(d) Authority to sign or approve Project Implementation Orders—Technical Services (PIO/T); and

(e) Authority to approve contractors, review and approve the terms of country contracts, amendments, and modifications thereto, and invitations for bids with respect to such contracts financed by funds made available under such loan agreements, and under such grant agreements which are for Capital Projects.

The authorities herein redelegated may be exercised by a person who is performing the functions of Director in an "Acting" capacity within USAID/Egypt.

The authorities enumerated above in paragraph 2 are also hereby redelegated under the same terms and conditions set forth herein to the principal diplomatic officer of the United States in the Arab Republic of Egypt.

The authorities enumerated above may be redelegated but not successively redelegated, except that the authorities enumerated in paragraph 2 may not be redelegated.

All existing authorities with the USAID, Egypt with respect to loans and grants remain in full force and effect.

This redelegation of authority is effective immediately.

Dated: October 20, 1976.

ROBERT H. NOOTER,
Assistant Administrator, Bureau for Near East.

[FR Doc.76-33066 Filed 11-9-76;8:45 am]

TENNESSEE VALLEY AUTHORITY

PRIVACY ACT OF 1974

Proposed Routine Uses

On September 17, 1976, the Tennessee Valley Authority published in the FEDERAL REGISTER (41 FR 40437) its annual Notice of Systems of Records pursuant to subsections (e)(4) and (e)(11) of section 3 of the Privacy Act of 1974 (Pub. L. 93-579). A correction document (41 FR 49064, November 5, 1976) was subsequently published to indicate that certain changes in TVA's notice of systems of records which had previously appeared in the FEDERAL REGISTER, but were inadvertently not included in the September 17 publication, were part of TVA's notice and would be included in the compilation of agency notices to be published by the FEDERAL REGISTER.

TVA proposes to make two revisions to the routine uses in TVA's annual notice. The third routine use described in system TVA-11 (Payroll Records) is in-

tended and has been interpreted by TVA to cover releases of payroll deduction information to charitable institutions and agencies in connection with the Combined Federal Campaign. TVA proposes to revise this routine use to clarify this intent and interpretation. TVA also proposes to add a routine use to system TVA–2 (Personnel Files) to enable TVA to transfer limited information from these records to local school districts to aid them in qualifying for assistance under Public Law 81–874. Any person interested in this notice may submit written data, views, or arguments to the Privacy Act Coordinator, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902, on or before December 10, 1976. All written comments received through that date will be considered by TVA before taking final action. The comments received will be available for public inspection at the office of the TVA Director of Information, 400 Commerce Avenue, E12A4, Knoxville, Tennessee 37902, between the hours of 9 a.m. and 4 p.m., Monday through Friday (except holidays).

Effective date: This notice shall be effective on November 10, 1976.

Dated: October 20, 1976.

LYNN SEEBER,
General Manager.

In FR Doc. No. 76–26199 appearing at pages 49064–49078 in the FEDERAL REGISTER of Friday, November 5, 1976, the following revisions are proposed:

1. On page 49065, the following additional routine use is proposed to be included for system TVA–2 (Personnel Files—TVA). This routine use shall be listed at the end of the routine use paragraph for this system. The proposed routine use reads as follows: "To provide pertinent information to local school districts and other Government agencies in order to study TVA project impacts and to aid school districts in qualifying for assistance under Pub. L. 81–874 and other laws."

2. On page 49070, the third routine use in the routine use paragraph of system TVA–11 (Payroll Records—TVA) which reads: "To transmit payroll deduction information to employee credit unions, administrators of employee benefit plans, and the Combined Federal Campaign" is proposed to read: "To transmit payroll deduction information to financial institutions, employee organizations, and charitable institutions and agencies in connection with the Combined Federal Campaign."

[FR Doc.76–33111 Filed 11–9–76;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Dept. Circular; Public Debt Series—No. 28–76]

TREASURY NOTES OF SERIES K–1969

Interest Rate

NOVEMBER 4, 1976.

The Secretary of the Treasury announced on November 3, 1976, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 28–76, dated October 28, 1976, will be 6¼ percent per annum. Accordingly, the notes are hereby redesignated 6¼ percent Treasury Notes of Series K–1979. Interest on the notes will be payable at the rate of 6¼ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.76–32980 Filed 11–9–76;8:45 am]

[Public Debt Series—No. 29–76]

Office of the Secretary

SERIES B–1983 TREASURY NOTES

Interest Rate

NOVEMBER 5, 1976.

The Secretary of the Treasury announced on November 4, 1976, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 29–76, dated October 28, 1976, will be 7 percent per annum. Accordingly, the notes are hereby redesignated 7 percent Treasury Notes of Series B–1983. Interest on the notes will be payable at the rate of 7 percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.76–33039 Filed 11–9–76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 185]

ASSIGNMENT OF HEARINGS

NOVEMBER 5, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 2900 (Sub-292), Ryder Truck Lines, Inc. now assigned December 1, 1976 at Little Rock, Arkansas and will be held at the Transportation Commission Hearing Room, Justice Building, 1500 West 7th Street.

MC 2229 (Sub-192), Red Ball Motor Freight, Inc. now assigned December 6, 1976 at Atlanta, Georgia and will be held in Room 305, 1252 West Peachtree Street N.W.

MC–C 9028, The O.K. Trucking Company v Overnite Transportation Company, Et Al now assigned December 8, 1976 at Frankfort, Kentucky and will be held in Hearing Room G–2, Capitol Plaza, Ground Level.

MC–F–12925, Seawheels, Inc. (Formerly Penbrook Hauling Co., Inc.)—Purchase (Portion)—Daily Express, Inc., now assigned December 15, 1976 at Washington, D.C., is postponed to November 22, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 133655 Sub-93, Trans-National Truck, Inc., now being assigned January 18, 1977 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 139381, Spirit of '76 Overland Express, Inc., now being assigned January 18, 1977 (3 days), at Chicago, Ill., in a hearing room to be later designated.

AB 19 Sub-27, Baltimore and Ohio Railroad Company Abandonment Between Flora And Sangamon Junction, In Clay, Effingham, Fayett, Shelby Christian And Sangamon Counties, Illinois; now being assigned January 24, 1977 (1 week), at Effingham, Ill., in a hearing room to be later designated.

MC 139495 Sub-138, National Carriers, Inc., now being assigned January 27, 1977, at the Office of Interstate Commerce Commission, Washington, D.C.

MC 66571 Sub-7, Red Line, Inc., now being assigned January 24, 1977, at the Office of of the Interstate Commerce Commission, Washington, D.C.

MC 124939 Sub-8, Food Haul, Inc., and MC 142181, Liberty Contract Carrier, Inc., now being assigned February 3, 1977, at the Office of Interstate Commerce Commission, Washington, D.C.

F.D. 28143, Soo Line Railroad Company; Chicago, Milwaukee, St. Paul and Pacific Railroad Company and Chicago and North Western Transportation Company—Control—Green Bay and Western Railroad Company and Acquisition of Trackage Rights—by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company in the City of Green Bay, Wisconsin; AB–1 Sub-55, Chicago and North Western Transportation Company; Soo Line Railroad Company; Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Abandonment Between—(A) Arcardia and Wisconsin Rapids, in Trempealeau, Jackson and Wood Counties (B) Plover and Manawa, in Portage and Waupaca Counties (C) New London and Seymour, in Outagemie County and (D) Green Bay, Brown County, Wisconsin; No. AB–7 Sub-28, Chicago, Milwaukee, St. Paul and Pacific Railroad Company; Soo Line Railroad Company; and Chicago and North Western Transportation Company—Abandonment Between—(A) Arcadia and Wisconsin Rapids, in Trempealeau, Jackson and Wood Counties (B) Plover and Manawa, in Portage and Waupaca Counties (C) New London and Seymour, in Outagamie County and (D) Green Bay, Brown County, Wisconsin and AB–57 Sub–3, Soo Line Railroad Company; Chicago, Milwaukee, St. Paul and Pacific Railroad Company; and Chicago and North Western Transportation Company—Abandonment Between—(A) Arcadia and Wisconsin Rapids, in Trempealeau, Jackson and Wood Counties (B) Plover and Manawa, in Portage and Waupaca Counties (C) New London and Seymour, in Outagamie County and (D) Green Bay, Brown County, Wisconsin, has been continued to November 18, 1976 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 138665 Sub-1, J.H.L. Construction Co., Inc., and MC 78228 S Sub 55, J. Miller Express, Inc., now being assigned January 13, 1977, at the Office of Interstate Commerce Commission, Washington, D.C.

MC 19227 Sub-230, Leonard Bros, Trucking Co., Inc., now being assigned February 1, 1977, at the Office of Interstate Commerce Commission, Washington, D.C.

MC 119669 (Sub-57), Tempco Transportation, Inc. is now being dismissed.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–33090 Filed 11–9–76;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 5, 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 within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43265—*Iron or Steel Articles to Points in Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B–637), for interested rail carriers. Rates on iron or steel articles, in carloads, as described in the application, from Alton and Federal, Illinois, also Kansas City, Mo.-Kans., to specified points in Texas. Grounds for relief—Market and carrier competition. Tariff—Supplement 231 to Southwestern Freight Bureau, Agent, tariff 301–F, I.C.C. No. 5098. Rates are published to become effective on December 9, 1976.

FSA No. 43266—*Iron or Steel Articles to Points in Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B–639), for interested rail carriers. Rates on iron or steel articles, in carloads, as described in the application, from Minnequa, Colorado and Chicago, Illinois, to specified points in Texas. Grounds for relief—Market and carrier competition. Tariff—Supplement 231 to Southwestern Freight Bureau, Agent, tariff 301–F, I.C.C. No. 5098. Rates are published to become effective on December 9, 1976.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–33089 Filed 11–9–76;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY ELIMINATION OF GATEWAY APPLICATIONS

NOVEMBER 5, 1976.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065 (d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of verified statements in opposition with the Interstate Commerce Commission on or before December 10, 1976. (This procedure is outlined in the Commission's report and order in Gateway Elimination, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

No. MC 113855 (Sub-No. 356G) (Partial Correction) filed August 9, 1976, published in the FEDERAL REGISTER issue of October 6, 1976, and republished in part as corrected this issue. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and metal articles*, (D) Between points in Iowa on and north of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 6 to junction unnumbered highway (formerly portion U.S. Highway 6), thence along unnumbered highway through Victor and Brooklyn, Iowa to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 90 (formerly portion of U.S. Highway 6), thence along Iowa Highway 90 through Colfax, Iowa to Des Moines, Iowa on and east of U.S. Highway 65 from Des Moines, to the Iowa-Minnesota State line, on the one hand, and, on the other, points in Minnesota, Indiana, Ohio, Kentucky, West Virginia, Virginia (except points west and north of a line beginning at the Virginia-Maryland State line along Interstate Highway 81, thence along Interstate Highway 8 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Virginia-North Carolina State line), North Carolina (except points west of U.S. Highway 321), Maryland (except points west of Interstate Highway 81, Delaware, New Jersey, New York, Massachusetts, Rhode Island, Connecticut, the District of Columbia, the following described portions of Pennsylvania: Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, Pa., and mines in that part of Pennsylvania south and west of a line beginning at the Pennsylvania-Ohio State line and extending along U.S. Highway 224 to junction U.S. Highway 422,

Thence along U.S. Highway 422 to junction U.S. Highway 19 near Rose Point, Pa., thence along U.S. Highway 19 to junction unnumbered highway near Portersville, Pa., thence along unnumbered highway via Prospect, Pa., to junction U.S. Highway 422, thence along U.S. Highway 522, thence along U.S. Highalong U.S. Highway 22 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Pennsylvania Highway 641 (formerly Pennsylvania Highway 433), thence along Pennsylvania Highway 641 to junction Pennsylvania Highway 997, and thence along Pennsylvania Highway 997 to the Pennsylvania-Maryland State line, including points on the indicated portions of the highways specified, points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15, near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway through Clear Spring, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Montour, Northumberland, and Columbia Counties, Pa., points in Illinois south of U.S. Highway 6 and on, north, and west of a line beginning at Quincy, Ill., and extending along Illinois Highway 104 to junction U.S. Highway 66, thence northward along U.S. Highway 66 to junction Illinois Highway 53 (formerly alternate U.S. Highway 66) at or near Gardner, Ill., thence along Illinois Highway 53 to junction U.S. Highway 66 at a point approximately 10 miles northeast of Plainfield, Ill., and thence along U.S. Highway 66 to Chicago, Ill.

NOTE.—The purpose of this filing is to eliminate the gateways of Elgin, Ill., points in Ohio, and Davenport, Iowa. The purpose of this partial republication is to remove the restriction.

IRREGULAR-ROUTE COMMON CARRIERS OF PROPERTY-ELIMINATION OF GATEWAY LETTER NOTICES

NOTICE

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before November 22, 1976. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 40215 (Sub-No. E1) (Correction), filed May 17, 1974, published in the FEDERAL REGISTER issue of August 26, 1976, and republished as corrected, this issue. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 N. 5th St., Salina, Kans. 67401. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) from points in Arizona to points in Arkansas, on and north of a line beginning at the Oklahoma-Arkansas State line and extending along U.S. Highway 270 to its junction U.S. Highway 79, thence along U.S. Highway 79 to junction U.S. Highway 49, thence along U.S. Highway 49 to the Arkansas-Tennessee State line; (2) from points in Arizona on and south of a line beginning at the Arizona-California State line and extending along U.S. Highway 66 to the Arizona-New Mexico State line, to points in Nebraska; (3) from points in Arizona on and south of a line beginning at the California-Arizona State line and extending along Interstate Highway 40 to its intersection with U.S. Highway 66, thence along U.S. Highway 66 to Interstate Highway 40, thence along Interstate Highway 40 to the Arizona-New Mexico State line, to all points in South Dakota. The purpose of this filing is to eliminate the gateway of Garden City, Kans.

NOTE.—The purpose of this republication is to correct the territorial descriptions previously omitted and timely filed. The remainder of this letter-notice remains as previously published.

No. MC–40215 (Sub-No. E17), filed May 17, 1974. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 N. 5th St., Salina, Kans. 67401. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) from points in Minnesota to points in Arizona, Colorado, Oklahoma, New Mexico, Texas; (b) from points in Minnesota on and west of a line beginning at the International Boundary between United States and Canada, and extending along U.S. Highway 53, to junction U.S. Highway 61, thence along U.S. Highway 61 to junction U.S. Highway 52, thence along U.S. Highway 52 to the Minnesota-Iowa State line, to points in Arkansas on and west of a line beginning at the Missouri-Arkansas State line, and extending along Arkansas Highway 139 to junction Arkansas Highway 135, thence along Arkansas Highway 135 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Arkansas-Tennessee State line; (c) from points in Minnesota to points in California on and south of a line beginning at the Pacific Ocean and extending along U.S. Highway 66 to the California-Arizona State line; (d) from points in Minnesota on and south of a line beginning at the Minnesota-South Dakota State line, and extending north along Minnesota Highway 23, to junction U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-Wisconsin State line to points in California; (e) from points in Minnesota on and west of a line beginning at the International Boundary between United States and Canada, and extending along U.S. Highway 72 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Minnesota-Iowa State line, to points in Kentucky on and south of a line beginning at the Kentucky-Missouri State line and extending along U.S. Highway 62 to junction Interstate Highway 64, thence along Interstate Highway 64 to junction Kentucky Highway 460, thence along Kentucky Highway 460 to junction Kentucky Highway 40, thence along Kentucky Highway 40 to the Kentucky-West Virginia State line;

(f) from points in Minnesota on and south and west of a line beginning at the South Dakota-Minnesota State line and extending along U.S. Highway 212 to junction Minnesota Highway 7, thence along Minnesota Highway 7 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Minnesota-Iowa State line, to points in Kentucky; (g) from points and places in Minnesota on and west of a line beginning at the International Boundary line between Canada and United States, and extending along U.S. Highway 71 to junction Minnesota Highway 6, thence along Minnesota Highway 6 to junction Minnesota Highway 38, thence along Minnesota Highway 38 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Minnesota-Iowa State line, to points in Missouri on and south of a line beginning at the Kansas-Missouri State line, and extending along U.S. Highway 50 to the Missouri-Illinois State line; (h) from points in Minnesota on and north of a line beginning at the Minnesota-North Dakota State line, and extending along U.S. Highway 10 to junction Minnesota Highway 210, thence along Minnesota Highway 210 to junction of Minnesota Highway 23, thence along Minnesota Highway 23 to Lake Superior, to points in Nebraska on and east and south of a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 83 to its junction of U.S. Highway 34, thence along U.S. Highway 34 to the Nebraska-Iowa State line; (i) from points in Minnesota on and east and south of a line beginning at the International Boundary between United States and Canada, and extending along U.S. Highway 59 to junction U.S. Highway 10, thence along U.S. Highway 10 to the Minnesota-North Dakota State line, to points in Nevada on and south of a line beginning at the Nevada-California State line and extending along U.S. Highway 50 to the Nevada-Utah State line;

(j) From points in Minnesota on and south of a line beginning at the South Dakota-Minnesota State line and extending along Minnesota Highway 30 to junction of U.S. Highway 16, thence along U.S. Highway 16 to the Minnesota-Wisconsin State line to points in Nevada on and west and south of a line beginning at the Oregon-Nevada State line, and extending along U.S. Highway 95 to junction of U.S. Highway 40, thence along U.S. Highway 40 to the Nevada-California State line; (k) from points in Minnesota on and west of a line beginning at the International Boundary Line between the United States and Canada and extending along Minnesota Highway 72 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Minnesota-Iowa State line, to points in Tennessee; (l) from points in Minnesota on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 63 to the Minnesota-Wisconsin State line, to points in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line, and extending along U.S. Highway 641 to its junction of Tennessee Highway 77, thence along Tennessee Highway 77 to its junction of Tennessee Highway 22, thence along Tennessee Highway 22 to the Tennessee-Alabama State line; (m) from points in Utah on and south of a line beginning at the Utah-Colorado State line and extending along Interstate Highway 70 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction of Utah Highway 153, thence along Utah Highway 153 to its junction Utah Highway 21, thence along Utah Highway 21 to the Utah-Nevada State line. The purpose of this filing is to eliminate the gateways of Garden City, Concordia, Kansas City, Marysville, Kans., and Manhattan to Independence, Kans.

No. MC 41406 (Sub-No. E87) (Correction), filed November 13, 1975, published in the FEDERAL REGISTER issue of July 2, 1976 and republished, as corrected, this issue. Applicant: ARTIM TRANSPORT SYSTEM, INC., 7105 Kennedy Avenue, Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from points in Lackawanna and Hamburg Townships, Erie County, New York, to points in Iowa on and west of a line beginning at the Iowa-Illinois State line at Keokuk, Iowa, and extending along U.S. Highway 218 to junction U.S. Highway 151, thence along U.S. Highway 151 to junction Iowa Highway 13, thence along Iowa Highway 13 to the Iowa-Wisconsin State line. The purpose of this filing is to eliminate the gateways of Sturgis, Mich., Gary, Ind., and plantsite of Jones & Laughlin Steel Corporation located in Putnam County, Ill.

NOTE.—The purpose of this republication is to correct U.S. Highway *51* to read U.S. Highway *151*

No. MC 41406 (Sub-No. E102) (Correction), filed November 13, 1975, and published in the FEDERAL REGISTER issue of July 24, 1976 and republished, as cor-

rected, this issue. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from Pittsburgh, Pa. and Youngstown, Ohio and points within 50 miles of each located in Ohio, Pennsylvania, and West Virginia, to points in St. Louis, Mo. The purpose of this filing is to eliminate the gateway of Middletown, Ohio. The purpose of this correction is to correct the gateway to read as "Middletown, Ohio".

No. MC 41406 (Sub-No. E128) (Correction), filed November 13, 1975, published in the FEDERAL REGISTER issue of July 24, 1976, and republished, as corrected, this issue. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, Ind. 46323. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and steel products*, from Ashland, Beaverluck, Cannonsburg, Catlettsburg, Clarksburg, Lynn, Maysville, Minerva, Mt. Auburn, Newport, and Orangeburg, Ky., to St. Louis, Mo. The purpose of this filing is to eliminate the gateway of Middletown, Ohio.

NOTE.—The purpose of this republication is to correct the gateway to read "Middletown, Ohio".

No. MC 46990 (Sub-No. E5), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York on and east of a line beginning at the Pennsylvania-New York State line and extending along Interstate Highway 81 to the International Boundary line between the United States and Canada located at or near Omar, N.Y., on the one hand, and, on the other, points in Florida. The purpose of this filing is to eliminate the gateway of Millersburg, Pa.

No. MC 46990 (Sub-No. E6), filed June 4, 1974. Applicant: TRANS-COUNTRY VAN LINES, INC., 3300 Veteran Highway, Bohemia, N.Y. 11716. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York on and east of a line beginning at the Pennsylvania-New York State line and extending along Interstate Highway 81 to the International Boundary line between the United States and Canada located at or near Omar, N.Y., on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate the gateway of Millersburg, Pa.

No. MC 95540 (Sub-No. E718) (Correction), filed May 20, 1974, and published in the FEDERAL REGISTER, October 28, 1976, and republished as corrected, this issue. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, Fla. 33802. Applicant's representative: Benjy W. Fincher (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: The commodities classified as (a) *meats, meat products, and meat by-products* in the Appendix to the report in *Modification of Permits-Packing House Products*, 48 M.C.C. 628, from Detroit, Mich., to those points in Louisiana on and southeast of a line beginning at the Gulf of Mexico and extending along unnumbered Louisiana Highway to junction U.S. Highway 167 (excluding Abbeville), thence along U.S. Highway 167 to junction Louisiana Highway 94, thence along Louisiana Highway 94 to junction Interstate Highway 20, thence along Interstate Highway 20 to junction U.S. Highway 61, (excluding Baton Rouge), thence along U.S. Highway 61 to junction U.S. Highway 90, thence along U.S. Highway 90 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Louisiana Highway 41, thence along Louisiana Highway 41 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Louisiana-Mississippi State line.

The purpose of this filing is to eliminate the gateway of Tifton, Ga. The purpose of this correction is to correct the "E" number to read as E-718 instead of E-719.

No. MC113459 (Sub-No. E121), filed May 6, 1974. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: Robert Fisher (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal tubing and pipe*, the transportation of which, by reason of size or weight, require the use of special equipment, between points in Kansas on and west of a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 75 to junction Interstate Highway 35, thence along Interstate Highway 35 to the Kansas-Oklahoma State line, on the one hand, and, on the other, points in Alabama on and south of a line beginning at the Alabama-Mississippi State line and extending along U.S. Highway 82 to junction Interstate Highway 59, thence along Interstate Highway 59 to junction U.S. Highway 78, thence along U.S. Highway 78 to the Alabama-Georgia State line. The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-33085 Filed 11-9-76;8:45 am]

[Notice No. 148]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 4, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than November 26, 1976. 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 ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 730 (Sub-No. 396TA), filed October 28, 1976. Applicant: PACIFIC INTERMOUNTAIN EXPRESS COMPANY, 1417 Clay St., P.O. Box 958, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed*, in bulk, in tank vehicles, from Anaheim, Calif., and Bisbee, Ariz., to Shickley, Nebr., and Des Moines, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Delst Chemical & Research, Inc., 1156 N. Fountain Way, Anaheim, Calif. 92806. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 211 Main St., Suite 500, San Francisco, Calif. 94105.

No. MC13134 (Sub-No. 44TA), filed October 28, 1976. Applicant: GRANT TRUCKING, INC., Ohio State Route No. 93 North, P.O. Box 256, Oak Hill, Ohio 45656. Applicant's representative: David A. Turano, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: (1)

Refractories and refractory products; and (2) *Materials, equipment, supplies and machinery* used in the manufacture, processing or distribution of refractories and refractory products, between Oak Hill, Ohio, and points in Ohio within fourteen miles of Oak Hill, on the one hand, and, on the other, points in Arkansas, Colorado, Kansas, Mississippi, Nebraska, North Dakota, Oklahoma and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: William J. Hartell, General Traffic Manager, A. P. Green Refractories Co., Subsidiary of the United States Gypsum Company, Mexico, Mo. 65265. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Bldg., 500 Quarrier St., Charleston, W. Va. 25301.

No. MC 51146 (Sub-No. 478TA), filed October 27, 1976. Applicant: SCHNEIDER TRANSPORT, INC., 2661 S. Broadway, P.O. Box 2298, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite facility of Kraft Foods, New Ulm, Minn., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Pennsylvania, New York, New Jersey, Delaware, Virginia, Maryland, and the District of Columbia, restricted to the transportation of traffic originating at New Ulm, Minn., and destined to the named destination points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kraft Foods, 500 Peshigo Ct., Chicago, Ill. 60690. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg. & Courthouse, 517 E. Wisconsin Ave., Room 619 Milwaukee, Wis. 53202.

No. MC 61231 (Sub-No. 96TA), filed October 28, 1976. Applicant: ACE LINES, INC., 4143 E. 3rd St., Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Perlite products and vermiculite products and insulation materials*, from the plantsite of W. R. Grace & Co., at Milwaukee, Wis., to points in Illinois, Iowa, Kansas, Missouri and Nebraska, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. R. Grace & Co., 62 Whittemore Ave., Cambridge, Mass. 02140. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 99161 (Sub-No. 7TA), filed October 27, 1976. Applicant: ALABAMA FREIGHT, INC., P.O. Box 10032, Birmingham, Ala. 35202. Applicant's representative: John M. Nader, Route 3, Box 4, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, and articles* made of brass, bronze, iron, copper, steel, or aluminum (except commodities in bulk, in tank vehicles), (1) between the plantsites and storage facilities of O'Neal Steel, Inc., located at or near Birmingham, Ala., and Little Rock, Ark., (2) between the plantsites and storage facilities of O'Neal Steel, Inc., located at or near Birmingham, Ala., and Little Rock, Ark., on the one hand, and, on the other, the plantsites and storage facilities of O'Neal Steel, Inc., located at or near Shreveport and Lafayette, La., (3) from the plantsites and storage facilities of O'Neal Steel, Inc., located at or near Birmingham, Ala., and Little Rock, Ark., to points in Louisiana; and (4) from the plantsites and storage facilities of O'Neal Steel, Inc., located at or near Birmingham, Ala., Shreveport, La., and Lafayette, La., to points in Arkansas. Restriction: Restricted to the transportation of traffic originating at or destined to the plantsites and storage facilities of O'Neal Steel, Inc., located at or near Birmingham, Ala., Little Rock, Ark., Shreveport, La., or Lafayette, La., for 180 days. Supporting shipper: O'Neal Steel, Inc., 744 North 41st St., Birmingham, Ala. 35202. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 111729 (Sub-No. 685TA), filed October 27, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cut flowers, decorative greens, and green plants*, when moving at the same time and in the same vehicle with commodities the transportation of which is subject to economic regulation, between points in Florida, on traffic having an immediately prior or subsequent movement by air, for 180 days. Supporting shipper: Buning the Florist, 144 E. Las Olas Blvd., Ft. Lauderdale, Fla. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 113908 (Sub-No. 386TA), filed October 27, 1976. Applicant: ERICKSON TRANSPORT CORP., 2105 E. Dale St., P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Neutral grape or grain spirits; alcohol and alcoholic liquors*, in bond, in bulk, in tank vehicles, from Delavan, Ill., and the commercial zone thereof, to points in New York, South Carolina and Virginia, for 180 days. Supporting shipper: Hiram Walker & Sons, Inc., Foot of Edmund St., Peora, Ill. 61601. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 117940 (Sub-No. 191TA), filed October 27, 1976. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products* (except in bulk), from the plantsite and facilities of Diamond Crystal Salt Company, at or near Akron, Ohio and St. Clair, Mich., to points in Georgia, North Carolina, South Carolina, Tennessee and Virginia, restricted to shipments originating at named origins and destined to named destinations, for 180 days. Supporting shipper: Diamond Crystal Salt Company, 916 S. Riverside Ave., St. Clair, Mich. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 514 Federal Bldg. & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 119789 (Sub-No. 309TA), filed October 29, 1976. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Los Angeles, Calif., to points in Florida and Georgia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ward Foods Company, Inc., Gold Ring Meat Division, 3461 E. Vernon Ave., Los Angeles, Calif. 90058. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 123157 (Sub-No. 28TA), filed October 27, 1976. Applicant: CTI, P.O. Box 397, Rillito, Ariz. 85246. Applicant's representative: A. Michael Bernstein, 1441 E. Thomas Road, Phoenix, Ariz. 85014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flyash*, from the Southern California Edison Mohave Power Station, located at the South Tip of Nevada, to points in California, for 180 days. Supporting shipper: Western Ash Company, 3640 S. 19th Ave., Phoenix, Ariz. 85036. Send protests to:

Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 124170 (Sub-No. 62TA), filed October 28, 1976. Applicant: FROSTWAYS, INCORPORATED, 3900 Orleans, Detroit, Mich. 48207. Applicant's representative: William J. Boyd, 600 Enterprise Drive, Suite 22, Oak Brook, Ill. 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared flour mixes and frosting or icing mixes*, from Chelsea, Mich., to points in Georgia, Tennessee, North Carolina, South Carolina and Florida, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chelsea Milling Company, Clarence L. Athanson, General Traffic Manager, Chelsea, Mich. 48118. Send protests to: James A. Augustyn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell Ave., Detroit, Mich. 48226.

No. MC 133592 (Sub-No. 4TA), filed October 28, 1976. Applicant: BARNER AND SONS, INC., 502 Barner St., P.O. Box 637, Fordyce, Ark. 71742. Applicant's representative: Ashley Barner, P.O. Box 905, Crossett, Ark. 71635. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from the plantsite of Georgia-Pacific Corporation, at or near Stamps, Ark., to the plantsite of International Paper Company, at or near Spring Hill, La., under a continuing contract with Georgia-Pacific Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corporation, P.O. Box 520, Crossett, Ark. 71635. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 135082 (Sub-No. 36TA), filed October 28, 1976. Applicant: BURSCH TRUCKING, INC., doing business as ROADRUNNER TRUCKING, INC., 415 Rankin Road, N.E., P.O. Box 26748, Albuquerque, N. Mex. 87125. Applicant's representative: D. F. Jones (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing products* (except commodities in bulk moving in tank vehicles), from Albuquerque, N. Mex., to points in California, Idaho, Montana, Nebraska, Nevada and Wyoming, for 180 days. Supporting shippers: Nical, Inc., Ted Gonzales, President Plant Manager, 1621 Williams, S.E., Albuquerque, N. Mex. 87102. Georgia-Pacific Corporation, Roy M. Seim, Mgr. of Transportation Services and Audit, 900 W.W. Fifth Ave., Portland, Oreg. 97204. Send protests to: John H. Kirkemo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Bldg., 517 Gold Ave., S.E., Albuquerque, N. Mex. 87101.

No. MC 136228 (Sub-No. 24TA), filed October 26, 1976. Applicant: LUISI TRUCK LINES, INC., P.O. Box 606, New Walla Walla Hwy. No. 11, Milton-Freewater, Oreg. 97862. Applicant's representative: Philip Skofstad, P.O. Box 594, Gresham, Oreg. 97030. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hanging beef carcasses, fresh, frozen meat*, from Wallula, Wash., to Portland, Clackamas, Sublimity, Eugene, and Medford, Oreg., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Columbia Foods, Inc., P.O. Box 926, Pasco, Wash. 99301. Send protests to: W. J. Huetig, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 136385 (Sub-No. 4TA), filed October 28, 1976. Applicant: HALL WAY, INC., P.O. Box 22, Ankeny, Iowa 50021. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats*, from the plant of Spencer Foods, at Spencer, Iowa, to Aurora, Ill., and Chicago, Ill., and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Spencer Foods, Inc., P.O. Box 1228, Spencer, Iowa 51301. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 136897 (Sub-No. 20TA), filed October 26, 1976. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 W. Elwood Road, Phoenix, Ariz. 85041. Applicant's representative: Donald Fernaays, 4040 E. McDowell Road, Suite 312, Phoenix, Ariz. 85008. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by a retail mail order house (except commodities in bulk and wearing apparell loose on hangers), from the Los Angeles Harbor Commercial Zone, to Tempe, Ariz., under a continuing contract with Ambassador International, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ambassador International, 711 W. Broadway, Tempe, Ariz. 85282. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 138274 (Sub-No. 36TA) (amendment) filed October 12, 1976, published in the FEDERAL REGISTER issue of October 26, 1976, and republished as amended this issue. Applicant: SHIPPERS BEST EXPRESS, INC., 2151 N. Redwood Road, Salt Lake City, Utah 84116. Applicant's representative: Chester Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61, M.C.C. 209 and 766 (except commodities in bulk), from Fort Morgan, Colo., to Chicago, Ill.; Covington and Louisville, Ky.; Claremont, N.H.; New York City and Schenectady, N.Y.; Newark and Hawthorne, N.J.; Bangor and Portland, Maine; Detroit, Mich.; Boston, Mass.; Hartford, Conn.; Cleveland and Salem, Ohio; Los Angeles, San Diego, San Jose, San Francisco, Oakland, Sacramento, Calif; Las Vegas and Reno, Nev.; Seattle and Spokane, Tacoma, Wash.; and Portland Oreg., and their respective commercial zones, for 180 days. Supporting shippers: Morgan Colorado Beef Company, RD No. 1; and A & Z Meat Processing Co., Inc., P.O. Box 956, Ft. Morgan, Colo. 80701. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 74138. The purpose of this republication is to amend the territorial description in this proceeding.

No. MC 139391 (Sub-No. 5TA), filed October 28, 1976. Applicant: G & H TRANSPORTATION CO., INC., P.O. Box 157, Windener, Ark. 72394. Applicant's representative: Frank B. Hand, Jr., P.O. Box 187, Berryville, Va. 22611. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal printing press rollers*, in crates, in van type trailers, between the facilities of Arcata Graphics, at Depew, N.Y., on the one hand, and, on the other, the facilities of S & M Rotogravure Service, Incorporated, at New Berlin, Wis., under a continuing contract with Arcata Graphics, 180 days. Supporting shipper: Arcata Graphics, T C Industrial Park, Depew, N.Y. 14043. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 139495 (Sub-No. 176TA), filed October 28, 1976. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 E. 8th St., Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St., NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Midland Glass Co., Inc., located at or near Cliffwood, N.J., to Fort Worth, Tex., for 180 days. Supporting shipper: Midland Glass Co., Inc., P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101 Litwin Bldg., 110 N. Market, Wichita, Kans. 67202.

No. MC 140469 (Sub-No. 6TA), filed October 29, 1976. Applicant: FUNCTIONAL MARKETING SYSTEM, INC., 147-02 Liberty Ave., Jamaica, N.Y. 11435.

Applicant's representative: Larsh B. Mewhinney, 235 Mamaroneck Ave., White Plains, N.Y. 10605. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Books, and educational materials, equipment and supplies*, between points in Hudson, Essex and Union Counties, N.J., and New York, N.Y., on the one hand, and, on the other, points in Putnam County, N.Y., and Fairfield County, Conn., under a continuing contract with Encyclopedia Britannica, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Encyclopedia Britannica, Inc., 425 N. Michigan Ave., Chicago, Ill. 60611. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 141109 (Sub-No. 1TA), filed October 28, 1976. Applicant: BINGHAM TRUCKING CORPORATION, P.O. Box 466, Booneville, Miss. 38829. Applicant's representative: John Paul Jones, P.O. Box 3140, Front Street Sta., 189 Jefferson, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from Chickasaw, Itawamba, Lee, Pontotoc, Prentiss, Tishomingo, and Union Counties, Miss., to points in the United States (except Alaska and Hawaii); and (2) *Parts, supplies, raw materials and equipment* used in the manufacture of furniture, from points in the United States (except Alaska and Hawaii), to Chickasaw, Itawamba, Lee, Pontotoc, Prentiss, Tishomingo, and Union Counties, Miss., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 16 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 100 N. Main St., Suite 2006, Memphis, Tenn. 38103.

No. MC 141406 (Sub-No. 3TA), filed October 27, 1976. Applicant: COAST COUNTIES EXPRESS, INC., 3306 Glendale Blvd., Los Angeles, Calif. 90030. Applicant's representative: David P. Christianson, 606 S. Olive, Suite 825, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except size and weight commodities, household goods, and commodities in bulk), having a prior or subsequent movement by air, between points at the Naval Air Station, Alameda, Calif.; Naval Air Station, North Island, San Diego, Calif.; Naval Air Station, Point Mugu, Calif.; and Norton Air Force Base, San Bernardino, Calif., on the one hand, and, on the other, points in California, for 180 days. Supporting shippers: Chief, Regulatory Law Office, Office of The Judge Advocate General, Department of the Army, Washington, D.C. 20310. Rockwell International Corporation, 3370 Miraloma Ave., Anaheim, Calif. 92803. Send protests to: Mary A. Francy, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

PASSENGER APPLICATION

No. MC 103210 (Sub-No. 4TA) filed October 29, 1976. Applicant: SERVICE BUS CO., INC., 798 Nepperhan Ave., Yonkers, N.Y. 10703. Applicant's representative: Sidney J. Leshin, 575 Madison Ave., New York, N.Y. 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in special operations, beginning and ending in the City of New York, state of New York, and extending to Philadelphia, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 9 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-33087 Filed 11-9-76;8:45 am]

[Notice No. 149]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 5, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than November 26, 1976. 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 ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2900 (Sub-No. 294TA), filed October 28, 1976. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, Fla. 32209. Applicant's representative: S. E. Somers, Jr., P.O. Box 2408, Jacksonville, Fla. 32203. 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, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving points in West Virginia and points in Kentucky on and east of Interstate Highway 75, as off-route points in connection with carrier's presently authorized regular route operations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 130 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 33641 (Sub-No. 127TA), filed October 28, 1976. Applicant: IML FREIGHT, INC., 2175 S. 3270 West, P.O. Box 30277, Salt Lake City, Utah 84119. Applicant's representative: William S. Richards, 1515 Walker Bank Bldg., P.O. Box 2465, Salt Lake City, Utah 84110. 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, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); between Weiser, Idaho and Spokane, Wash.; from Weiser, Idaho over U.S. Highway 95 to Junction of U.S. Highway 195 near Lewiston, Idaho, thence over U.S. Highway 195 to Spokane, Wash., and return over the same route, serving the intermediate point of Lewiston, Idaho; from Weiser, Idaho over U.S. Highway 95 to Junction of Idaho Highway 58 near Worley, Idaho, thence over Idaho Highway 58 to the Idaho-Washington border, thence continuing on unnumbered Washington Highway to Junction Washington Highway 27, thence over Washington High-

way 27 to Junction Interstate Highway 90, thence over Interstate Highway 90 to Spokane, Wash., and return over the same route, serving the intermediate points of Moscow, Desmet, Tensed, Plummer, and Worley, Idaho; Opportunity, Wash.; and the off-route points of Potlatch, Harrison, St. Maries, St. Joe, Santa, Clar ia, Bovill, Fernwood, Calder, Avery, and Emida, Idaho. Applicant intends to tack its existing authority with MC 334641, at Weiser, Idaho and to interline with all carriers at Spokane, Wash., St. Maries, Plummer, Moscow, Lewiston, and Weiser, Idaho, and to serve all Commercial Zones of all points sought to be served in this application, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 235 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 52110 (Sub-No. 145TA), filed October 29, 1976. Applicant: BRADY MOTORFRATE, INC., P.O. Box 1000, Staunton, Va. 24401. Applicant's representative: Harry J. Jordan, 1000 16th St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, with the usual exceptions, serving the plantsite and warehouse facilities of Meldisco, Inc., at or near Huntington, Ind., in connection with applicant's existing authority to serve Fort Wayne, Ind. Applicant intends to tack its existing authority with MC 52110 and sub numbers thereunder, for 180 days. Supporting shipper: Meldisco, Division of Melville Shoe Corp., Hackensack, N.J. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 82063 (Sub-No. 71TA), filed October 28, 1976. Applicant: KLIPSCH HAULING CO., 10795 Watson Road, St. Loius, Mo. 63127. Applicant's representative: W. E. Klipsch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muria'ic acid*, in bulk, in tank vehicles, from Jacksonville, Ark., to points in Alabama, Iowa, and Kansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Suporting shipper: Arkla Chemical Corp., P.O. Box 715, Little Rock, Ark. 72203. Send protests to: J. P. Werthmann, District Superivsor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 84273 (Sub-No. 6TA), filed October 27, 1976. Applicant: JONES TRUCKING COMPANY, INC., 324 N. Baird St., Green Bay, Wis. 54302. Applicant's representative: Wayne Wilson, P.O. Box 8002, Madison, Wis. 53708. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese, cheese products, and materials, equipment, and supplies* used in the manufacture and distribution of cheese products, between the facilities of L. D. Schreiber Cheese Company, Inc., located at Green Bay Wis., Carthage and Monett, Mo., and Logan, Utah, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Missouri, Utah, and Wisconsin, under a continuing contract with L. D. Schreiber Cheese Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: L. D. Schreiber Cheese Company, Inc., 1607 Main St., Green Bay, Wis. 54302. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Interstate Commerce, U.S. Federal Bldg., & Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 104123 (Sub-No. 78TA), filed October 27, 1976. Applicant: JOHN SCHUTT, JR., INC., 665 River Road, North Tonawanda, N.Y. 14120. Applicant's representative: Richard H. Streeter, 704 Southern Bldg., 15th & H Streets, N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous aluminum chloride*, in bulk or in sealbins, from Alcoa, Tenn., to Mobile, Ala.; Baton Rouge, La.; Carville, La.; St. James, La.; Baltimore, Md.; Hamilton, Picayune, and Gulfport, Miss.; Sugar Creek, Mo.; Bound Brook, N.J.; East Hanover, N.J.; Ashtabula, Ohio; West Elizabeth, Pa.; Institute, W. Va.; Texas City, Tex.; Seadrift, Tex.; Freeport, Tex.; and Port Huron, Mich., for furtherance in foreign commerce, for 180 days. Supporting shipper: Aluminum Company of America, 1501 Alcoa Bldg., Pittsburgh, Pa. 15219. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Bldg., 111 W. Huron St., Buffalo, N.Y. 14202.

No. MC 106223 (Sub-No. 69TA), filed October 27, 1976. Applicant: GREENLEAF MOTOR EXPRESS, INC., 4606 State Road, P.O. Box 667, Ashtabula, Ohio 44004. Applicant's representive: John L. Alden, 1396 W. Fifth Ave., Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from Nitro and Morgantown, W. Va., to points in Ohio and points in Pennsylvania on and west of U.S. Route 219, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Smith Chemical Corporation, Box 40, Dover, Ohio. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 E. Ninth St., Cleveland, Ohio 44199.

No. MC 107993 (Sub-No. 50TA), filed October 28, 1976. Applicant: J. J. WILLIS TRUCKING COMPANY, P.O. Box 5328, Terminal Station, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foam board, insulation, insulated gypsum foam board panels, insulated panels, and insulated building sections*, from the plantsite of Panel Era, Inc., at Dallas, Tex., to points in Arkansas, Arizona, California, Colorado, Louisiana, Kansas, Mississippi, Missouri, New Mexico, Oklahoma, Utah and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Panel Era, Inc., 8001 Carpenter Freeway, Dallas, Tex. 75247. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 111729 (Sub-No. 684TA), filed October 27, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, audit and accounting media* of *all kinds*, between Wilmington, Del., and Levittown, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pomeroy's Dept. Store, Levittown Shipping Center, Levittown, Pa. 19050. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 113573 (Sub-No. 9TA), filed October 29, 1976. Applicant: AR-DEES ALASKA TRUCK LINES, INC., 3025 Rampart Drive, Anchorage, Alaska 99501. Applicant's representative: William A. Joyce (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size, weight or shape require special equipment and/or handling; (1) between Minneapolis and Duluth, Minn.; Minot, N. Dak.; and Seattle, Wash., on the one hand, and, on the other, points in Alaska (except points in the Alaska Panhandle located east of an imaginary line constituting a southward extension of the United States (Alaska)—Canada (Yukon Territory), Boundary Line); (1) between points in Alaska (except points in the Alaska Panhandle located east of an imaginary line constituting a southward extension of the United (Alaska)—Canada (Yukon Territory), Boundary Line), Applicant intends to tack its existing authority with MC 113573 (Sub-No. 6), at Minneapolis and Duluth, Minn.; Minot, N. Dak.; and

Seattle, Wash., and Alcan, Alaska, for 180 days. Supporting shipper: Alyeska Pipeline Service Co., 1835 S. Bragaw, Anchorage, Alaska 99504. Send protests to: Hugh H. Chaffee, Interstate Commerce Commission, P.O. Box 1532, Anchorage, Alaska 99510.

No. MC 116073 (Sub-No. 338TA), filed October 29, 1976. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Ave., P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, and buildings, from the plantsite of Rollohome and Wisconsin Homes, Inc., at Marshfield, Wis., to points in Illinois and Upper Michigan, for 180 days. Supporting shipper: Rollohome Corporation, Wisconsin Homes, Inc., 115 E. Upham, Marshfield, Wis. 54449. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 117765 (Sub-No. 215TA) filed October 29, 1976. Applicant: HAHN TRUCK LINE, INC., P.O. Box 75218, 5315 N.W. 5th St., Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry dog food*, in bags or bales, from Hutchinson, Kans., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Minnesota, Missouri, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, Tennessee, Texas and Wisconsin, for 180 days. Supporting shipper: Kal Kan Foods, Inc., 3386 E. 44th St., Vernon, Calif. 90058. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 117820 (Sub-No. 10TA) filed October 26, 1976. Applicant: AURELIA TRUCKING CO., 2136 Pine Grove Ave., Port Huron, Mich. 48060. Applicant's representative: Robert D. Schuler, 100 W. Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail and chain grocery and food business houses, in vehicles equipped with mechanical refrigeration, from points in Illinois, Indiana and Michigan, to Superior, Wis. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract with Twin Ports Grocery Co., of Superior, Wis., for 180 days. Supporting Shipper: Twin Ports Grocery Co., Vice-President and Director of Operations, C. J. Reinardy, 1230 Poplar Ave., Superior, Wis. 54880. Send protests to: James A. Augustyn, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1110 Broderick Tower, 10 Witherell Ave., Detroit, Mich. 48226.

No. MC 118831 (Sub-No. 144TA) filed October 28, 1976. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, N.C. Applicant's representative: Richard E. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastic lumps, pellets, granules, and powder*, in bulk, from points in Berkeley County, S.C., to points in Pitt County, N.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, Del. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 124402 (Sub-No. 8TA), filed October 27, 1976. Applicant: FLEET LINE, INC., 2909 S. Hickory St., P.O. Box 7026, Chattanooga, Tenn. 37407. Applicant's representative: William A. Roberts (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lard, lard substitute, shortening, vegetable oils, animal oils and blends* thereof (except in bulk, in tank vehicles), from Helena, Ark., to points in North Carolina, South Carolina, Virginia, West Virginia, Tennessee and Florida, under a continuing contract with Armour Food Company, for 180 days. Supporting shipper: Armour Food Company, Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 125433 (Sub-No. 87TA) filed October 26, 1976. Applicant: F-B TRUCK LINE COMPANY, 1945 S. Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: William G. Kos (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood mouldings*, from Live Oak, Calif., to points in Ohio, Indiana, Illinois, Minnesota, Wisconsin, Iowa, North Dakota, South Dakota, Nebraska, Kansas, Arizona, New Mexico, Texas, Oklahoma, Missouri, Arkansas, Alabama, Louisiana, Tennessee and Kentucky, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sunset Moulding Company, P.O. Box 326, Yuba City, Calif. 95991. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 129994 (Sub-No. 16TA) filed October 29, 1976. Applicant: RAY BETHERS TRUCKING, INC., 176 W. Central Ave., Murray, Utah 84107. Applicant's representative: Lon Rodney Kump, 333 E. Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastering and plasterboard joint systems, and materials, supplies and products* used in the installation, application and distribution thereof, from Los Angeles, Orange and San Diego Counties, Calif.; Phoenix, Ariz., and Denver, Colo., to the facilities of Building Products Inc., in Salt Lake County, Utah, restricted to traffic destined to Building Products, Inc., a Utah Corporation, for 180 days. Supporting shipper: Building Products Inc., 165 W. Central Ave., Murray, Utah 84107. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 125 S. State St., Salt Lake City, Utah 84138.

No. MC 133095 (Sub-No. 118TA) filed October 28, 1976. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, 2603 W. Euless Blvd., Euless, Tex. 76039. Applicant's representative: Rocky Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Grand Island, Nebr., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, the District of Columbia and North Carolina, for 180 days. Supporting shipper: Swift Fresh Meats Company, a Division of Swift & Company, 115 W. Jackson Blvd., Chicago, Ill. 60604. Send protests to: Robert J. Kirspel, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 133808 (Sub-No. 1TA) filed October 29, 1976. Applicant: IMPERIAL ROADWAYS, LTD., 484 McPhillips St., Winnipeg, Manitoba, Canada R2X 2G8. Applicant's representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen french fried potatoes* (except in bulk), in temperature controlled vans, from Grand Forks, N. Dak., to ports of entry on the United States-Canada International Boundary Line located in North Dakota, Minnesota and Michigan, for furtherance to Montreal, Quebec, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bar-Well Foods Ltd., 1255 Laird Blvd. T.M.R., Montreal, Quebec, Canada. Send protests to: Ronald R.

Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 133119 (Sub-No. 102TA) filed October 27, 1976. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of the report in *Descriptions in Motor Carrier Certifiactes*, 61 M.C.C. 209 and 766, from the plantsite and storage facilities of American Beef Packers, Inc., located at or near Omaha, Nebr., to points in Georgia and Florida, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M. J. Sheehan, Vice-President of Finance, American Beef Packers, Inc., 7000 W. Center Road, Omaha, Nebr. 68106. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 134477 (Sub-No. 125TA), filed October 26, 1976. Applicant: SCHANNO TRANSPORTATION, INC., 5 W. Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer compounds* (manufactured fertilizers), in containers; *compounds, tree or weed killing*, in containers; *insecticides or fungicides*, in containers (except commodities in bulk), from the facilities of Swift Ag Chemical Co., at or near E. St. Louis, Ill., to points in Oklahoma, Kansas, Nebraska, North Dakota, South Dakota and those points in Iowa on and west of U.S. Highway 169, and those points in Minnesota on and west of U.S. Highway 71 and on and north of Minnesota Highway 210, for 180 days. Supporting shipper: Swift Agricultural Chemicals Corp., 111 W. Jackson Blvd., Chicago, Ill. 60604. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 136669 (Sub-No. 11TA), filed October 26, 1976. Applicant: PROCESSED BEEF EXPRESS, INC., P.O. Box 522, Dakota City, Nebr. 68731. Applicant's representative: Jerry T. Ratledge (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies and equipment* used in the conduct of business by meat packinghouses and hide companies, from points in the United States (except Alaska and Hawaii), to the plantsite and storage facilities utilized by Iowa Beef Processors, Inc., at or near Amarillo, Tex., (except commodities in bulk, in tank vehicles), restricted to traffic originating at and destined to named points, under a continuing contract with Iowa Beef Processors, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: H. L. Dennison, Senior Rate Technician, Iowa Beef Processors, Inc., Dakota City, Nebr. 68731. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 139193 (Sub-No. 44TA) filed October 29, 1976. Applicant: ROBERTS & OAKE, INC., 527 E. 52nd St., North, P.O. Box 1356, Sioux Falls, S. Dak. 57101. Applicant's representative: Jacob P. Billig, Suite 300, 2033 K St., N.W., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in Sections A, B and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk), from Estherville and Sioux City, Iowa, to points in Georgia, North Carolina, South Carolina and Tennessee, under a continuing contract with John Morrell & Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: John Morrell & Co., 208 S. LaSalle St., Chicago, Ill. 60604. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369 Federal Bldg., Pierre, S. Dak. 57501.

No. MC 139193 (Sub-No. 45TA) filed October 29, 1976. Applicant: ROBERTS & OAKE, INC., 527 E. 52nd St., North, P.O. Box 1356, Sioux Falls, S. Dak. 57101. Applicant's representative: Jacob P. Billig, 2033 K St., N.W., Suite 300, Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats*, from Sioux City, Iowa, to points in Massachusetts, New Jersey, and New York, under a continuing contract with John Morrell & Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Morrell & Co., 208 S. LaSalle St., Chicago, Ill. 60604. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369 Federal Bldg., Pierre, S. Dak. 57501.

No. MC 140010 (Sub-No. 6TA) filed October 28, 1976. Applicant: JOSEPH MOVING & STORAGE CO., INC., doing business as, ST. JOSEPH MOTOR LINES, 573 Dutch Valley Road, N.E., Atlanta, Ga. 30309. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St., N.W., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods as defined by the Commission, commodities requiring special equipment, Classes A and B explosives, goods of unusual value, commodities in bulk), from the facilities of Southeastern Bonded Warehouses, Inc., at or near Atlanta, Ga., to points in Alabama, Florida, North Carolina, South Carolina and Tennessee, under a continuing contract with Southeastern Bonded Warehouses, Inc., for 180 days. Supporting shipper: Southeastern Bonded Warehouses, Inc., Manager/Administration, 5180 Phillip Lee Drive, S.W., Atlanta, Ga. 30336. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 140460 (Sub-No. 5TA) filed October 29, 1976. Applicant: COAST REFRIGERATED TRUCKING CO. INC., P.O. Box 188, Holly Ridge, N.C. 28445. Applicant's representative: Herbert Alan Dubin, 1819 H St., N.W., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration (except in bulk), from Jackson, Tenn., to points in Pennsylvania, Maryland, Virginia, Delaware, Maine, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, Vermont and New Hampshire, restricted to traffic originating at the plantsite of Quaker Oats Company, for 180 days. Supporting shipper: The Quaker Oats Company, P.O. Box 2688, 96 ITT Drive, Jackson, Tenn. 38301. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 141197 (Sub-No. 9TA), filed October 28, 1976. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Road, Riverside, Mo. 64150. Applicant's representative: Tom B. Kretsinger, 910 Brookfield Bldg., 101 W. Eleventh St., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum coke*, from Kansas City, Mo., to Riverton and LaCygne, Kans. and Asbury, Mo., restricted to traffic having a prior movement by barge, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Republic Carbon Products, Inc., 8 S. Michigan Ave., Chicago, Ill. 60603. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 141293 (Sub-No. 2TA), filed October 29, 1976. Applicant: J.R.R.W. TRANSPORT, INC., P.O. Box 5186, Iowa City, Iowa 52240. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food products ingredients*, in pack-

ages and containers, *and powdered milk*, which is exempt from economic regulation under Section 203(b)(6) of the Act, in mixed loads with food products ingredients; (1) from Iowa City, Iowa, to points in Alabama, Arkansas, Colorado, Illinois, Indiana, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, Oklahoma, Tennessee, Texas, and Wisconsin; (2) from points in Illinois, Indiana, Louisiana, Missouri, and Wisconsin, to Iowa City, Iowa; and (3) from Decatur, Ill., to points in Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Mississippi, Nebraska, Oklahoma, Tennessee, Texas, and Wisconsin, under a continuing contract with J. M. Swank Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. M. Swank Co., Inc., 615 Highway 6 By-Pass, Iowa City, Iowa 52240. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 142065 (Sub-No. 2TA), filed October 26, 1976. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Box 232, Mulberry, Ark. 72947. Applicant's representative: Don Garrison, 204 Highway 71 North, Suite 3, Springdale, Ark. 72764. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Swimming pool supplies, swimming pool equipment, toys and games, and swimming pools*, from Amsterdam and Gloversville, N.Y., to points in Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, and Washington, under a continuing contract with Coleco Industries, Inc., Gloversville, N.Y., for 180 days. Supporting shipper: Coleco Industries, Inc., P.O. Box 1100, Gloversville, N.Y. 12078. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 142102 (Sub-No. 1TA), filed October 22, 1976. Applicant: JOHN ROSS, doing business as JOHN ROSS TRUCKING, 1050 N.W. 125th St., Miami, Fla. 33168. Applicant's representative: John P. Bond, 2766 Douglas Road, Miami, Fla. 33133. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furniture upholstery fabric, wood furniture frames, polystyrene beads, and other furniture components* used in the manufacture of furniture, from Westhaven, Conn.; Fall River, Lawrence, Randolph, and Amesburry, Mass.; New Brunswick and Finderne, N.J.; and Hickory, N.C., to Miami, Fla.; and from Miami, Fla. to Randolph Mass. Applicant intends to tack its existing authority with MC 142102, for 180 days. Supporting shipper: Melville, Inc., 3754 N.W. 54th St., Miami, Fla. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, 8510 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 142204 (Sub-No. 4TA), filed October 29, 1976. Applicant: ROBERT R. GUNVILLE, JR., P.O. Box 27, Iron Mountain, Mich. 49801. Applicant's representative: John Duncan Varda, Box 2509, 121 S. Pinckney St., Madison, Wis. 53701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump trailers, from Escanaba and Gladstone, Mich., to the plantsite of Niagara of Wisconsin Paper Corporation, Niagara, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Niagara of Wisconsin Paper Corporation, 1101 Mill St., Niagara, Wis. 54151. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Bldg., Lansing, Mich. 48933.

No. MC 142289 (Sub-No. 3TA), filed November 1, 1976. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, N.J. 08753. Applicant's representative: Rita Tripodi (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Doors and materials and supplies* used in connection therewith, uncrated and returned and rejected material, from Sunbury, Pa. to Ormrod, Pa. and Lakewood, N.J., and returned and rejected material to Sunbury, Pa., under a continuing contract with The Level Line, Inc., for 180 days. Supporting shipper: The Level Line, Inc., James St., Lakewood, N.J. 08701. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 E. State St., Room 204, Trenton, N.J. 08608.

No. MC 142578 (Sub-No. 1TA), filed October 28, 1976. Applicant: L. & M. DISTRIBUTORS, INCORPORATED, 1705 Murphy, Missoula, Mont. 59801. Applicant's representative: Roy D. Lewellen (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pre-cut and knocked down log homes and hardware and accessories* pertaining to the erection thereof and (2) Materials and supplies used in the construction of pre-cut knocked down log homes; (1) from the facilities of Alpine log Homes, at or near Victor, Mont., to points in the United States and Alaska and (2) from all points in the United States and Alaska, to the facilities of Alpine Log Homes, at or near Victor, Mont., under a continuing contract with Alpine Log Homes, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ken L. Thuerbach, President, Alpine Log Homes, Inc., P.O. Box 85, Victor, Mont. 59875. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Ave., North, Billings, Mont. 59101.

No. MC 142584TA, filed October 27, 1976. Applicant: JOHN BISS, doing business as BISS COMPANY, 11650 W. Columbia, Boise, Idaho 83705. Applicant's representative: Conley Ward, Jr., 106 N. 6th, Suite 222, Boise, Idaho 83702. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used motor vehicles*, between points in Montana, Idaho, Washington, Oregon, on the one hand, and, on the other, points in Idaho, under a continuing contract with U.S. Government, GSA, for 180 days. Supporting shipper: U.S. Government, GSA, Box 2, U.S. Courthouse and Federal Bldg., Boise, Idaho 83724. Send protests to: Barney L. Hardin, District Supervisor, 555 W. Fort St., Box 07, Boise, Idaho 83724.

No. MC 142585TA, filed October 28, 1976. Applicant: MOORE'S AIRPORT LIMOUSINE SERVICE, INC., P.O. Box 8475, Greensboro, N.C. 27410. Applicant's representative: Willie L. Moore (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Telephone equipment, material and supplies* used in the manufacture of telephone equipment having a prior or subsequent out-of-state movement via air freight, between the Greensboro-Winston-Salem-High Point Regional Airport, and the Western Electric Company, Inc., at Winston-Salem and Greensboro, N.C., under a continuing contract with Western Electric Company, Inc., for 180 days. Supporting shipper: Western Electric Company, Inc., 6701 Roswell Road, Atlanta, Ga. 30328. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 26896, Raleigh, N.C. 27611.

PASSENGER APPLICATION

No. MC 142583TA, filed October 28, 1976. Applicant: BOBBIE J. LONGWITH, doing business as CINDER TOURS, c/o White House Inn, White House, Tenn. 37188. Applicant's representative: Harold H. Cole, P.O. Box 170, White House, Tenn. 37188. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Warren County, Ky., and extending to points in Williamson, Davidson, Sumner and Robertson Counties, Tenn., for 180 days. Supporting shippers: New Friendship Inn; Red Carpet Inn; and 6 Motel, By Pass 231, Bowling Green, Ky. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-33088 Filed 11-9-76;8:45 am]

[Notice No. 68]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 10, 1976.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212a(b) in connection with transfer application under section 212a(b) and Transfer Rules, 49 C.F.R. Part 1132:

No. MC–FC–76812. By application filed November 2, 1976, S & S EXPRESS, INC., 8 Plain Street, Easthampton, MA., 01027, seeks temporary authority to lease a portion of the operating rights of NATIONAL TRANSPORTATION, COMPANY, DBA NATIONAL TRANSPORT 101, Eastern and Moonachie Avenues, Carlstadt, N.J., 07072, under section 210 a(b). The transfer to S & S EXPRESS, INC., of a portion of the operating rights of NATIONAL TRANSPORTATION COMPANY, DBA NATIONAL TRANSPORT 101, is presently pending.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.76–33084 Filed 11–9–76;8:45 am]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC–85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before November 30, 1975. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence on or before December 10, 1976, subject to its tariff publication effective date.

P–35–76 (Special Certificate—Waste Products), filed October 18, 1976. Applicant: LOVE RENTAL & LEASING CORP., 2098 Calumet Avenue, Toledo, Ohio 43607. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *waste paper, slag, and scrap metals*, from Roseville, Mich. and Toledo, Ohio, to points in Arkansas, Connecticut, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Tennessee, and Wisconsin, in furtherance of recognized pollution control programs sponsored by: (1) Great Lakes Paper Stock Corp. of Roseville, Mich., for the purpose of recycling paper; and (2) Temple Builders & Supply, Inc. of Toledo, Ohio, for the purpose of reclaiming scrap metals and reusing slag for roadbed basis.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–33086 Filed 11–9–76;8:45 am]

federal register

WEDNESDAY, NOVEMBER 10, 1976

PART II:

SECURITIES AND EXCHANGE COMMISSION

■

APPLICATION OF NATIONAL SECURITIES CLEARING CORPORATION FOR REGISTRATION AS A CLEARING AGENCY

Proposed Conditions for Approval, Request for Comments and Extension of Time

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12954; November 3, 1976]

APPLICATION OF NATIONAL SECURITIES CLEARING CORPORATION FOR REGISTRATION AS A CLEARING AGENCY

Notice of Extension of Time for Conclusion of Proceedings, Proposed Conditions for Approval; and Request for Comments

The Securities and Exchange Commission today announced that it is considering approving, subject to four proposed conditions, the application of National Securities Clearing Corporation ("NSC") for registration as a clearing agency; it is requesting public comment on the proposed conditions by November 19, 1976; and, in order to obtain and review comment on the proposed conditions, it is extending to November 29, 1976, the time for concluding proceedings in connection with the application.

INTRODUCTION AND BACKGROUND

On March 29, 1976, NSCC filed with the Commission an application for registration as a clearing agency which contemplated, among other things, the performance by NSCC of the clearing and settlement operations currently performed by the American Stock Exchange Clearing Corporation ("ASECC"), the National Clearing Corporation ("NCC") and Stock Clearing Corporation ("SCC"). On May 28, 1976, the Commission instituted proceedings pursuant to subsection 17A(b) and subparagraph 19(a)(1)(B) of the Act to determine whether to grant or deny the application; as part of the proceedings, the Commission held oral hearings on June 16–18, 1976.[1]

The Commission currently is considering approving the NSCC application, subject to the following conditions to be satisfied by NSCC before it may begin operating, as a single integrated system, the clearing and settlement systems currently operated by ASECC, NCC and SCC:

(i) That NSCC establish full interfaces with each of the Midwest Clearing Corporation ("MCC"); Pacific Clearing Corporation ("PCC"); and Stock Clearing Corporation of Philadelphia ("SCCP") and appropriate links with Boston Stock Exchange Clearing Corporation ("BSE CC") and TAD Depository Corporation ("TADDC") and offer to operate each interface and link under agreements which would provide that the parties to the interface or link would not charge each other for interface movements or charge their participants either an interface fee or any fee which would operate as an interface fee;

(ii) That NSCC provide, at cost, efficient facilities, and cooperate with broker-dealers and other registered clearing agencies in the development of alternative means, through which broker-dealers which do not maintain offices in New York City may, either directly or through an agent, compare transactions compared by NSCC;

(iii) That the existing NCC branch facilities be operated by NSCC and provide, at a minimum, the same level of service proposed to be provided through the facilities to NSCC participants to participants in any other registered clearing agency which agrees to use any of the facilities and to defray a portion of any such facility's operating costs equal to the clearing corporation's proportionate use of the facility; and

(iv) That NSCC furnish free of charge computer programs for the performance of trade comparison for over-the-counter ("OTC") transactions to any registered clearing agency which intends to use the programs to compare OTC transactions between its participants and that NSCC make arrangements for any other registered clearing agency which is willing to do so to compare all OTC transactions between participants in different registered clearing agencies, free of charge to registered clearing agencies, or, if no other registered clearing agency is willing to do so, NSCC compare all such transactions free of charge to registered clearing agencies.

In the view of the Commission, establishment of a national system for the clearance and settlement of transactions in securities contemplated by the Act requires that broker-dealers located in New York City and elsewhere throughout the country have access, at a reasonable cost, to entities which are able to offer one account comparison, clearing and settlement. The Commission believes that approval of NSCC's application subject to the foregoing conditions would be a significant step toward the achievement of this objective at an early date.

Establishment of NSCC subject to the conditions listed above should lead to the achievement of significant processing efficiencies, such as one account comparison, clearing and settlement, and should enhance existing and potential competition among broker-dealers and registered clearing agencies. By placing the efficiencies NSCC promises within the reach of a large segment of the broker-dealer universe, NSCC's operation should remedy many of the processing ills which in the past have disadvantaged broker-dealers located outside New York City. Also, by facilitating the comparison of trades at NSCC by broker-dealers located outside New York City and by making possible the transmission, without an interface charge, of trades compared by NSCC to other registered clearing corporations, the foregoing conditions sever NSCC's clearing and settlement operation from the markets for which NSCC performs comparison and establish an environment in which competition among registered clearing corporations can occur.

THE SECURITIES ACTS AMENDMENTS OF 1975 (THE "1975 AMENDMENTS")[2]

As expanded by the 1975 Amendments, one of the purposes of the Securities Exchange Act of 1934 (the "Act") is "* * * to remove impediments to and perfect the mechanisms of * * * a national system for the clearance and settlement of securities transactions and the safeguarding of securities and funds related thereto * * *."[3] The 1975 Amendments added Section 17A to the Act which provides the Commission with broad regulatory authority over entities—clearing agencies and transfer agents—engaged in the clearance and settlement of securities transactions and gives the Commission general directions for the exercise of this authority.

Paragraph 17A(a)(1) of the Act sets forth the Congressional finding that:

* * * [T]he prompt and accurate clearance and settlement of securities transactions * * * [is] necessary for the protection of investors and persons facilitating transactions by and acting on behalf of investors[,] * * * [i]nefficient procedures for clearance and settlement impose unnecessary cost on investors[,] * * * [and] [n]ew data processing and communications techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement.

Paragraph 17A(a)(2) of the Act directs the Commission to "* * * use its authority * * * to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities * * *," and, in carrying out its responsibilities, to have

* * * due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and maintenance of fair competition among brokers and dealers, clearing agencies, and transfer agents. * * *

PROCEEDINGS IN CONNECTION WITH THE APPLICATION

On March 29, 1976, NSCC applied for registration under paragraph (c)(1) of Rule 17Ab2–1,[4] thereby requesting that registration be granted while the registrant is exempted, temporarily, from having to satisfy one or more of the requirements as to which the Commission is directed to make a determination pursuant to Subparagraphs (A) through (I). The Commission published notice of the filing and gave interested persons an opportunity to submit written data, views and arguments concerning NSCC's application.[5]

Because the Commission believed that approval of the NSCC application and

[1] Securities Exchange Act Release No. 12489 (May 28, 1976), 41 FR 23255 (June 9, 1976).

[2] Pub. L. No. 94–29.

[3] The Act, Section 2, 15 U.S.C. 78b.

[4] Pursuant to section 17A of the Act, on November 3, 1975, the Commission adopted Rule 17Ab2–1 under the Act and related Form CA–1 for the registration of clearing agencies. Securities Exchange Act Release No. 11787 (November 3, 1975), 40 FR 52356 (November 10, 1975). Paragraph (c)(1) of Rule 17Ab2–1 provides that, if requested by an applicant for registration as a clearing agency, the Commission may register the applicant for eighteen months without making all the determinations called for by subparagraphs (A) through (I) of paragraph 17A(b)(3) of the Act ("Subparagraphs (A) through (I)").

[5] Securities Exchange Act Release No. 12274 (March 29, 1976), 41 FR 14455 (April 5, 1976).

the proposed combination would be likely to have a determinative impact on the development of a National System, the Commission decided to conduct a broader inquiry with respect to NSCC's application than it had conducted in the past with respect to applications for registration filed under paragraph (c)(1) of Rule 17Ab2–1 by other clearing agencies.[6] In particular, in addition to making the determinations made with respect to other clearing agencies registered pursuant to paragraph (c)(1) of Rule 17Ab2–1, the Commission concluded it was necessary to determine whether approval of NSCC's application would be consistent with the objectives contained in paragraphs 17A(a)(1) and (2) of the Act. Accordingly, on May 28, 1976, the Commission announced the institution of proceedings, including oral hearings, pursuant to subsections 17A(a) and (b) and subparagraph 19(a)(1)(B) of the Act and Rule 17Ab2–1 thereunder, to determine whether to grant or deny NSCC's application.[7]

THE APPLICATION

NSCC's application comprises 25 documents filed on 12 different occasions between March 29, 1976, and September 27, 1976, and is supplemented by information contained in related correspondence and developed during the course of the oral hearings.[8] The following is a summary of the application and NSCC's proposed course of action.

NSCC would acquire the clearing agency operations of ASECC, NCC and SCC in accordance with an agreement under which ASECC and SCC would each transfer $300,000 in cash to NSCC in exchange for 10,000 shares of the common stock of NSCC and NCC would transfer to NSCC assets valued at $900,000 in exchange for 10,000 shares of the common stock of NSCC and a $600,000 promissory note of NSCC. The 30,000 shares of NSCC common stock to be issued to ASECC, NCC and SCC would constitute all of NSCC's outstanding common stock and would be subject to restrictions on transfer designed, among other things, to preserve NSCC's status as a "clearing corporation" under the applicable Uniform Commercial Code provision.[9] In addition, the rights and obligations between each of the combining clearing agencies and its participants would be assigned to and assumed by NSCC. The clearing funds of the combining entities would be transferred to NSCC, and NSCC would assume certain other liabilities of the combining entities.

User control. NSCC plans to operate under the governance of a 16-member Board of Directors, 12 members of which would be, and would be intended to represent, NSCC participants ("participant directors"). Each of ASECC, NCC and SCC would have one representative on the Board ("shareholder directors"). The sixteenth member would be the president of NSCC (the "management director").

Selection of nominees for vacant participant directors' seats would be made by a nominating committee of the board elected annually for the purpose of nominating director and nominating committee candidates for the following year's election. The shareholder director's seat would be filled with the nominee of the shareholder whose nominee's seat had become vacant, and the remaining four participant directors' seats would be filled by participant representatives selected by the nominating committee. The nominating committee's seats would be filled by nominees chosen by the outgoing nominating committee. Annually after the first year of NSCC's operation, one shareholder director's seat, four participant directors' seats and the six nominating committee seats would be open for election.

Sixty days prior to the election, the nominating committee's slate of candidates for the participant directors' seats and the following year's nominating committee would be circulated to NSCC's membership which, pursuant to a petition filed by the lesser of five percent of NSCC's participants or 15 participants, could propose alternative nominees. If any alternative nominees were proposed, a vote would be held in which the participants, voting cumulatively under a voting formula based on usage of NSCC, would select the nominees to be elected to the NSCC board and the nominating committee. NSCC's shareholders would vote for the slates selected by the nominating committee, if no opposing nominees were proposed, or for the nominees who received a majority of the participants' votes, if opposing candidates were proposed and an election were held.

After the second year at NSCC's operation,[10] no director would be permitted to serve consecutive terms or, while a director, to serve on the nominating committee or to serve on the nominating committee constituted for the year following the expiration of the director's term of office. No member of a nominating committee would be included in the slate of director nominees selected by that nominating committee and no member of a nominating committee could serve consecutive terms.

Neither shareholder directors nor the management director would be permitted to be a member of either the NSCC board's audit committee or the NSCC's operations committee, which, among other things, would review the performance of the Securities Industry Automation Corporation ("SIAC") as NSCC's facilities manager. Lastly, the Amex, the NASD and the NYSE would have a veto over NSCC's adoption of new rules, other than those which NSCC would be required to adopt pursuant to the Act. The veto could be exercised only if the proposed NSCC rule would affect the ability of the party exercising the veto to meet any statutory responsibilities it might have for the settlement of securities' contracts.

Facilities management. Commencing with the transfer to NSCC of the clearing agency operations of ASECC, NCC and SCC, NSCC would operate the business of each transferor clearing agency as a separate NSCC Division, i.e. the ASECC Division, the NCC Division and the SCC Division. Each division would operate under substantially the same rules, procedures and agreements used by the division's predecessor clearing agency. Pursuant to a facilities management agreement between NSCC and SIAC (the "Management Agreement"),

[6] The Commission has registered fourteen clearing agencies, including ASECC, SCC and NCC, in accordance with paragraph (c)(1) of Rule 17Ab2–1, upon the Commission's finding: that the applicant was so organized and had the capacity to safeguard securities and funds in its custody or control or for which it was responsible; that the applicant's rules did not impose any schedule of prices, or fix rates or other fees, for services rendered by participants; and that the applicant's rules assured the safeguarding of securities or funds which were in the custody or control of the applicant or for which it was responsible.

[7] Securities Exchange Act Release No. 12489 supra. In the Release, the Commission stated that during the proceedings it would be considering and seeking comment from interested persons on a number of issues including, among other things:

The effect of the proposed combination on competition among broker-dealers, clearing agencies, transfer agents and securities markets;

The effect of the proposed combination on the development of a National System;

The safety and other potential benefits expected to result from the proposed combination;

The use of a participant-dominated board as an effective control against inefficiency, lack of innovation, and uncontrolled cost escalation;

The appropriate procedures for selecting the members of a participant-dominated board; and

The appropriateneess of the $.12 per side transaction fee with NSCC proposes to pay to the American Stock Exchange, Inc., (the "Amex"), the National Association of Securities Dealers, Inc. (the "NSAD"), and the New York Stock Exchange, Inc., (the "NYSE") to compensate then for performing certain self-regulatory services, including conducting of examinations of the financial condition of NSCC participants.

[8] The documents filed, related correspondence, memoranda of meetings and transcripts of the oral hearings are contained in Public File No. 600–15 and are available for copying and inspection at the Commission's Public Reference Room, 1100 L Street, Washington, D.C.

[9] N.Y. Uniform Commercial Code, Section 8–102(3) (McKinney Supp. 1972).

[10] There are differences in the way the nomination and election process would work during the first two years and the way it would work thereafter. For the first year, NSCC's board would be selected by its shareholders. At the expiration of the first year, that board would select a nominating committee of participants to choose a slate of nominees to fill the participant director seats then becoming vacant. In that election and in the subsequent election, directors whose seats were becoming vacant would be permitted to stand for re-election for a full three-year term.

all NSCC securities processing functions, including those performed currently for ASECC–SCC by SIAC and those performed currently for NCC by Bradford National Clearing Corporation National Clearing Corporation ("BNCC"), would be performed by SIAC.

Under the Management Agreement, SIAC would be obligated to charge NSCC no more than SIAC's costs for providing the services covered by the Management Agreement. NSCC would have the right to monitor all phases of SIAC's NSCC operation in order to insure that the operation was adequate and in compliance with statutory criteria. Furthermore, NSCC would have the right either itself or through its agents, including its independent public accountants, to review SIAC's operation to evaluate the accuracy and appropriateness of the cost allocations made by SIAC in determining its cost of performing processing for NSCC.

The Management Agreement would have a term of five years, at the expiration of which NSCC would have no further obligations to SIAC and SIAC would be obligated to facilitate the transfer of the NSCC operations to any processor selected by NSCC. Beginning with the third year of the Management Agreement, NSCC would have the right to terminate the agreement upon six months' written notice and NSCC's agreement to pay SIAC a monthly fee of $225,000 from the termination date to the end of the Management Agreement's term. The amount of NSCC's monthly payment could be reduced by $100,000 in the event NSCC were to agree to assume responsibility for SIAC's lease of space used for the NSCC operation and by an additional $25,000 in the event NSCC were to agree to assume SIAC's severence obligations to employees utilized in the performance of the NSCC operations. In addition, NSCC would have the right to terminate the Management Agreement if it were breached by SIAC.

Payments to the Amex, NASD and NYSE for self-regulatory functions. The shareholders' agreement among the Amex, NASD, NYSE, ASECC, NCC, SCC and NSCC contained in NSCC's application, provides that for a period of five years from the date of the agreement's execution the Amex, NASD, NYSE would furnish certain regulatory services to NSCC for which NSCC would reimburse the self-regulators.

The services to be furnished would consist of conducting periodic examinations of the books, records and operations of NSCC participants; monitoring the financial and operating condition of NSCC participants; investigating the financial and operating condition of entities which apply for participation in NSCC; and apprising NSCC of any unusual market conditions which affect securities cleared by NSCC. Each of the self-regulators would perform the services for those NSCC participants for which the self-regulator had been designated as responsible for conducting examinations for compliance with the applicable financial responsibility rules as well as for such entities as NSCC might direct for which none of the three self-regulators had been designated. To reimburse the self-regulators, NSCC would pay $.12 for each buy and sell side of trades in equity securities, or warrants to purchase equity securities, executed on or in the market of the relevant self-regulator and compared through NSCC. The $.12 fee would not apply to trades cleared through NSCC and executed on markets or by means other than on the Amex or NYSE or through the NASDAQ system. The total payments to be received by the self-regulators in any one year would be limited to $550,000 for the Amex, $1,000,000 for the NASD and $3,000,000 for the NYSE.[11]

The shareholders' agreement provides that after two years the self-regulators and NSCC shall "* * * review the provisions of [the contract] as to the [s]ervices and the payments therefor in order to determine whether such provisions should be amended or modified * * *." The provision does not permit NSCC to require renegotiation of the level of payment or the level of services at any time during the agreement's five year term.

Implementation. Operation under the divisional structure, which NSCC has estimated would last approximately 120 days, is referred to as "Phase I" of the merger. During Phase I, SIAC would develop a plan to convert the ASECC–SCC and NCC systems into a single system combining desirable aspects of both existing systems. Operating rules and procedures for the combined system would be developed by NSCC and submitted to the Commission for review and approval before they could be implemented. During the Commission's review, NSCC, as NCC's assignee under the NCC–BNCC facilities management agreement, would exercise NCC's termination rights under the agreement and direct SIAC to perform both the ASECC–SCC processing functions it performs currently and the NCC processing functions performed currently by BNCC. Following Commission approval of the combined system's rules and procedures, SIAC would begin to implement the combined system, thereby initiating Phase II of the merger plan.

Services to be provided. During Phase I, NSCC plans to offer all services now offered by either ASECC–SCC or NCC. During Phase II, duplicative services are to be combined in ways which would insure that no participant in either organization would experience a reduction in the kinds and levels of service currently available. NSCC's services would be available, either directly or indirectly, to all current participants of ASECC–SCC and NCC and access to NSCC's Services would be available to all qualified entities. NSCC's application states that fees to participants are to be set by NSCC's Board of Directors on a "cost basis."[12] NSC would attempt to build up a cushion of retained earnings but, in general, would not attempt to earn profits and would not pay dividends on its shares.

NSCC's relationship to securities depositories. Because NSCC's application envisions NSCC's use of the current ASECC–SCC system, securities settlement for all NSCC continuous net settlement transactions would have to be made in The Depository Trust Company ("DTC") and all NSCC participants would be required to be participants in DTC.[13] In order to provide DTC participation for those participants in NCC who are not currently DTC participants and who do not believe their clearing volume warrants DTC participation, NSCC would provide sponsored accounts in DTC.[14] Money settlement in the combined system would take place in NSCC. In anticipation of the ASECC–SCC and NCC combination, DTC has initiated a program for expanding the list of securities eligible for deposit to include all issues currently eligible for deposit in NCC's system. NSCC does not plan to initiate Phase II until the DTC expansion is complete.

The TAD Depository Corporation ("TADDC"), a securities depository which ultimately intends to serve as the bridge for the implementation of the transfer agent depository ("TAD") concept,[15] currently has an interface with NCC under which NCC participants make or receive deliveries in settlement of NCC obligations through TADDC. NSCC intends to work out an arrangement with TADDC under which NSCC users would be permitted to receive from or deliver to NSCC securities on deposit with TADDC. NSCC's application does not describe the details of the proposed arrangement.

Trade comparison. NSCC stated it would continue to perform comparison

[11] The ceiling on payments to be received by a self-regulator would be subject to the proviso that any amounts in excess of its ceiling for a given year would be paid to the self-regulator to the extent that, in prior years, the fees received were less than the ceiling.

[12] NSCC has indicated that its fees would not discriminate among participants on the basis of their geographic location.

[13] All current clearing members of ASECC–SCC are participants in DTC.

[14] Sponsored accounts in DTC would be guaranteed by NSCC and would make it less expensive for participants in NSCC to use DTC at low clearing volumes. NSCC's fees for the sponsored account would be designed to encourage direct participation in DTC by any sponsored participant whose volume increases to a point at which direct participation becomes economically justifiable.

[15] In its ultimate form, the TAD concept would replace the stock certificate with computerized stockholders' lists, maintained by TADs, which would serve both as the issuers' stock records and as stock ownership records. The lists would be updated continuously. Communications between TADs and customers, broker-dealers, banks, and others would be effected through instruction routing entities located in various financial centers throughout the United States. The instructions would direct the TADs (i) to effect book entry transfers and pledges between participants by debiting and crediting the TAD's records and (ii), if necessary, to issue and deliver physical certificates.

for Amex and NYSE transactions and would perform part of the OTC comparison function currently performed by NCC. NSCC intends to perform a single comparison for both Amex and NYSE transactions and for OTC transactions between NSCC participants. OTC transactions between participants in other clearing corporations would be compared by the other clearing corporations or by a clearing corporation retained by them to perform the OTC comparisons. OTC transactions between participants in two different clearing corporations would be compared by a clearing corporation other than NSCC.

From the beginning of Phase II operations, NSCC plans to enable NSCC participants located in New York City to submit Amex, NYSE and OTC transactions to NSCC for comparison. In the plan described in NSCC's application, NSCC participants located outside New York City, and relating to NSCC through the former NCC regional network, would be able to submit OTC transactions to NSCC for comparison through the network from the beginning of Phase II but would not be able to submit Amex and NYSE transactions through the network until some later time. This aspect of NSCC's plan would be affected by the proposed conditions to approval of NSCC's application.

Participant qualifications. Qualifications standards for participation in NSCC would be based solely on financial and operating ability, and, subject to those standards, any entity would be able to participate in NSCC.

DEVELOPMENT OF A NATIONAL SYSTEM

Since the 1967–68 paperwork crisis, the Commission, the self-regulatory entities, the industry and others have expended considerable effort in analyzing the shortcomings of existing clearing, settlement and depository systems and in developing modifications designed to eliminate the shortcomings. These efforts have led to the evolution of a general consensus on the need for a national system for the clearance and settlement of transactions in securities (the "National System") and on the minimum acceptable capabilities which it should have. The National System should be available to all qualified participants on a nondiscriminatory basis and should make available the benefits of one account processing.[16]

Although it is not possible to predict all the benefits which could be expected to flow from the establishment of a National System, they are likely to include: (i) a reduction in the costs to participants of relating to present clearing, settlement and depository systems;[17] (ii) reductions in the average delivery time for the settlement of securities transactions and in carrying costs associated with settlement activity; (iii) simplified and efficient recordkeeping; (iv) an enhanced ability of self-regulatory organizations to monitor the clearing positions of participants who are becoming overextended;[18] (v) increased insulation of participants (and their customers) from the effects of a participant's insolvency;[19] and (vi) a reduction in the number of lost or stolen certificates.[20]

While closely related to the clearing and settlement function, marketplace precedures for trade comparison and transfer agent operations involve considerations unique to these functions. Trade comparison procedures vary from marketplace to marketplace depending on floor procedures, the kind of securities traded and trading volume, among other things, and are likely to be revised in the future as a near result of technological advances and changes in the structure of the securities markets. Transfer agent operations vary greatly in degree of automation, volume, location, processing time and the availability of ancillary services, and the traditional role of the transfer agent is changing as a result of technological innovation. Accordingly, the National System must be compatible with a wide range of marketplace comparison procedures and transfer agent operations.

The following appear to be the minimum acceptable capabilities of a National System.

The ability of the National System to process securities transactions by means, including book entry movement, suitable to the character of the issues processed.

A National System should permit the settlement by book entry movement of all securities transactions in issues for which book entry treatment proves to be more economical than alternative forms of processing. A possible measure of the universe of issues for the book entry portion of the National System would be the number of issues which have been included in the book entry operations of existing securities depositories.[21] To date, the number of issues is approximately 10,330.

The National System should also be able to process, other than by book entry, issues (i) whose certificate float is insufficient, or whose transfer agent arrangements are not adequate, to permit inclusion in a book entry environment, or (ii) which are ineligible for inclusion in a book entry environment due to legal requirements of the jurisdiction in which the issuer is organized. Existing envelope delivery and similar settlement systems presumably could be adapted to provide the requisite non-book settlement capability for issues which fall into these categories.

Issues whose shareholders are concentrated in a small geographic area or which have a small number of shareholders might not require inclusion in the National System. Presumably such issues would continue to be cleared and settled outside the National System through the informal arrangements which exist today.

Accessibility of the National System, either directly or indirectly, to all broker-dealers and financial institutions.

All broker-dealers and financial institutions should have access to the National System.[22] Because most transactions in active issues would be processed through the National System, any broker-dealer or financial institution excluded from participation would be at a significant competitive disadvantage.

Broad access could be achieved by the establishment of standards for direct access to the components of the National System that were the least rigorous possible consistent with the existence of adequate financial and operational safe-

[16] "One account processing" is the ability of a broker-dealer to compare, clear and settle through one entity all the broker-dealer's transactions in securities eligible for comparison, clearing and settlement in the National System. Even though a broker-dealer would be able to achieve one account processing through any one of the clearing corporation components of the National System, a broker-dealer would be able to use more than one clearing corporation if the broker-dealer chose to do so.

[17] Reductions in the costs of relating to present systems would result primarily from such advantages of one account settlement as (i) the ability of participants' back-office personnel to be familiar with a single set of procedures and to use a single set of forms in processing securities transactions, (ii) the ability of participants to make one daily money settlement (rather than multiple and possibly offsetting money settlements) and (iii) reductions in the facilities and personnel in participants' back-offices associated with the delivery, receipt and handling of certificates.

[18] Because currently a participant may have clearing positions settling in more than one system, individual clearing organizations may not become aware of more than a normal exposure even though the participant's combined exposure in all systems is abnormally high.

[19] By interposing itself between the parties to a transaction as a guarantor, the modern clearing corporation is usually in a position to avoid (through book entry reversal procedures) or spread among the total clearing membership (through recourse to a clearing fund) the effect of a participant's insolvency.

[20] The Department of Justice has recommended the retention of securities in depositories as a means of reducing securities thefts. "Suggestions by the Department of Justice for Safe Handling of Marketable Securities by Financial Institutions, Including Hints for Detecting Counterfeit, Forged, Worthless and Spurious Securities", Department of Justice announcement (December 23, 1974) at p. 1.

[21] Section 7 of the Securities Acts Amendments of 1975 added a new Section 11A to the Act which, in paragraph 11A(a)(2), provides that the Commission will designate by rule the securities or classes of securities qualified for trading in the national market system. Although all securities' issues designated by the Commission should be eligible for clearance through the National System, not all of them would necessarily be appropriate for inclusion in the book entry portion of the System.

[22] The term "financial institutions" is intended to include banks; insurance companies; investment companies; clearing agencies; and any other entity (whether an organization or an individual) which (i) satisfies financial responsibility criteria, (ii) makes the requisite clearing fund and participant fund contributions to the National System, and (iii) has the operational capability to interface and reconcile with the National System.

guards. For example, in the case of broker-dealer participants the standard could be tied to the Commission's financial responsibility rules in a way which would permit participation in the National System by any broker-dealer qualified to engage in a general securities business. Alternatively, assuming establishment of a standard for participation in the National System more rigorous than the standard for participation in a general securities business, indirect access, through correspondent relationships or by other means, should be available at a reasonable cost.

The ability of each participant in the National System to compare, account for and settle through one entity all trades in securities included in the National System, regardless of the location of the other party to the trade or the market in which the trade is executed.

Although the National System would include a number of different clearing and settlement and depository entities, it should not be necessary for any participant to be a member of, or deal with or through, either directly or through a correspondent, more than one clearing and settlement and one depository entity. In addition to the need for interfaces between clearing and settlement entities and for interfaces between depositories, each clearing and settlement entity should be linked to a depository so that deliveries to, and receipts from, the clearing and settlement entity may be made through the depository by book entry.

The book entry clearing components of the National System should have the following characteristics: (i) an accounting function which nets participants' securities positions daily and permits netted positions to be carried forward and netted against positions established on subsequent days ("continuous netting"); (ii) a trade guarantee as of settlement date; [23] (iii) mark-to-the-market protection from settlement date onward; [24] (iv) one clearing position per issue for each participant; (v) a link between the continuous netting system and a depository to make possible automatic book entry delivery to satisfy short valued positions [25] in the continuous netting system and to permit deliveries to, and receipts from, the continuous netting system at various remote locations; and (vi) a same-day turnaround capability for both securities received by a participant from the continuous netting system and securities delivered to a participant which the participant wishes to re-deliver to the continuous netting system.

The non-book entry clearing portion of the National System, which could include low-volume clearing operations,[26] should guarantee transactions as of, and mark them to the market from, settlement date. In addition, subject to the limitations of certificate as opposed to book entry settlement, [27] same-day turnaround should be available for securities settled through the non-book entry portion of the System.

The National System would permit participants to elect to use all, or only a portion of, the System's clearing and settlement services. Accordingly, while a participant should be able to compare,[28] account for [29] and settle all his trades through one clearing entity regardless of the location of the other party to the trade or the market in which the trade was executed,[30] the participant should be able to (i) compare trades through the clearing entity affiliated with the marketplace in which the trade was executed and direct delivery of the compared trade to the clearing entity the participant selects to perform the accounting operation and (ii) direct delivery of the securities' settlement instructions generated by the accounting operation to the depository entity the participant elects to use for securities' settlement. While broker-dealers have indicated that their present need to deal with several securities marketplaces would require the National System to provide the ability to direct delivery of compared trades to a clearing entity other than the one which performs the comparison, broker-dealers have not insisted that the National System include an ability to direct delivery of securities' settlement instructions to a depository other than the one linked to the clearing entity which generated the instructions. Nonetheless, because of the possibility of competitive innovation at the depository level—including development of a TAD system—the Commission believes the National System should have the flexibility to permit development of an ability to direct delivery of securities' settlement instructions to any depository entity.

The ability of each participant in the National System to deposit and maintain its securities in a custodial account at the depository level which makes possible book entry movements (i) between participants, (ii) to settle participants' clearing obligations, (iii) to effect pledges and (iv) to perform other functions which may be effected by book entry.

The depository portion of the National System should be related to the book entry clearing components of the System so as to make possible the settlement by book entry of all deliveries between the participants and the clearing components of the System. Furthermore, the depository portion of the System should permit participants to deposit or withdraw securities from the system throughout the country.[31]

The depository portion of the National System should have the following capabilities: (i) ability of a participant to make valued and free securities deliveries by book entry; (ii) dividend and proxy protection for securities left on deposit; (iii) facilities for the deposit and withdrawal of securities at locations remote from the central depository; [32] and (iv) a same-day turnaround capability for (A) free or valued book entry deliveries to a participant's depository account from the clearing portion of the System, (B) free or valued book entry deliveries to a participant's depository account through the depository, and (C) deposits to a participant's depository account.

The depository portion of the System should have the capability to perform all securities processing functions which may be effected by book entry. To date, and without foreclosing the possibility that additional functions will be devel-

[23] Consideration should be given at a later time to having continuous netting systems guarantee trades as of trade date and to having mark-to-the-market protection available from trade date onwards.

[24] A "mark-to-the-market" payment is the amount required by a clearing system from any party to a trade guaranteed by the system who becomes a potential net obligor of the system because the market price of the securities involved in the clearing transactions moves away from the contract price for the clearing transaction.

[25] In continuous netting systems, settlement obligations run primarily between each participant and the systems which, on settlement day, generate net obligations to deliver securities to the system against payment ("short-valued positions") or to receive securities from the system and make payment for them ("long-valued positions").

[26] The non-book entry clearing components of the National System presumably would be low-volume operations and could use continuous netting, daily balance order, trade-by-trade or any other viable clearing system which would produce, receive and deliver instructions.

[27] The same-day turnaround capacity of the System should be limited only by the location at which deposits and withdrawals are made and by transfer agent turnaround times. Accordingly, turnaround time could vary depending on whether the deposit or withdrawal were in-town or at a remote location and on whether the transfer agent involved were in-town or out-of-town.

[28] The comparison function is the process by which participants in the securities markets reach agreement as to the existence and terms of trades made in the marketplace; comparison culminates in the production and submission to the accounting operation of contract lists representing transactions which have been confirmed by both parties.

[29] The accounting function is the process which generates the money and securities settlement obligations of participants in clearing corporations. In continuous netting and daily balance order accounting systems the process generates net positions to be received or delivered and thereby minimizes the required number of securities settlements; in other accounting systems, such as trade-by-trade systems, the process does not generate net obligations.

[30] One method for accomplishing comparison of all trades through one entity would be to have each clearing entity act as agent for its participants in every marketplace in which they execute trades.

[31] In the National System each clearing entity should be related directly to a depository through which deliveries and receipts could be made and which, in turn, would be interfaced with depositories attached to the other clearing entities in the System. Because the alternative—a link between each clearing entity and each depository in the System—would appear, at the present time, to pose significant communications problems, a participant in the National System would not necessarily have or need access to more than one depository. As long as all depositories are interfaced, a participant would be able to relate to the entire depository network by relating to one depository.

[32] Each central depository presumably would have to have a capillary network of deposit and withdrawal facilities.

oped, these include free and valued movements of securities, movements to effect pledges and loans of securities, expedited withdrawals of certificates, withdrawals of certificates in street name [33] and withdrawals of certificates in registered form.

The depository portion of the National System should be designed to be compatible with TADs, transfer agent custodian ("TAC") programs,[34] and other developments in the transfer agent area which have the effect of reducing certificate movement.

The ability of each participant in a National System to make a single daily money settlement, for both clearing obligations and depository-related movements, in funds valued the next day.

Each participant should be able to make one daily money settlement, in funds valued the next day, which would satisfy all the participant's obligations to the National System for that day, including monies due to or from the clearing portion of the System, marks to the market, state transfer taxes, dividend adjustments, and amounts payable with respect to valued depository movements.

Currently funds valued the next day are virtually uniformly used in the settlement of securities transactions, and it appears that in the near future no other medium of payment will be used.[35] Should new developments, such as automated funds transfer techniques, make desirable the use of other media, the appropriateness of establishing another uniform medium should be considered.

The availability in the book entry environment of same-day turnaround capability at both the clearing corporation and depository levels.

The ability to re-deliver securities on the day on which they are received—same-day turnaround—is critical to broker-dealers. If a broker-dealer receives and pays for securities which are to be redelivered against payment, failure to effect redelivery on the day on which the securities are received requires the broker-dealer to hold the securities in inventory until the next day. In order to maintain the securities in inventory during this period, the broker-dealer usually obtains bank financing. Accordingly, the availability in a National System of same-day turnaround at the clearing and depository levels, would enable broker-dealers to reduce unecessary interest charges.

The failure of many financial institutions to participate in book entry environment necessitates certificate deliveries by broker-dealers, a procedure which frequently entails substantial delays [36] and which withdraws securities from the book entry environment, thereby reducing the opportunity for multiple same-day turnaround. Consequently, it appears that this failure to participate, rather than technological limitations, would be the primary impediment to the ability of participants in a National System to achieve sameday turnaround.

To maximize the same-day turnaround capability of the National System, the largest possible universe of securities handlers should participate in a book entry environment at both the clearing and depository levels.[37] While participation at the depository level would permit bookkeeping deliveries in all cases and thereby at least bring securities handlers into the book entry environment, the failure to include participants at the clearing level would result in book entry movements at the depository level which would not have been necessary had the underlying transactions been netted in the clearing corporation operation. Assuming that unnecessary movements have a cost, participation in the National System at the depository level only may prove sufficiently expensive to impel securities handlers to participate at the clearing level also.[38]

Should same-day turnaround become generally available on a real-time basis so that a participant with a terminal in his office could know the moment securities deliveries reach his account and could redeliver them by book entry movements initiated with a terminal-originated instruction, the nature of clearing and settlement would change radically. In such an environment, clearing and settlement would occur instantaneously and could be completed by the evening of the day on which comparison of the underlying transaction were completed. And, if comparison could be completed on the transaction date, it would be possible to complete the entire comparison, clearing and settlement process within 24 hours of the time the transaction occurred.

The NSCC Application and the National System

The NSCC application is a concrete proposal for a series of actions which in the near future would secure many of the advantages of a National System for broker-dealers located in New York City and for a large segment of the broker-dealer community located outside the City.

Participants in NSCC and participants in clearing corporations interfaced with NSCC would have available one account clearing and settlement for Amex, NYSE and OTC transactions and transactions on other national securities exchanges. Comparison would operate somewhat differently. The availability of comparison for Amex, NYSE and OTC issues through NSCC, initially for its New York City-based participants and ultimately for all NSCC's participants, would provide comparison, clearing and settlement for Amex, NYSE and OTC transactions through one account but would not make provision for comparison through the same account of trades on other national securities exchanges.

From the outset of NSCC integrated operations (Phase II), NSCC participants located outside New York City would have available many of the options for processing Amex and NYSE transactions which today are generally available only to New York City-based broker-dealers. With the availability of Amex and NYSE comparison through the NSCC branch network, NSCC participants located outside New York City would have available virtually all the NSCC processing options available to New York City-based broker-dealers.

In addition, the NSCC operation would afford its participants the benefits of a book entry environment which would include all issues currently included in depository book entry systems; provide an envelope delivery network; be accessible to qualified entities; enable participants to settle continuous netting delivery obligations through, and otherwise use, a full-service securities depository; provide a single daily money settlement for items included in the NSCC operation; and permit same-day turnaround at both the clearing corporation and depository levels.

Proposed Conditions to Approval

Despite the benefits which NSCC's application promises, there are aspects of its proposed operation which may not be consistent with the objective of a National System in which broker-dealers located throughout the United States

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[33] Currently the time necessary to complete the transfer process has led to a practice of withdrawing from a depository certificates registered in the name of the depository or of a depositing broker, executed in a form or accompanied by documents which make the certificates negotiable. This capability is necessary to permit delivery on a same-day basis to institutions and others which make payment only against receipt of physical securities. Presumably, participation of more institutions in depositories will deduce the importance of an expedited certificate withdrawal capability.

[34] In a TAC arrangement the depository maintains all but a working supply of certificates of an issue with the transfer agent custodian in the form of a balance certificate. As the need for certificates in the depository changes, the depository adjusts its in-house inventory by increasing or decreasing the number of shares held in-house in nominee name and correspondingly decreasing or increasing the number of shares held by the transfer agent. Appropriate shipments of certificates between the depository and transfer agent are made in connection with the adjustments.

[35] In 1975, the Chicago financial community, the major financial center operating primarily on a Federal Funds standard, switched to a funds valued the next day standard.

[36] Institutional certificate deliveries have to be made in "good deliverable form" (in a form, or accompanied by, documentation which enables the recipient to have the securities transferred into its name) or registered in the name of the recipient; in the course of effecting such deliveries delays arise from the loss, omission or inappropriatness of documentation accompanying certificates, the unavailability of appropriate certificate denominations, late receipt of certificates slated for re-delivery, transfer agent turnaround times and mis-deliveries.

[37] Currently, a number of banks participate in clearing, settlement and depository systems at the depository level only.

[38] Of course, to the extent that clearing and depository levels can be linked so that participation in the latter tends to facilitate participation in the former and entails no additional exposure for a participant, it is likely that depository participants increasingly would seek the advantages of participation at both levels.

may achieve one account processing through any one of a number of registered clearing corporations. Also, it is possible that approval of NSCC's application without conditions would have adverse effects on competition among clearing agencies. Accordingly, the Commission is considering approving NSCC's application subject to the satisfaction by NSCC of the following four conditions prior to NSCC's initiation of integrated clearing operations in Phase II.

The Commission believes that the conditions will encourage the development of one account settlement earlier, and will result in dissemination of NSCC's benefits to a wider group of broker-dealers, than contemplated by the application. The Commission believes that the conditions will reduce competitive disadvantages which certain broker-dealers have experienced as a result of existing securities processing practices. In addition, the Commission believes that by breaking the direct link between the comparison of Amex and NYSE trades and the clearing and settlement of compared Amex and NYSE trades, the conditions will create an environment in which competition among clearing agencies is free to develop.

(i) That NSCC establish full interfaces with each of MCC, PCC and SCCP and appropriate links with BSECC and TADDC and offer to operate each interface and link under agreements which would provide that the parties to the interface or link would not charge each other for interface movements or charge their participants either an interface fee or any fee which would operate as an interface fee.

The requirement that NSCC offer to operate interfaces under agreements providing that the parties to the interfaces would neither charge each other nor their participants an interface fee is essential initially to the viability of interfaces and to their effectiveness as a method of preserving competition among clearing corporations. While imposition of this condition would require the Commission to monitor comparison and other fees charged by NSCC and clearing corporations interfacing with it to insure that hidden interface fees were not assessed, the effect of the condition would be to enable a broker-dealer to obtain all compared trades at cost and to direct them to the clearing corporation in which the broker-dealer chooses to settle. As long as the fees charged by NSCC do not discourage a broker-dealer from forwarding compared trades to other clearing corporations, the broker-dealer's determination of which clearing corporation to use for accounting and settlement presumably will be based on the services provided and fees charged by clearing corporations for performing accounting and settlement.

Non-imposition of interface charges may be inappropriate for interfaces between entities other than clearing corporations and may prove inappropriate for links between clearing corporations and entities performing operations other than comparison and accounting. Moreover, the appropriateness of charging fees for interfaces between clearing corporations should be reassessed periodically in the light of changing circumstances.

(ii) That NSCC provide, at cost, efficient facilities, and cooperate with broker-dealers and other registered clearing agencies in the development of alternative means, through which broker-dealers which do not maintain offices in New York City may, either directly or through an agent, compare transactions compared by NSCC;

This condition would enable NSCC participants located outside New York City and broker-dealers who are not NSCC participants to effect comparison through (i) whatever entity or means they use to effect clearing and settlement, (ii) a cost-priced, direct mail clearing operation offering a separate comparison service, or (iii) a remote communication arrangement. As a result, broker-dealers who trade on the Amex and NYSE but do not have their processing operation in New York City would obtain the benefits of one account processing. NSCC's provision of remote comparison arrangements presumably would induce regional clearing corporations to adopt a similar policy so that their participants would not be required to relate to more than one entity for performance of comparison, clearing and settlement functions.

(iii) That the existing NCC branch facilities be operated by NSCC and provide, at a minimum, the same level of service proposed to be provided through the facilities to NSCC participants to participants in any other registered clearing agency which agrees to use any of the facilities and to defray a portion of any such facility's operating costs equal to the clearing corporation's proportionate use of the facility.

By providing that the current NCC branch network would be maintaind by NSCC and would be available as a communications link between the broker-dealers located near the branch facilities and any clearing corporation which chose to establish a link with one or more of the branch facilities, the third condition would potentially provide clearing corporations with a branch network. Of course, since no regional clearing corporation would be obligated to use any given facility, any clearing corporation which believed that NSCC's provision of services was inadequate could establish its own facility.

(iv) That NSCC furnish free of charge computer programs for the performance of trade comparison for over-the-counter ("OTC") transactions to any registered clearing agency which intends to use the programs to compare OTC transactions between its participants and that NSCC make arrangements for any other registered clearing agency which is willing to do so to compare all OTC transactions between participants in different registered clearing agencies, free of charge to registered clearing agencies, or, if no other registered clearing agency is willing to do so, NSCC compare all such transactions free of charge to registered clearing agencies.

Currently, NCC performs trade comparison for approximately 95 percent of OTC transactions and PCC performs trade comparison for the remainder. Under the proposed condition, any clearing agency which chose to do so would be able to obtain NCC's comparison program from NSCC to perform comparison for OTC transactions between its members, and a clearing corporation other than NSCC would perform comparison for OTC transactions between participants in different clearing corporations free of charge to other registered clearing agencies. Should no registered clearing agency other than NSCC be prepared to perform the comparison free of charge, NSCC would be required to do so free of charge to other registered clearing agencies.

If the Commission approves NSCC's application, the Commission would monitor NSCC's compliance with the foregoing conditions to insure that they are satisfied prior to NSCC's initiation of integrated operations in Phase II. Following implementation of Phase II, the Commission would monitor the impact of NSCC's operations on, and competition among, broker-dealers and registered clearing agencies.

While the Commission is considering approving NSCC's application subject to the conditions described above, in view of the complexity of the matters to which the conditions pertain, the Commission would like to receive public comment on whether the conditions should be changed, added to or modified. Because the Commission desires to complete action on NSCC's application at the earliest possible date, the Commission requests that all comments be submitted no later than November 19, 1976.

For good cause, and in order to obtain public comment on the four proposed conditions to approval of NSCC's application for registration, the Commission is extending until November 29, 1976 the time for conclusion of the proceedings instituted on May 28, 1976, in connection with NSCC's application.

By the Commission.

GEORGE A. FITZIMMONS,
Secretary.

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WEDNESDAY, NOVEMBER 10, 1976

PART III:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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MUTUAL INSURANCE AND HOME IMPROVEMENT LOANS

Amendments to Mutual Mortgage Insurance Regulations

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket R-76-406]

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Amendments to Mutual Mortgage Insurance Regulations

On August 30, 1976, at 41 FR 36604, the Department of Housing and Urban Development published a proposed rule entitled "Servicing Requirements" which, with minor exceptions, proposed changes which would incorporate existing mortgage servicing requirements from HUD Handbook 4191.1 and Mortgagee Letters 75-10 and 76-9 in the regulations in Part 203 of 24 CFR. Numerous public comments were received and considered and, with the changes noted, the proposed rule is now being made final.

Public comments referable to a specific section of the final rule are discussed in this preamble under the number of that section. The more generalized comments are discussed first.

1. Several commentors felt that further experience should be gained under the requirements of the cited mortgagee letters before placing them in regulation form. It was suggested that to place them in regulation form would make a change in the requirements more difficult. It was also suggested that each borrower is different and mortgagees should be left with the flexibility to deal with these individual differences.

Since the requirements of the mortgagee letters incorporated in these regulations are compulsory, HUD considers that publication thereof as a part of the regulations is appropriate.

Changes can and will be made in the regulations as experience or changed circumstances make such changes desirable. These servicing regulations are intended to set minimum standards for mortgage servicing acceptable to HUD as such servicing relates to mortgages which are insured by HUD. Aside from these minimum requirements mortgagees retain full flexibility in dealing with mortgagors. Indeed, § 203.600 of the rule takes cognizance of the need to adapt collection techniques to individual differences in mortgagors and to take account of the circumstances peculiar to each mortgagor.

2. A few comments expressed concern that changes were made contrary to existing notes and deeds of trust. One commentor expressed concern that the insurance contract between HUD and the mortgagee was being altered. The insurance contract is contained in Supart B of Part 203. As noted in § 203.499, amendments to this Part which affect mortgagees under the insurance contract are only made prospectively. Existing insurance contracts will be honored and payments will be made thereunder by HUD without deduction. Another commentor requested that changes be made in HUD Handbook 4191.1 and the mortgage forms. Action is being taken to accomplish this.

3. One commentor suggested that standards should also be written for mortgagors. This does not appear to be appropriate as the obligations of mortgagors are fully set forth in the mortgage instruments. In addition, HUD has neither contractual privity with nor regulatory authority over mortgagors arising out of the contract of mortgage insurance.

4. One writer suggested that HUD not reimburse mortgagees for costs or legal fees if they fail to follow proper mortgage servicing practices. Outstanding insurance contracts are incontestable and it would not be legally supportable to deny such costs and fees under existing insurance contracts. If the amendments now being promulgated do not accomplish their objectives, consideration will be given to future changes including the one suggested. It is believed that the approach adopted should be tried before more drastic measures are tried.

5. One commentor suggested that Mortgagee Letters 75-10 and 76-9 should be rescinded. Other commentors disagreed with certain provisions of those letters now being included in rule form. Another commentor suggested, even though the proposed rule would do little more than include provisions of these mortgagee letters and HUD Handbook 4191.1 in rule form, that we should consider comments on the rule provisions which do not make substantive changes from the letters and handbook, as well as the provisions of the rules that do make changes in policy. All timely comments have been fully considered, including those which comment on the substances of existing mortgagee letters, handbook provisions and regulations. While the basic thrust of the two mortgagee letters is being retained in the rule to assure proper servicing, and to provide forbearance appropriate to these times and circumstances, HUD will continue to review the requirements and changes can be made as circumstances warrant.

6. Remaining comments related to specific sections of the proposed rule. These are discussed under the appropriate section numbers following.

Section 203.7 Withdrawal of approval. A very few comments were received on this change. One comment suggested that there was no provision for notice or hearing on withdrawal of approval. Another suggested the need to establish a mortgagee review board. Still another suggested that the provision might result in withdrawal of approval for the violation of an obscure rule.

Currently there is a Mortgagee Review Board established by 24 CFR 25.1. Notification of the mortgagee and provision for hearing is covered by 24 CFR 25.4. The Board is constituted of appropriate HUD officials and its actions under the amended section will be fully responsible.

Section 203.9 Staffing and facilities. Five comments recommended more guidance as to the meaning of this section and one of these suggested moving it to Subpart C or its deletion. One commentor stated that the section "is a very well worded section."

Minor changes have been made to improve the clarity of this section. No change has been made in the location of this section. It is properly located in Subpart A which deals with eligibility requirements for mortgagees. The language which permits a mortgagee to arrange for trained personnel and adequate staff and facilities contemplates that contractual arrangements with servicers may be used to augment existing staff and facilities, as is more fully set forth in § 203.502.

Section 203.23 Mortgagor's payments to include other charges. One commentor pointed out an error in paragraph (a). Thus an additional change is being made to substitute the word "become" for the word "before" as the next to the last word in the first sentence of paragraph (a).

Comments received on the proposed new paragraph (b) suggested that there are circumstances in which mortgagees should be permitted to purchase insurance to protect their interest at the mortgagor's expense.

Mortgagees have adequate means for protecting their interests under the terms of the mortgage instrument. The protection provided mortgagors by the proposed new paragraph (b) is considered desirable and is being retained.

Comments also suggested clarification of the prohibition against charging the mortgagor for obtaining information necessary for the payment of property taxes.

A slight change in language has been made in the last sentence and a new sentence has been added to make it clear that restrictions on passing on the charges of tax information services do not apply to the charges and assessments of the taxing authority for providing tax information.

Section 203.25 Late charge. A majority of those commenting on this section strongly favored the increase in the late charge. One person did not. Some comments were directed to the mechanics of collecting late charges and § 203.554. The latter comments will be discussed in comments with that section.

The increase in the late charge is intended to compensate the mortgagee for servicing and other costs attributable to the receipt of payments from mortgagors after the date upon which payment is due. It should also encourage mortgagors to make prompt payments on their mortgage obligations. The regulation has been revised to clarify this intent.

Section 203.26 Mortgagor's payments when mortgage is executed. A majority of the comments on this section, which brings the regulations in line with the Real Estate Settlement Procedures Act, were favorable. Minor changes in phraseology were suggested and one comment favored investing escrow funds in "money market" mutual funds.

This section is being adopted as it was proposed. Separate consideration will be given the utilization of other depositories for the deposit of escrow funds.

Section 203.54 Loan servicing. This section is amended to take cognizance of the requirements of the new Subpart C being added to these regulations.

Section 203.258 Assumption with or without release of mortgagor. Comments were received on this section numbered as § 203.506 in the proposed rule. It has been moved from Subpart C to Subpart B, which is the insurance contract, as recommended in public comments since it deals with continued eligibility of a loan for insurance rather than with the mortgagee's servicing of the loan, per se.

Section 203.261 Calculation of MIP. One comment was received suggesting that the sentence which the proposed rule would add to this section be broadened to cover postponement of payments in addition to those postponed due to the military service of the mortgagor and to cover recasting. We have accepted this recommendation and the rule has been more broadly stated though no change in practice is involved.

Section 203.330 Delinquency and default. Two comments were received suggesting that the word "total" be inserted before the word "payment" in the first sentence. This rule is considered to be clear without this alteration and no change has been made.

Section 203.340 Special forebearance. Although conditions of special forebearance formerly treated in § 203.340 are now treated in § 203.614 in Subpart C, this new section is being added to obviate a concern expressed in public comment as to the possible loss of insurance protection in such cases.

Section 203.342 Recasting of mortgage. The subject of recasting is now dealt with in § 203.616 in Subpart C. This section is added to avoid the concern expressed that there might be a loss of insurance protection in the event of recasting.

Section 203.343 Partial release, addition or substitution of security. Two comments questioned whether this language would require the Commissioner's approval for a release of security even when a loan is paid in full. The caption indicates this section is not applicable in such a situation. One comment called for a higher standard in paragraph (c) than "reasonable belief". Paragraph (c) has been changed to delete the "reasonable belief" language.

Section 203.350a Assignment of defaulted mortgage. Four comments were concerned with the need for flexibility as to the time for recordation. Language has been added permitting the Federal Housing Commissioner to approve extensions of time.

Section 203.355 Acquisition of property. Three comments were received with respect to the timing of action to acquire property when the mortgagor has defaulted. Language in the original regulation on the timing of acquisition has been restored.

Section 203.377 Inspection and preservation of properties. A pervasive problem for HUD has been the failure of some mortgagees to take proper steps to protect and preserve vacant or abandoned mortgaged properties after the loans thereon are in default. One commentor which would become responsible for protection and preservation of property under this section stated "the mortgagee should be responsible for the inspection of the security properties as outlined * * * and should take reasonable steps to protect and preserve the vacated or abandoned security properties." While a few comments opposed the provision, most of the comments were concerned with clarification of the language of the section and the degree of responsibility of the mortgagee.

In response to the public comments the frequency of inspections has been specified and the standard has been adjusted to provide that the mortgagee shall "take reasonable action" to protect and preserve the properties. Trespass has not been defined as that depends on local law.

Section 203.378 Property condition. As with § 203.377, some comments opposed the additional language which would be added to this section. One comment suggested the provision makes the mortgagee an insurer of the condition of the property. The language of this section read in conjunction with § 203.377 only applies a "reasonable man" standard and actions to protect and preserve are not required if taking action would constitute an illegal trespass. Due to the concern reflected in comments, the reasonable man standard has been repeated in this section.

Section 203.379 Adjustment for damage or neglect. One comment recommended that if the mortgagee fails to discharge its responsibility as to vacant and abandoned properties this should be made a cause for withdrawal of approval of the mortgagee but that insurance benefits should not be reduced. Under §§ 203.7 and 203.500 failure to take reasonable steps to protect and preserve is a basis for withdrawal of mortgagee approval. Such failure would not be a ground for reduction of insurance benefits as to properties for which HUD insurance was issued prior to January 1, 1977. However, there could be a reduction of insurance benefits as to properties, the mortgages on which are insured on and after January 1, 1977, if the mortgagee fails to take action required by § 203.377. The amount deducted in a particular case cannot exceed the amount of the insurance claim.

Paragraph (b)(3) of § 203.379 is being amended to define a reasonable insurance rate and include other handbook provisions in the regulation. Some comments were to the effect that, in at least one state, there is no "bureau rate" for insurance coverage. In such a state a reasonable rate is one which is reasonable under the circumstances. Mortgagees are to consult the local HUD office as to a reasonable rate in such a state. Comments also reflected a preference by some mortgagees that certain insurance coverage should be made mandatory rather than require mortgagees to repair damaged properties prior to transfer to HUD or, alternatively, reduce their insurance claims by the estimate of the cost of repairing the properties.

It is important that mortgagors be protected from excessive rates. Of course, a mortgagee can purchase coverage on its own account if it wishes to do so.

Section 203.380 Certificate of property condition. Some comments indicated concern that mortgagees will be required to repair damage resulting from their failure to protect and preserve mortgaged properties as required by § 203.377 and one feared this might extend to cases in which protection would require illegal trespass or in which the mortgagee took reasonable action but the property was damaged nonetheless. The instant section imposes a duty no broader than that involved in § 203.377 to which express reference is made. If protection would require an illegal trespass or if the mortgagee took reasonable action but the property was damaged nonetheless, the mortgagee would not be required to repair the damage. The cost of necessary inspections and of repair and preservation costs are reimbursable pursuant to § 203.402. Thus mortgagees should not fail to take reasonable and appropriate action to protect and preserve.

Section 203.402 Items included in payment—conveyed properties. Certain comments suggested that the costs of inspections in order to comply with § 203.377 are properly counted as reasonable payments for the purpose of protecting, operating and preserving the property and should be reimbursable as such rather than as foreclosure costs. We agree that these costs and the cost of evicting the tenants and removing debris and personal property should be so classified. The text has been adjusted accordingly.

It was also suggested that the $200 which may be paid to obtain a deed in lieu of foreclosure and thus reduce cost of acquisition should be fully reimbursable. Additional consideration will be given to this proposal after we have further experience as to the effectiveness of the current provision which is being inserted in the regulations for the first time.

Section 203.500 Mortgage servicing generally. One comment suggested limiting withdrawal of mortgagee approval to "wilful and flagrant" violations. The seriousness and frequency of violations will be considered by the Mortgagee Review Board discussed in connection with § 203.7.

Some comments objected to the inclusion of language in paragraph (a) to the effect that failure to comply with Subpart C and the instructions of the Secretary issued thereunder shall not be the basis for a defense to a foreclosure action. One commentator stated that it was inappropriate for the Department to "tell Federal and State judges sitting in foreclosure cases what action of a mortgagee may or may not be a defense to foreclosure." That was not the intent of the proposed rule. Rather, the inten-

tion was to say that the rule did not purport to modify contractual rights and obligations between mortgagors and mortgagees. The language of the final rule has been clarified accordingly.

While the substance of paragraph (a) of the proposed section has been retained, modified as indicated, the remaining paragraphs have been deleted as duplicative of provisions found elsewhere in the regulations.

Section 203.502 Responsibility for servicing. Comments pointed out the merit of limiting notification of the mortgagor to changes in servicers and appropriate changes have been made in paragraph (b) to effect this change. Two comments objected to the ten day rule as to notification. This has been modified by requiring notice ten days before the first payment which the mortgagor is asked to remit to the new servicer rather than ten days before the first payment due on the mortgage after the transfer.

It was also suggested that a distinction should be made between mortgagees who merely invest funds but do not service loans and those who are responsible for servicing. It is argued that the former should not be held responsible for failure to properly service mortgages. The mortgagee's continued responsibility in these circumstances is already provided for in § 203.54. In addition, HUD's insurance contract is with the mortgagee which appears of record with HUD as owner of the mortgage and not with a servicer which may service the mortgage under contractual arrangements with the mortgagee. HUD will continue to look to the mortgagee for proper servicing. Mortgagees can protect themselves from the risks of poor servicing by careful selection of servicers and by appropriate contract requirements in servicing contracts.

Section 203.508 Providing information. Some comments objected to providing toll-free telephone service to answer mortgagor inquiries because of the expense involved if too frequent inquiries are made. Toll-free telephone service is only one alternative available to the mortgagee. A change has been made, pursuant to other suggestions, to limit such calls to those from the immediate vicinity of the security property thus reducing the opportunity for mortgagor abuse. Objection was voiced to reminding mortgagors of the system for providing information to mortgagors "at least annually". Since an annual statement is provided to the mortgagor no additional mailing is mandated by this requirement.

Paragraph (c) has been modified slightly to provide specific guidance to mortgagees on when a statement of interest paid, and taxes disbursed from the escrow account, must be furnished to the mortgagor.

Section 203.510 Care of properties. This section has been omitted as repetitious of the provisions of §§ 203.7 and 203.500.

Section 203.550 Escrowing accounts. Paragraph (a) of the proposed rule has been deleted as suggested in comments, as repetitious of material appearing elsewhere in the regulations.

Certain comments suggested that some mortgagees were troubled by the language of the third sentence of paragraph (b) of the proposed rule. This sentence has been changed to clarify its intent. A number of comments were received concerning paragraph (d) and the desire to make other dispositions of escrow funds. Paragraph (d) is consistent with RESPA and has been retained as proposed for the protection of the mortgagor. However, the last two sentences of (d) have been moved to paragraph (b) as logically belonging there.

The last word of paragraph (e) has been changed to "promptly" in accordance with comments, to provide a more realistic touchstone. Some commentors were concerned with variations in the timing of payments to close out the escrow fund. The second sentence of paragraph (e) has been modified in a manner which should obviate this concern.

Section 203.552 Fees and charges after endorsement. A number of comments were directed to specific provisions of this section. Some comments objected to reprocessing a check pursuant to paragraph (a)(2). Reprocessing takes little time and is a protection against defaults. Where bank policy does not permit, this practice is not required. Some comments recommended a change of policy with respect to not allowing foreclosure fees for attorneys on the staff of the mortgagee or its servicer. Separate consideration will be given to this recommendation. Paragraph (9) has been modified to include trustee's fees actually incurred, as suggested in public comment.

One comment called attention to an error in paragraph (a)(10). The first section reference therein has been changed accordingly. Parenthetical language has been added to paragraph (a)(12) in response to comments concerning the provisions of certain deeds of trust. Some comments noted that while it may be the responsibility of the mortgagee in some states to record the satisfaction of a mortgage (paragraph (a)(12)(iv)), the liability for paying the recordation fee should be placed on the mortgagor. If the mortgage instrument places responsibility for payment of that fee on the mortgagor, then the instant provision does note override the mortgage instrument. See § 203.500. Paragraphs (13) and (14) have been added in response to comments to deal with suits against mortgagees and to permit collection of preservation costs in the event of reinstatement.

Section 203.554 Enforcement of late charge. Several public comments decried inability to collect late charges by deduction from monthly payments. This, of course, was the rule under § 203.25 prior to its amendment in this rule. The instant section will permit the collection of the late charge, not from the initial late payment, but off the top of payments after the required notice has been given, if this is not inconsistent with the mortgage. The Department will be revising those mortgage forms which do not currently permit collection by deduction in the manner provided in the instant Section. Collecting late charges by deduction will avoid the prohibitive cost of collecting such charges by separate suit and will make late charges a significant deterrent to late payments. Language has been added to the first sentence to avoid inconsistency with § 203.556, as noted in public comment.

Section 203.556 Return of partial payments. A number of comments were received evidencing a concern with restrictions on the return of certain partial payments. These concerns are counterbalanced by concerns as to "fast foreclosures" by some mortgagees, an abuse which Mortgagee Letter 75–10 sought to address. Because of the concerns expressed, the language of this section has been rewritten to make it simpler to follow. The mortgagee's increased ability to collect a larger late charge and the effect of that late charge as a deterrent to late payments should help to obviate some of the problems with late payments.

Section 203.558 Handling prepayments. A minor technical change has been made in the caption and in the first sentence in response to comments received.

Section 203.600 Mortgage collection action. Public comments suggested that certain provisions of this Subpart might delay collection action in certain circumstances. Introductory language has been added to take account of these constraints.

Section 203.602 Delinquency notice to mortgagor. Two comments were received objecting to technical aspects relating to the notice and one comment objected to giving additional notices. We have retained this section as it was proposed, with a slight clarification of the first sentence.

Section 203.604 Contact with the mortgagor. One comment recommended requiring an interview with the mortgagor regardless of the distance involved. Seven comments recommended that interviews not be required if the mortgagor is not residing in the mortgaged property. It was argued that since the mortgagor has moved away from the property the mortgagee should not be required to chase him down wherever he has gone for an interview. The mortgagee should not have to go farther than the mortgaged property. Its visit would not serve as an inspection of the property if the mortgagor were interviewed elsewhere, etc. All things considered we have decided to limit the requirement of an interview to the mortgagor who still resides in the mortgaged property. There is nothing to prevent the mortgagee from proceeding with an interview even though these conditions are not met and many mortgagees may find it advantageous to conduct interviews covered by this exception.

Two comments suggested a shorter distance limit than 200 miles. However, eliminating the requirement of interviews when mortgagors do not live in the security properties should avoid much of the travel involving such distances. One commentor preferred the telephone to an interview. Obviously, if

telephone contact is productive, the mortgagee need not reach the face-to-face interview. However, if telephonic contact does not produce results, the interview should follow.

Some comments were concerned about inability to contact the mortgagor. Mortgagees must make a concerted effort to be in a position to contact mortgagors at all times if they are to be effective in servicing mortgages. Obviously, if it is impossible to contact a particular mortgagor it cannot be done. The regulation does not impose an absolute requirement in such cases.

Section 203.606 Pre-foreclosure review. One comment suggested that there should be no exception for pre-foreclosure review, even when the mortgagor has clearly stated his intention not to pay his mortgage obligation. Mortgagees should not be required to go through a review to determine if forbearance relief by the mortgagee or an assignment to HUD for forbearance should be undertaken if the mortgagor has no intention of cooperating in a program that could result in saving his ownership of the property. In other words, mortgagees should not be asked to do a vain thing. Thus this recommendation has not been accepted. We have added the requirement that the mortgagor be advised of the options for relief before his statement that he has no intention of honoring his mortgage obligation will justify proceeding with foreclosure without further delay. We've also adopted the requirement that such a statement by the mortgagor be in writing, as suggested in several public comments.

We have accepted another suggestion that we add an additional exception for the case of a mortgaged property that is earning rental income which is not being applied to mortgage payments. There is no desire to reward equity skimmers or the mortgagor who pockets the rentals without honoring his mortgage obligation. Additional exceptions were suggested but these have not been adopted since they do not present as clear cut a case for denial of special relief as those stated in the rule.

A very few comments were opposed to forbearance review. However, a single review for the purpose of determining whether a mortgagor's ownership can be saved is not an unreasonable requirement and, if ownership is protected under conditions which result in the payment of the mortgage, the mortgagee, the mortgagor and HUD are all better off.

Section 203.608 Reinstatement. Four comments opposed this reinstatement provision and one suggested clarification. A reinstatement which makes the mortgagee whole is to the advantage of all concerned, including the mortgagee, if the privilege is not abused. Thus the provision has been retained. However the words "and expenses" have been interlined in the first sentence. The last sentence has been dropped as unnecessary. Additional language has been added to protect the interests of the mortgagee and HUD if reinstatement would preclude a subsequent foreclosure or cause a loss of the priority of the mortgage lien.

Section 203.610 Relief for mortgagor in military service. The proposed rule would have moved the substance of §§ 203.345 and 203.346 from Subpart B to this section in Subpart C. Due to public concern as to retention of mortgage insurance coverage § 203.610 now refers to those sections and requires mortgagee consideration of the relief available thereunder. See also § 203.606.

Section 203.614 Conditions of special forbearance. We have adopted technical amendments to paragraph (b)(2) suggested by one of the comments. Minor changes in verbiage have been made in paragraph (a) consistent with former § 203.340.

Section 203.616 Recasting of mortgages. One public comment suggested eliminating the prohibition against including late charges in a mortgage modification. This suggestion has been accepted since late charges are provided for by the mortgage and thus they may be appropriately included in the reamortized mortgage. Suggestions for including the attorney's fees of the lawyer preparing the recast mortgage and allowing interest at the then market rate have not been adopted since this would be inconsistent with paragraph (2) of the seventh proviso to section 204(a) of the National Housing Act, 12 U.S.C. 1710(a). Paragraph (e) makes clear the previous rule that recasting may be refused in the sole discretion of the mortgagee.

Sections 203.650 through 203.662. These sections on the assignment of mortgages to HUD, incorporate the substance of Mortgagee Letter 76-9. These sections have been recast to place the material therein in more logical form. A fem commentors suggested that the assignment program under Mortgagee Letter 76-9 not be included in regulations. As previously noted under general comments, HUD considers that publication of compulsory requirements as a part of the regulations is appropriate. Accordingly, these sections are included in the final rule. Other comments were directed to the desire that HUD accept more assignments or that HUD expedite its determinations. These comments to the effect that HUD should accept more assignments were not accompanied by suggestions for the application of criteria other than as are set forth in these regulations so no change has been made therein. With experience, we expect requests for acceptance of assignments to be processed more quickly.

Two comments suggested that HUD pay 100 percent of the foreclosure costs when foreclosure is postponed to permit consideration of assignment. HUD does not consider that it should have a different rule for foreclosure costs in this instance than it has as a general proposition. One mortgagee commented that mortgagors were not responding to its communications on the subject of assignments to HUD for forbearance.

Comments with respect to procedural features of the regulations included the recommendation of some that mortgagors be entitled to examine the materials on which the preliminary determination of unacceptability was predicated prior to the conference at which the decision is to be reconsidered. The text of the rule has been modified accordingly. Some comments urged that the word "should" which appeared in the fourth line of § 203.660 as it was printed in the Daily FEDERAL REGISTER at 41 FR 36611 should be changed to "shall". The rules document submitted to the FEDERAL REGISTER by HUD did include the word "shall", but when type was set for printing, "should" was used. The text of the instant rule uses the word "shall".

Four comments suggested that the mortgagor be entitled to call a witness or witnesses. While an adversary proceeding is not intended, the privilege of presenting testimony by witnesses has been included in the final rule. Two comments suggested that the person conducting the conference should be a person other than the one who made the preliminary negative determination. Since an adversary proceeding is not involved and the conference offers the opportunity to submit new and material evidence which may well cause a change of decision, no change has been made. Section 203.652 has been modified to make it clear that written applications are not required.

A few comments suggested that the mortgagor who states that he has no intention of honoring his mortgage obligation should not be rendered ineligible. The assignment program is for mortgagors who wish to honor their mortgage obligations and arrange over appropriate time for the reinstatement or recasting of their mortgages. HUD does not wish to waste the time of the mortgagee and HUD with these cases which have no chance of acceptance for assignment. However, language has been added to require that the mortgagor be clearly advised as to the options available for relief. We've also adopted the requirement that such a statement by the mortgagor be in writing, as suggested by several public comments.

One comment suggested that the mortgagee be permitted to review the evidence relied on for the preliminary negative determination and attend the conference. The proceeding is not intended to be an adversary proceeding. It is possible that a representative of the mortgagee may be called as a witness and thus will attend the conference. We have not altered the rule to permit the mortgagee's attendance otherwise. One comment suggested that the mortgagor should be able to bring more than one representative. One person can provide adequate representation in these informal conferences and the rules seek to eliminate cumulative statements and the delays that would be thus occasioned.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. A copy of the Finding of Inapplicability is available for inspection in the Office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban De-

velopment, 451 7th Street, S.W., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of this proposed rule have been carefully evaluated in accordance with OMB Circular A–107.

Accordingly, the Secretary of Housing and Urban Development amends Part 203, of Chapter II of 24 CFR as follows:

30. In Part 203, the table of contents is amended as follows:

(1) Sections 203.341 and 203.375 are deleted and the centered caption preceding section 203.340 is revised to read

"CONTINUATION OF INSURANCE"

Sections 203.9, 203.330, 203.332, 203.340, 203.350a and 203.379 headings are revised; and §§ 203.258, 203.343, 203.377, 203.378 and 203.402a, are added as set out below:

Sec.
203.9 Staffing and facilities.
203.258 Assumption with or without release of mortgagor.
203.330 Delinquency and default.
203.332 Notice of delinquency.
203.340 Special forbearance.
203.341 [Reserved]
203.343 Partial release, addition or substitution or security.
203.350a Assignment of defaulted mortgage.
203.375–203.376 [Reserved]
203.377 Inspection and preservation of properties.
203.378 Property condition.
203.379 Adjustment for damage or neglect.
203.402a Reimbursement for uncollected interest.

1b. A new Subpart C and accompanying sections are added as follows:

Subpart C—Servicing Responsibilities

GENERAL REQUIREMENTS

Sec.
203.500 Mortgage servicing generally.
203.502 Responsibility for servicing.
203.508 Providing information.

PAYMENTS, CHARGES AND ACCOUNTS

203.550 Escrow accounts.
203.552 Fees and charges after endorsement.
203.554 Enforcement of late charges.
203.556 Return of partial payments.
203.558 Handling prepayments.

MORTGAGEE ACTION AND FORBEARANCE

203.600 Mortgage collection action.
203.602 Delinquency notice to mortgagor.
203.604 Contact with the mortgagor.
203.606 Pre-foreclosure review.
203.608 Reinstatement.
203.610 Relief for mortgagor in military service.
203.614 Conditions of special forbearance.
203.616 Recasting of mortgage.

ASSIGNMENT OF MORTGAGES TO HUD

203.650 Assignment of mortgages.
203.651 Preliminary notice to mortgagors.
203.652 Determination by mortgagee.
203.654 Preliminary review and determination by Secretary.
203.656 Conference.
203.658 Final decision.
203.659 Foreclosure.
203.660 Time limits.
203.662 Authorization of field office directors.

AUTHORITY: Secs. 203, 211 of the National Housing Act, as amended, 12 U.S.C. 1709, 1716b; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

2. Section 203.7 is amended by redesignating paragraph (a)(7) as paragraph (a)(8) and by adding a new paragraph (a)(7) reading as follows:

§ 203.7 Withdrawal of approval.

(a) * * *

(7) Without regard to the dates of the insurance of the mortgages involved, the breach of duties imposed by or the violation of prohibitions contained in this part.

* * * * *

3. Section 203.9 is revised to read:

§ 203.9 Staffing and facilities.

A mortgagee shall employ or contract for the employment of trained personnel competent in all aspects of mortgage lending activities, including underwriting, servicing and field collection activities, and adequate staff and facilities to originate and service mortgages in accordance with the requirements of this Part, to the extent the mortgagee engages in such activities.

4. Section 203.23 is amended by changing the next to the last word in the first sentence of paragraph (a) to read "become", by redesignating paragraph (b) as paragraph (c), and by inserting a new paragraph (b) to read as follows:

§ 203.23 Mortgagor's payments to include other charges.

* * * * *

(b) The mortgagor shall not be required to pay premiums for fire or other hazard insurance which protects only the interests of the mortgagee, or for life or disability income insurance, or fees charged for obtaining information necessary for the payment of property taxes. The foregoing does not apply to charges made or penalties exacted by the taxing authority, except that a penalty assessed or interest charged by a taxing authority for failure to timely pay taxes or assessments shall not be charged by the mortgagee to the mortgagor if the mortgagee had sufficient funds in escrow for the account of the mortgagor to pay such taxes or assessments prior to the date on which penalty or interest charges are imposed.

* * * * *

5. Section 203.25 is revised to read:

§ 203.25 Late charge.

The mortgage may provide for the collection by the mortgagee of a late charge, not to exceed four per cent of the amount of each payment more than 15 days in arrears, to cover servicing and other costs attributable to the receipt of payments from mortgagors after the date upon which payment is due.

6. Section 203.26 is revised to read as follows:

§ 203.26 Mortgagor's payments when mortgage is executed.

(a) The mortgagor must pay to the mortgagee, upon execution of the mortgage, a sum that will be sufficient to pay the ground rents, if any, the estimated taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums for the period beginning on the last date on which each such charge would have been paid under the normal lending practices of the lender and local custom (if each such date constitutes prudent lending practice), and ending on the due date of the first full installment payment under the mortgage, plus an amount sufficient to pay the mortgage insurance premium from the date of closing the loan to the date of the first monthly payment under the mortgage.

(b) The mortgagee may also collect from the mortgagor a sum not exceeding one-sixth of the estimated total amount of such taxes, special assessments, insurance premiums and other charges to be paid during the ensuing 12-month period.

§ 203.54 [Amended]

7. Section 203.54 is amended by adding the words "and Subpart C of this Part" immediately before the period at the end of the first sentence.

§§ 203.251 and 203.257 [Amended]

8. Sections 203.251(j) and 203.257 are amended by changing the words "Part" therein to read "Subpart".

9. A new § 203.258 is added to read as follows:

§ 203.258 Assumption with or without release of mortgagor.

The mortgagee may effect the release of a mortgagor from personal liability on a mortgage note while retaining the benefits of insurance under this Part if it obtains the Secretary's approval of a substitute mortgagor (assumptor) who assumes personal liability and agrees to pay the mortgage debt.

10. Section 203.261 is amended to add the following sentence at the end thereof:

§ 203.261 Calculation of MIP.

* * * An agreement to postpone payments or to recast the mortgage will not affect the amount of the annual MIP, which will continue to be calculated in accordance with the original amortization provisions of the mortgage.

11. Section 203.330 is revised to read:

§ 203.330 Delinquency and default.

A mortgage account is delinquent any time a payment is due and not paid. If the mortgagor fails to make any payment, or to perform any other obligation under the mortgage, and such failure continues for a period of 30 days, the mortgage shall be considered in default for the purposes of this Part.

12. Section 203.332 is revised to read:

§ 203.332 Notice of delinquency.

Once each month the mortgagee shall report or cause to be reported all mortgages insured under this Part which are 90 or more days delinquent and concerning the status of all mortgages which were reported as 90 or more days delinquent the previous month. Such reports shall be made on a form approved by the Commissoner.

13. The centered caption preceding § 203.340 and the title and text of § 203.340 are revised to read as follows:

CONTINUATION OF INSURANCE

§ 203.340 Special forbearance.

(a) If the conditions of § 203.614 are met and special forbearance relief is granted pursuant to that section, the contract of insurance shall continue in force except as otherwise provided in this subpart.

(b) The contract of insurance shall continue in force, except as otherwise provided in this Subpart, when the conditions of this section which were effective prior to January 1, 1977, have been met and special forbearance relief is granted pursuant thereto prior to January 1, 1977.

§ 203.341 [Redesignated]

14. § 203.341 is redesignated as 203.402a and the first sentence thereof is amended to read:

§ 203.402a Reimbursement for uncollected interest.

The mortgagee shall be entitled to receive an allowance in the insurance settlement for unpaid mortgage interest, if the mortgagor fails to meet the requirements of a forbearance agreement entered into pursuant to § 203.614 and such failure continues for a period of 60 days. * * *

* * * * *

15. Section 203.342 is revised to read:

§ 203.342 Recasting of mortgage.

(a) If the conditions of § 203.616 are met and a mortgage is recast pursuant to that Section, the contract of insurance in force shall continue except as otherwise provided in this subpart.

(b) The contract of insurance shall continue in force, except as otherwise provided in this part, when the conditions of this section which were effective prior to January 1, 1977, have been met and a mortgage has been recast pursuant thereto prior to January 1, 1977.

(c) When a mortgage is recast, the principal amount of the mortgage, as modified, shall be considered to be the "original principal of the mortgage" as that term is used in § 203.401.

16. A new § 203.343 is added to read as follows:

§ 203.343 Partial release, addition or substitution of security.

(a) Except as provided in § 203.389(n), a mortgagee shall not release the security or any part thereof, while the mortgage is insured, without the prior consent of the Commissioner.

(b) A mortgagee may, with the prior consent of the Commissioner, accept an addition to, or substitution of, security for the purpose of removing the dwelling to a new lot under the following conditions:

(1) The mortgagee obtains a good and valid first lien on the property to which the dwelling is removed.

(2) All damages to the structure are repaired without cost to HUD.

(3) The property to which the dwelling is removed is in an area known to be reasonably free from natural hazards or, if in a flood zone, the mortgagor will insure or reinsure under the Federal Flood Insurance Program.

(c) A mortgagee may, without the prior consent of the Commissioner, accept an addition to, or substitution of, security for the purpose of removing the dwelling to a new lot under the following conditions.

(1) The dwelling has survived an earthquake or other disaster with little damage, but continued location on the property might be hazardous.

(2) The conditions stated in paragraph (b) of this section exist.

(3) Immediately following the emergency removal the mortgagee notifies the Commissioner of the reasons for removal.

17. Section 203.350a is revised to read:

§ 203.350a Assignment of defaulted mortgage.

When the assignment of a defaulted mortgage to the Commissioner is accomplished pursuant to § 203.350 or § 203.650 the mortgagee shall file the assignment of the mortgage to the Commissioner for record within 30 days of the Commissioner's written approval of such assignment, or within such further time as may be authorized in writing by the Commissioner.

18. Section 203.355 is revised to read:

§ 203.355 Acquisition of property.

The mortgagee shall take one of the following actions within one year from the date of default, or within such additional period of time as may be approved by the Secretary or authorized by §§ 203.345, 203.346 or §§ 203.650 through 203.662.

(a) The mortgagee shall obtain a deed in lieu of foreclosure (see §§ 203.357, 203.389 and 203.402(f)) with title being taken in the name of the mortgagee or the Secretary;

(b) The mortgagee shall commence foreclosure; or

(c) If the laws of the State in which the mortgaged property is situated do not permit the commencement of foreclosure within one year from the date of default, the mortgagee shall commence foreclosure within sixty days after the expiration of the time during which such foreclosure is prohibited by such laws.

§ 203.375 [Redesignated]

19. Section 203.375 is redesignated as § 203.378 and paragraph (b) is amended by adding the following sentence at the end thereof:

§ 203.378 Property condition.

* * * * *

(b) * * * However, the mortgagee shall be responsible for damage to or destruction of security properties on which the loans are in default and which properties are vacant or abandoned due to the mortgagee's failure to take reasonable action to inspect, protect and preserve such properties as required by § 203.377, as to all mortgages insured on or after January 1, 1977, but such responsibility shall not exceed the amount of its insurance claim as to a particular property.

20. A new § 203.377 is added as follows:

§ 203.377 Inspection and preservation of properties.

The mortgagee, upon learning that a property subject to a mortgage insured under this Part, is vacant or abandoned, shall be responsible for the inspection of such property at least monthly, if the loan thereon is in default. When a mortgage is in default and a payment thereon is not received within 45 days of the due date, and efforts to reach the mortgagor by telephone within that period have been unsuccessful, the mortgagee shall be responsible for a visual inspection of the security property to determine whether the property is vacant. The mortgagee shall take reasonable action to protect and preserve such vacant or abandoned security property until its conveyance to the Commissioner, if such action does not constitute an illegal trespass.

21. In § 203.379, the section heading and introductory text are revised and the last sentence of paragraph (b)(3) is amended as set forth below:

§ 203.379 Adjustment for damage or neglect.

If the security property has been damaged by fire, flood, earthquake, or tornado, or as to mortgages insured on or after January 1, 1977, has suffered damage due to failure of the mortgagee to take action as required by § 203.377, such damage shall be repaired prior to conveyance of the property to the Secretary, except in the following instances:

* * * * *

(b) * * *

(3) * * *, including coverage under the FAIR Plan. A "reasonable rate" is a rate not more than 25 percent in excess of the rate or the advisory rate filed or used by the principal rating organization doing business in the State. If the property is located in a state which has no rate or advisory rate as provided in the preceding sentence, the mortgagor shall consult the Director of the local HUD office as to a reasonable rate. When hazard insurance coverage has been cancelled or renewal has been refused after the mortgage is insured, and other hazard insurance coverage cannot be obtained in an amount equal to the unpaid principal balance of the loan but insurance can be obtained in a reduced amount from a FAIR Plan or another insurance carrier, the Commissioner will accept the reduced coverage without reduction of mortgage insurance benefits, if the rates do not exceed the guidelines stated herein. If coverage in any amount is only available at rates in excess of a reasonable rate as defined herein, the mortgagor may but shall not be required to purchase such coverage. If coverage is purchased, the amount of any claim for insurance benefits under this Part shall be reduced by the amount of any recovery of hazard insurance benefits by the mortgagee.

23. The first sentence of § 203.380 is amended to read:

§ 203.380 Certificate of property condition.

The mortgagee shall either certify that as of the date of the filing of deed for record, or assignment of the mortgage to the Commissioner, the property was (a) undamaged by fire, flood, earthquake, or tornado, and (b) as to mortgages insured or for which commitments to insure are issued on or after January 1, 1977, undamaged due to failure of the mortgagee to take action as required by § 203.377, or its claim shall be accompanied by a copy of the Commissioner's authorization to convey the property in damaged condition. * * *

24. Section 203.389 is amended by adding a new paragraph (o) at the end thereof as follows:

§ 203.389 Waived title objections.

* * * * *

(o) Federal Tax liens and rights of redemption arising therefrom if the following conditions are observed. If the mortgagee acquires the property by foreclosure the mortgagee shall give notice to the Internal Revenue Service (IRS) of the foreclosure action. The Commissioner will not object to an outstanding right of redemption in IRS if (1) the Federal tax lien was perfected subsequent to the date of the mortgage lien, and (2) the mortgagee has bid an amount sufficient to make the mortgagee whole if the property is in fact redeemed by the IRS.

25. Section 203.402 is amended by adding a sentence at the end of paragraph (f) and adding a sentence at the end of paragraph (g) as follows:

§ 203.402 Items included in payment—conveyed properties.

* * * * *

(f) * * * Costs of acquiring the property otherwise than by foreclosure may include not to exceed $200 paid to the mortgagors as consideration for their execution of a deed in lieu of foreclosure.

(g) * * * Reasonable costs for performing the inspections required by § 203.377 and to determine if the property is vacant or abandoned are considered to be costs of protecting, operating or preserving the property. Reasonable costs incurred in evicting occupants and in removing debris and personal property from acquired properties are also considered to be costs of protecting, operating and preserving the property.

* * * * *

26. A new Subpart C is added as follows:

Subpart C—Servicing Responsibilities

General Requirements

§ 203.500 Mortgage servicing generally.

This subpart identifies servicing practices which the Secretary considers acceptable mortgage servicing practices of lending institutions servicing mortgages insured by the Secretary and is not intended to affect rights and obligations as between the mortgagee and mortgagor under the mortgage. Failure to comply with the provisions of this subpart or instructions issued pursuant to this subpart shall not be a basis for denial of insurance benefits but may be cause for withdrawal of a mortgagee's approval.

§ 203.502 Responsibility for servicing.

(a) A mortgagee may utilize any individual or firm to service its Secretary-insured mortgage loans. However, the servicer employed must fully discharge the servicing responsibilities of the mortgagee as outlined in this Part. The mortgagee shall remain fully responsible to the Secretary for proper servicing and the actions of its servicer shall be considered to be the actions of the mortgagee. If the servicer is an approved mortgagee, it shall also be fully responsible to the Secretary for its acts as a servicer as though it were the mortgagee, except to the extent that it acts in accordance with specific written instructions from the mortgagee.

(b) Whenever servicing of any mortgage is transferred from one mortgagee or servicer to another, the mortgagee effecting the transfer shall notify or arrange to notify the mortgagor. The notification shall provide the mortgagor with the name, address and telephone number of the new servicer or mortgagee and include any special instructions for the handling of payments during the conversion period. Notification pursuant to this paragraph must be mailed to reach the mortgagor no later than ten days prior to the due date of the first payment which the mortgagor is asked to remit to the new servicer or mortgagee. The mortgagee effecting a transfer of servicing shall also notify the Secretary within thirty days thereof on a form approved by the Secretary.

§ 203.508 Providing information.

(a) Mortgagees shall provide loan information to mortgagors and arrange for individual loan consultation on request. The mortgagee must establish written procedures and controls to assure prompt responses to inquiries. One or more of the following means of making information readily available to mortgagors is required:

(1) An office staffed with competent personnel located within 200 miles of the property, capable of providing timely responses to requests for information. Complete records need not be maintained in such an office if the staff is able to secure needed information and pass it on to the mortgagor.

(2) Toll-free telephone service at an office capable of providing needed information.

(b) All mortgagors must be informed of the system available for obtaining answers to loan inquiries, the office from which needed information may be obtained and reminded of the system at least annually. Toll-free telephone service need not be provided to a mortgagor other than at the office designated to serve the mortgagor nor other than from the immediate vicinity of the security property.

(c) Within sixty days after the end of each calendar year, a mortgagee shall furnish to the mortgagor a statement of the interest paid, and of the taxes disbursed from the escrow account during the preceding year. At the mortgagor's request, the mortgagee shall furnish a statement of the escrow account sufficient to enable the mortgagor to reconcile the account.

(d) Mortgagees must respond to HUD requests for information concerning individual accounts.

Payments, Charges and Accounts

§ 203.550 Escrow accounts.

(a) It is the mortgagee's responsibility to make escrow disbursements before bills become delinquent. Mortgagees must establish controls to insure that bills payable from the escrow fund or the information needed to pay such bills is obtained on a timely basis. Penalties for late payments for items payable from the escrow account must not be charged to the mortgagor unless it can be shown that the penalty was the direct result of the mortgagor's error or omission. Early payment of a bill to take advantage of a discount should be made whenever it is to the mortgagor's benefit, if escrow funds are available for the payment of the bill.

(b) Not later than the end of the second loan year the mortgagee shall establish a system for the periodic analysis of the escrow account which analysis shall be accomplished at least once a year thereafter. The monthly escrow payment shall be adjusted, after analysis, to provide a sufficient accumulation of escrow funds to make anticipated disbursements during the ensuing year. The mortgagor shall be given at least ten days notice of adjustment in monthly payments and an adequate explanation of the reasons for any change. When the escrow account is analyzed in accordance with this Paragraph, any surplus or shortage shall be refunded to or collected from the mortgagor as provided for in the security instrument. If a surplus is to be refunded, application of the surplus to delinquent payments shall be considered as a cash refund to the mortgagor.

(c) The mortgagee's estimate of escrow requirements shall be based on the best information available as to probable payments which will be required to be made from the account in the coming year. If actual disbursements during the preceding year are used as the basis, the resulting estimate may deviate from those disbursements by as much as ten percent. The mortgagee may require an escrow account up to one-sixth in excess of the current estimated total annual requirement, but larger amounts shall not be held by the mortgagee unless expressly requested by the mortgagor.

(d) The mortgagee shall not institute foreclosure when the only default of the mortgagor occupant is a present inability

to pay a substantial escrow shortage, resulting from an adjustment pursuant to this Section, in a lump sum.

(e) When the contract of mortgage insurance is terminated voluntarily or because of prepayment in full, sums in the escrow account to pay the mortgage insurance premiums shall be remitted to HUD with a form approved by the Secretary for reporting the voluntary termination of prepayment. Upon prepayment in full sums held in escrow for taxes and hazard insurance shall be released to the mortgagor promptly.

§ 203.552 Fees and charges after endorsement.

(a) The mortgagee may collect reasonable and customary fees and charges from the mortgagor after insurance endorsement only as follows:

(1) Late charges as set forth in § 203.25;

(2) Charges for processing or reprocessing a check returned as uncollectible; (Where bank policy permits, the mortgagee must deposit a check for collection a second time before assessing a bad check charge.);

(3) Fees for processing a change of ownership of the mortgaged property;

(4) Fees and charges for arranging a substitution of lability under the mortgage in connection with the sale or transfer of the property;

(5) Charges for processing a request for credit approval of an assumptor or substitute mortgagor;

(6) Charges for substitution of a hazard insurance policy at other than the expiration of term of the existing hazard insurance policy;

(7) Charges for modification of the mortgage involving a recorded agreement for extension of term or reamortization;

(8) Fees and charges for processing a partial release of the mortgaged property;

(9) Attorney's and trustee's fees and expenses actually incurred when a case has been referred for foreclosure in accordance with the provisions of this Part after a firm decision to foreclose if foreclosure is not completed because of a reinstatement of the account; (No attorney's fee may be charged for the services of the mortgagee's or servicer's staff attorney or for the services of a collection attorney other than the attorney handling the foreclosure.)

(10) The service charge provided for by § 203.23(c) and escrow charges in accordance with § 203.23(a);

(11) A trustee's fee if the security instrument in deed-of-trust states provides for payment of such a fee for execution of a satisfactory, release, or trustee's deed when the deed of trust is paid in full; and

(12) Such other reasonable and customary charges as may be authorized by the Secretary. (This shall not include (i) charges for servicing activities of the mortgagee or servicer; (ii) fees charged by independent tax servicer organizations which contract to furnish data and information necessary for the payment of property taxes, (iii) "satisfaction", "termination", or "reconveyance" fees when a mortgage is paid in full (other than as provided in subparagraph (a) (11) of this section), or (iv) the fee for recordation of a satisfaction of the mortgage in states where recordation is the responsibility of the mortgagee.)

(13) Where permitted by the security instrument, attorney's fees and expenses actually incurred in the defense of any suit or legal proceeding wherein the mortgagee shall be made a party thereto by reason of the mortgage; (No attorney's fee may be charged for the services of the mortgagee's or servicer's staff attorney.)

(14) Property preservation expenses incurred pursuant to § 203.377.

(b) "Reasonable and customary" fees must be predicated upon the actual cost of the work performed including out-of-pocket expenses. Directors of HUD Area and Insuring Offices are authorized to establish maximum fees and charges which are reasonable and customary in their areas. Except as provided in this Part, no fee or charge shall be based on a percentage of either the face amount of the mortgage or the unpaid principal balance due on the mortgage.

§ 203.554 Enforcement of late charges.

A mortgagee shall not commence foreclosure when the only default on the part of the mortgagor is the failure to pay a late charge or charges (§ 203.25), except as provided in § 203.556. A late charge attributable to a particular installment payment due under the mortgage shall not be deducted from that installment. However, if the mortgagee thereafter notifies the mortgagor of his obligation to pay a late charge, such a charge may be deducted from any subsequent payment or payments submitted by the mortgagor or on his behalf if this is not inconsistent with the terms of the mortgage. Partial payments shall be treated as provided in § 203.556.

§ 203.556 Return of partial payments.

(a) For the purpose of this section a partial payment is a payment of any amount less than the full amount due under the terms of the mortgage when the mortgage is in default at the time the payment is tendered.

(b) Partial payment may be returned to the mortgagor with a letter of explanation in any of the following circumstances:

(1) The payment aggregates less than 50% of the amount due;

(2) Four or more monthly installments are due and unpaid;

(3) A delinquency of any amount has continued for at least six months since the account first became delinquent (§ 203.330);

(4) The payment is less than the amount agreed to in a repayment plan;

(5) The property is occupied by a tenant who is paying rent and the rentals are not being applied to the mortgage payments.

(6) Foreclosure has been commenced. (Foreclosure is commenced when the first action required for foreclosure under applicable law is taken.)

(c) A partial payment meeting one of the criteria in paragraph (b) of this section may be returned only if the mortgagee has mailed to the mortgagor a notice of intention to return any payment less than the full amount due including late charges accompanied by a statement of such amount and charges. Thereafter the mortgagee may return any partial payment received more than 14 days after the mailing of such notice.

(d) Except as provided in paragraph (b) of this section, the mortgagee shall accept any partial payment and either apply it to the mortgagor's account or identify it with the mortgagor's account and hold it in a trust account pending disposition. When partial payments held for disposition aggregate a full monthly installment they shall be applied to the mortgagor's account, thus advancing the date of the oldest unpaid installment but not the date on which the account first became delinquent.

§ 203.558 Handling prepayments.

Notwithstanding the terms of the mortgage, the mortgagee may accept a prepayment at any time and in any amount so long as monthly interest on the debt is calculated on the actual unpaid principal balance of the loan. If the mortgagee will not accept a prepayment until the first day of the month following expiration of the thirty-day notice period (§ 203.22), unless interest is paid to that date, the mortgagee's response to the mortgagor's inquiry, request for payoff figures, or tender must clearly advise the mortgagor of this fact. If the mortgagor's notice of intention to prepay or prepayment is required to be delivered on a nonworking day, the notice of prepayment shall be timely if delivered on the next working day.

MORTGAGEE ACTION AND FOREBEARANCE

§ 203.600 Mortgage collection action.

Subject to the requirements of this subpart, mortgagees shall take prompt action to collect amounts due from mortgagors to minimize the number of accounts in a delinquent or default status. Collection techniques must be adapted to individual differences in mortgagors and take account of the circumstances peculiar to each mortgagor.

§ 203.602 Delinquency notice to mortgagor.

The mortgagee shall give notice to each mortgagor in default on a form supplied by the Secretary or, if the mortgagee wishes to use its own form, on a form approved by the Secretary, no later than the end of the second month of any delinquency in payments under the mortgage. If an account is reinstated and again becomes delinquent, the delinquency notice shall be sent to the mortgagor again, except that the mortgagee is not required to send a second delinquency notice to the same mortgagor more often than once each six months. The mortgagee may issue additional or more frequent notices of delinquency at its option.

§ 203.604 Contact with the mortgagor.

(a) [Reserved].

(b) The mortgagee must have a face-to-face interview with the mortgagor, or make a reasonable effort to arrange such a meeting, before three full monthly installments due on the mortgage are unpaid. If default occurs in a repayment plan arranged other than during a personal interview, the mortgagee must have a face-to-face meeting with the mortgagor, or make a reasonable attempt to arrange such a meeting, within thirty days after such default and at least thirty days before foreclosure is commenced.

(c) A face-to-face meeting is not required if (1) the mortgagor does not reside in the mortgaged property, (2) the mortgaged property is not within 200 miles of the mortgagee, its servicer, or a branch office of either, (3) the mortgagor has clearly indicated that he will not cooperate in the interview, (4) a repayment plan consistent with the mortgagor's circumstances is entered into to bring the mortgagor's account current thus making a meeting unnecessary, and payments thereunder are current, or (5) a reasonable effort to arrange a meeting is unsuccessful.

(d) A reasonable effort to arrange a face-to-face meeting with the mortgagor shall consist at a minimum of one letter sent to the mortgagor certified by the Postal Service as having been dispatched. Such a reasonable effort to arrange a face-to-face meeting shall also include at least one trip to see the mortgagor at the mortgaged property, unless the mortgaged property is more than 200 miles from the mortgagee, its servicer, or a branch office of either, or it is known that the mortgagor is not residing in the mortgaged property.

§ 203.606 Pre-foreclosure review.

(a) The mortgagee shall review its file relating to the servicing of a mortgage before initiating foreclosure to satisfy itself that the case has been handled in accordance with the servicing requirements outlined in this subpart. The mortgagee shall not commence foreclosure for a monetary default unless at least three full monthly installments due on the mortgage are unpaid after application of any partial payments which may have been accepted but not yet applied to the mortgage account.

(b) No delay in the commencement of foreclosure is required if the mortgagee ascertains that (1) the mortgaged property is vacant or has been abandoned, (2) the mortgagor, after being clearly advised of the options available for relief, has clearly stated in writing that he has no intention of honoring his mortgage obligation, or (3) a tenant is paying rentals on the property but such rentals are not being applied to the mortgage payments.

§ 203.608 Reinstatement.

The mortgagee shall permit reinstatement of a mortgage, even after the institution of foreclosure proceedings, if the mortgagor tenders in a lump sum all amounts required to bring the account current, including foreclosure costs and reasonable attorney's fees and expenses properly associated with the foreclosure action, unless (a) the mortgagee has accepted reinstatement after the institution of foreclosure proceedings within two years immediately preceding the commencement of the current foreclosure action, (b) reinstatement will preclude foreclosure following a subsequent default, or (c) reinstatement will adversely affect the priority of the mortgage lien.

§ 203.610 Relief for mortgagor in military service.

The mortgagee shall specifically give consideration to affording the mortgagor the benefit of relief authorized by §§ 203.345 and 203.346, if the mortgagor is "person in the military service" as that term is defined in the Soldiers and Sailors Civil Relief Act of 1940, as amended.

§ 203.614 Conditions of special forbearance.

(a) The Secretary may approve special forbearance relief by the mortgagee with respect to any loan insured under this Part if the Secretary finds that default was due to circumstances beyond the mortgagor's control. Approval is given on condition that the mortgagor and mortgagee enter into a special forbearance agreement providing for:

(1) The increase, reduction, or suspension of regular mortgage payments for a specified forbearance period approved by the Secretary;

(2) The resumption of regular mortgage payments after the expiration of the forbearance period; and

(3) The payment of the total unpaid amount accruing prior to and during the forbearance period on or before the maturity date of the mortgage or on or before a date subsequent to the maturity date which is approved by the Secretary.

(b) The mortgagee may grant special forbearance relief without the approval of the Secretary subject to the following conditions:

(1) The mortgagor shall establish to the satisfaction of the mortgagee, whose finding shall be conclusive, that:

(i) The mortgagor does not own other property subject to a mortgage insured by the Secretary; and

(ii) The default was caused by circumstances beyond the control of the mortgagor.

(2) The written forbearance agreement shall:

(i) Provide for suspension or reduction of payments for a period not to exceed 18 months, or recognize that payments have already been suspended or reduced for a period not to exceed 18 months;

(ii) Provide for the resumption of regular mortgage payments after the expiration of the period of reduced or suspended payments; and

(iii) Provide for the repayment of the total unpaid amount accruing prior to and during the period of reduced or suspended payments on or before a date extending beyond the original maturity date for a period no longer than the period of forbearance.

§ 203.616 Recasting of mortgage.

(a) In addition to the special forbearance relief afforded in § 203.614, if the Secretary makes the finding required in paragraph (a) of that section, the Secretary may approve a modification of the terms of the mortgage for the purpose of changing the amortization provisions by recasting the total unpaid amount due over the remaining term of the mortgage or over such longer period of time as the Secretary may approve. The modification agreement may be effective when executed or upon the termination of a forbearance period.

(b) The Secretary's approval for a recasting of a mortgage for the purpose of changing the amortization provisions shall not be required where the mortgagee makes the findings prescribed in § 203.614(b)(1). In such instances, the recasting shall be limited to the remaining term of the mortgage or a term extending not more than 10 years beyond the original maturity date. The Secretary shall be given notice of such modification within 30 days of the execution of the modification agreement.

(c) Recasting may be refused in the sole discretion of the mortgagee.

ASSIGNMENT OF MORTGAGES TO HUD

§ 203.650 Assignment of mortgages.

(a) The Secretary will accept assignments of mortgages insured under this Part in order to avoid foreclosure when the following conditions are met:

(1) The mortgagee has informed the mortgagor that it intends to foreclose the mortgage;

(2) At least three monthly installments on the mortgage are due or unpaid;

(3) The property is the mortgagor's principal place of residence and the mortgagor does not own other property subject to a mortgage insured or held by the Secretary, unless the latter criterion is waived by the Secretary;

(4) The mortgagor's default has been caused by circumstances beyond the mortgagor's control which render the mortgagor unable to correct the delinquency within a reasonable time or make full mortgage payments, and;

(5) There is a reasonable prospect that the mortgagor will be able to resume full mortgage payments after a temporary period of reduced or suspended payments not exceeding 36 months, and, will be able to pay the mortgage in full by its maturity date, extended, if necessary, by up to ten years if on the date of assignment ten or more years have elapsed since the due date of the first payment under the mortgage.

(b) A mortgage shall not be eligible for assignment in any case where:

(1) The mortgagor has vacated or abandoned the mortgaged property;

(2) The mortgagor, after being clearly advised of the options available for relief, has clearly stated in writing that he has no intention of fulfilling his obligation under the mortgage; or

(3) The mortgagee is prevented by law from initiating foreclosure of the mortgage.

§ 203.651 Preliminary notice to mortgagors.

After three full monthly installments are due and unpaid, but prior to initiating foreclosure, the mortgagee shall notify the mortgagor in a form approved by the Secretary that the mortgagor is in default, the mortgagee intends to foreclose unless the mortgagor cures the default, and the mortgagee is considering whether or not to request the Secretary to accept assignment of the mortgage.

§ 203.652 Determination by mortgagee.

(a) In any case in which the mortgagee determines that all of the conditions of § 203.650(a) are met, it shall request the Secretary to accept assignment of the mortgage.

(b) In any case in which the mortgagee determines that all of the conditions of § 203.650(a) are not met, it will advise the mortgagor that the mortgagor may, by letter or telephone, ask the Secretary to accept assignment of the mortgage. Such request must be received by the Secretary within 15 days after the mortgagee's notice that it will not request acceptance of assignment. The mortgagee will delay initiation of foreclosure upon notice from the Secretary.

(c) The mortgagee shall notify the mortgagor of its determination under paragraph (a) or (b) of this section in a form approved by the Secretary.

§ 203.654 Preliminary review and determination by Secretary.

(a) The mortgagee and mortgagor shall promptly furnish to the Secretary all of the information requested to assist in a preliminary determination of whether or not to accept an assignment of the mortgage. Information requested of the mortgagor must be forwarded within 15 days of the date of Secretary's request.

(b) If after preliminary review, the Secretary determines that assignment should be accepted the mortgagee shall assign the mortgage upon notification by the Secretary.

(c) If, after preliminary review of the documents, the Secretary determines that assignment should not be accepted, the Secretary will notify the mortgagor of the reasons for the determination and advise him that he may request further consideration. The mortgagor may present additional information or argument by mail or by telephone within 15 days of the notice or, alternatively, the mortgagor shall be entitled to present such information or argument in person at a conference which must be held in accordance with § 203.656 within 25 days of the notice.

§ 203.656 Conference.

The conference provided in § 203.654 (c) shall be conducted by the Secretary's representative and shall not be an adversary proceeding or subject to formal rules of evidence. The mortgagor may be represented by an attorney or other representative and may call witnesses and present oral and documentary information. However, the Secretary's representative may not compel the attendance of witnesses or pay expenses of witnesses called by the mortgagor or on the mortgagor's behalf. Cumulative, repetitious or immaterial arguments or materials shall not be presented. The mortgagor shall be permitted to examine the material on which the Secretary's preliminary negative decision is based at or before the conference. The conference shall be held at the HUD office, but, if the mortgaged property is more than 200 miles from the office, it may be held at a mutually convenient place.

§ 203.658 Final decision.

The Secretary shall promptly advise the mortgagor and the mortgagee of the final decision in writing and by telephone if practical. If the Secretary determines not to accept assignment the mortgagor shall also be advised of the findings and the specific criteria not met by the mortgagor.

§ 203.659 Foreclosure.

(a) The mortgagee should not initiate foreclosure before the mortgagor has had an opportunity to request the Secretary to accept the assignment of the mortgage and to support its request and as provided in §§ 203.650 through 203.662.

(b) The mortgagee shall assign the mortgage to the Secretary when directed by the Secretary to do so.

(c) The mortgagee may initiate foreclosure when:

(1) The property has been abandoned by the mortgagor;

(2) The mortgagee does not receive notice from the Secretary within 20 days from the date of its notice to the mortgagor that the mortgagor has requested the Secretary to accept assignment of the mortgage;

(3) The Secretary advises the mortgagee that the mortgagor failed to provide the information requested or to attend a conference, within the time required; and

(4) The Secretary advises the mortgagee that, after reconsideration of a preliminary decision, assignment will not be accepted.

§ 203.660 Time limits.

(a) All time limits provided in §§ 203.650 through 203.662 shall be deemed to be calendar days unless otherwise expressly stated. When the last day for taking the required action falls on a Saturday, Sunday or legal holiday, the last day for taking such action shall be the next following regular working day.

(b) If a mortgagor fails to take required action within the time limits specified in §§ 203.650 through 203.662 he thereby loses his right to further consideration of assignment of the mortgage.

§ 203.662 Authorization of field office directors.

Field office directors shall act for the Secretary in all matters relating to assignment determinations. The decision of the field office director shall be final and not subject to further administrative review.

Except as otherwise provided, these amendments shall be effective January 1, 1977.

JAMES L. YOUNG,
Assistant Secretary for Housing,
Federal Housing Commissioner.

[FR Doc.76-32731 Filed 11-9-76;8:45 am]

federal register

WEDNESDAY, NOVEMBER 10, 1976

PART IV:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

VOCATIONAL EDUCATION—STATE PLAN AND DISCRETIONARY PROGRAMS

Notice of Intent to Issue Regulations

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

VOCATIONAL EDUCATION—STATE PLAN AND DISCRETIONARY PROGRAMS

Notice of Intent To Issue Regulations

On October 12, 1976, the President signed the Education Amendments of 1976 as enacted by Congress. The Amendments include five titles, of which Title II is Vocational Education. The Education Amendments of 1976 are cited as Pub. L. 94–482.

The purpose of this Notice of Intent to Issue Regulations is two-fold. First, it gives the public an opportunity to comment at an early stage on issues basic to the implementation of the Act and gives notice of public meetings before the Office of Education prepares the regulations. Secondly, the notice provides information to the public on the basic changes which have been made to the Vocational Education Act (VEA) of 1963.

The proposed regulations will be published in the FEDERAL REGISTER as a notice of proposed rulemaking with another opportunity for public comment before they are published as final regulations. We are not, of course, asking at this time for recommendations for amending the new Act, but are concerned solely with those points in the law which require clarification, interpretation, or the setting of special criteria.

This Notice is issued by the Commissioner of Education; it has not been reviewed by the Secretary of the Department of Health, Education, and Welfare (HEW).

Comments by: December 17, 1976.

Addressed to: Regulations Task Force, Bureau of Occupational and Adult Education, Room 5002, Regional Office Building, No. 3, Washington, D.C. 20202.

For further information call: Ms. Juliette Lester, Chair (202) 245–2305.

This Notice sets forth issues in relation to both the State Plan Programs and the Commissioner's Discretionary Programs (providing direct grants and contracts) of the amended Vocational Educator Act. The tentative plan is to issue two new parts of the regulations to replace the present two parts in Title 45 of the Code of Federal Regulations (CFR). The Code of Federal Regulations is the annual compilation of agency regulations which have appeared in the FEDERAL REGISTER. The Office of Education's regulations appear in Title 45, Code of Federal Regulations. The regulations for vocational education have been 45 CFR Part 102 (State Plan Programs) and 45 CFR Part 103 (National Programs). The present regulations will remain in effect as to matters arising under the VEA before its revision by Pub. L. 94–482. The new regulations under the amended Act will be designated Part 104 (State Plan Programs) and Part 105 (National Programs).

LEGISLATIVE HISTORY

Certain parts (D, E, F, G, H, I and J) of the VEA of 1963, as amended, were due to expire on June 30, 1975 and were extended to September 30, 1976. In anticipation of the expiration of these parts of the Act, Congress held hearings on revision of the Act. The hearings before the Committee on Education and Labor in the House of Representatives resulted in House Report No. 94–1085 (May 4, 1976) and a House Bill (H.R. 12835) on May 17, 1976. The hearings before the Education Subcommittee of the Senate Committee on Labor and Public Welfare resulted in Senate Report No. 94–882. Senate Bill S. 2657, as revised on the Senate floor ("Congressional Record," August 25 and 26), passed the Senate on August 26, 1976. The House Senate conferees issued a Conference Report (House Report No. 94–1701) on September 27, 1976. The Senate passed the Conference version of the bill on September 28 and the House on September 29, 1976. The President signed the bill into law on October 12, 1976.

While some parts of the new VEA are effective immediately, the major parts, requiring a new State Plan, are not effective until October 1, 1977, so that States may have time to study the new Act and prepare a new State Plan, which must be filed with the Office of Education by July 1, 1977. The present vocational education programs are extended through fiscal year (FY) 1977.

OVERVIEW OF NEW ACT

There follows a brief summary of the Act as passed by Congress; policy issues are discussed later under "Issues." Title II of the Education Amendments of 1976 amends the VEA of 1963, as amended. The new Act is divided into Part A—State Vocational Education Programs, Part B—National Programs (the Commissioner's Discretionary Programs), and Part C—Definitions.

PART A—STATE VOCATIONAL EDUCATION PROGRAMS

Subpart 1. General provisions

Statement of Purpose. The purpose of the Act is to assist States in improving planning in the use of all resources for vocational education and manpower training; to overcome sex discrimination and sex stereotyping in vocational education; to provide part-time employment as a means of enabling youths to continue full-time their vocational training; and to provide ready access to vocational training or retraining for persons of all ages who need it.

Sex Bias Personnel. Each State desiring to participate shall assign full-time personnel to assist in reducing sex bias and sex stereotyping in vocational education programs and activities throughout the State. Each State is to reserve $50,000 from the basic grant for these purposes.

Indians. The Commissioner is to reserve funds for contracts for vocational education with Indian tribes and organizations and for programs to be operated by the Bureau of Indian Affairs.

Allocation of Funds. The allotment formula for basic vocational programs is the same as the one contained in the current Act for basic grants. No State is to receive less under this procedure than it received under its VEA allotments for FY 1976. Eighty percent of such sums is available for Subpart 2, and 20 percent for Subpart 3.

Five-Year Plan. To be eligible for VEA funding, a State must submit to the Commissioner during FY 1977, and each fifth year thereafter, a five-year State plan. In formulating the plan, the State board is to involve actively a representative of the State agency for secondary education, the State agency for postsecondary vocational education, the State agency for community and junior colleges and the State agency for institutions of higher education. The Board is also to involve a representative of a local school board, of vocational teachers, of local school administrators, of the State Manpower Services Council, of the State agency for comprehensive postsecondary education planning, and of the State advisory council.

The planning process requires at least four meetings during the planning year between the State board and these designated representatives at designated times. If the representatives are not able to agree on the contents of the State plan, the State board is responsible for reaching a final decision. In this event, the State board must include in the plan the recommendations it rejected and the reason for each rejection. Any dissatisfied agency may appeal the State board's decision to the Commissioner. The Commissioner decides whether the State plan in question is "supported by subtantial evidence, as shown in the State plan, and will best carry out the purposes of the Act."

Annual Plan. To be eligible for funding, the State must also submit an annual program plan and accountability report. The procedural requirements for developing the five-year plan are also applicable to the one-year plan (although the number of required planning meetings is reduced to three).

Planning Funds and State Administration. In order to develop the five-year and annual plans, there is authorized $25 million annually beginning in FY 1978 to be distributed among the States by the basic grant formula. These funds are also to be used by the State to evaluate the effectiveness of each assisted program and for State administration of VEA-supported programs. "Administration" is defined as those activities necessary for the State for the proper and efficient performance of its duties under the Act, including supervision, but not including ancillary services. The Federal share for State administration is up to 50 percent, except for FY 1978 it is up to 80 percent, and for FY 1979 it is up to 60 percent.

General Application. To be eligible to receive funds, a State must also maintain on file with the Commissioner a general application. This general application includes the assurance that the State will give priority in distributing funds to (1) economically depressed areas and areas which are unable to meet their vocational needs without Fed-

eral assistance because of high unemployment rates, and (2) programs which are new to the areas to be served and which meet new and emerging manpower needs. The two most important factors to be used by the State in distributing funds to a local educational agency (LEA) are (1) the relative financial ability of the LEA to provide needed services and (2) the relative concentration of low-income populations within the LEA. In the case of other eligible recipients, the two most important factors to be used by the State in distributing funds are (1) the recipient's relative financial ability to provide needed services and (2) the relative concentration of students it serves whose education imposes higher than average costs (e.g., handicapped, disadvantaged, bilingual).

State and Local Advisory Councils. Participating States must establish State advisory councils representing at least 20 designated interests. There must also be appropriate representation by sex, race, ethnicity, and geography on the councils. Members serve for three-year staggered terms and a majority of the members must be non-educators. There is authorized for the operation of State advisory councils $8 million in FY 1978, increasing to $10 million in FY 1981. The Commissioner is to pay to each State for the council "an amount equal to reasonable amounts expended" but not less than $75,000 nor more than $200,000. The duties of the State advisory councils are expanded to include identifying manpower as well as vocational needs, commenting on the reports of the State Manpower Services Council, and providing assistance to local advisory councils. (The State Manpower Services Council is given reciprocal responsibility to comment on vocational education needs.)

Each LEA and postsecondary institution receiving VEA funds must establish a local advisory council composed of members of the general public to provide advice on job needs and relevancy of courses to those needs.

National Priority Programs. From the amount allotted to each State for the formula grant programs, at least 10 percent of the allotment is to be used to pay 50 percent of the cost of vocational programs for the handicapped; at least 20 percent to pay 50 percent of the cost of the programs for the disadvantaged ("disadvantaged" is defined as persons who have academic or economic handicaps and who require special services in order to succeed in vocational programs under criteria developed by the Commissioner based on objective standards), for persons with limited English-speaking ability, and for stipends for students with acute economic needs which cannot be met under other programs; and at least 15 percent to pay 50 percent of the cost of postsecondary vocational programs. The percentage of the 20 percent set-aside for programs for the disadvantaged which goes to persons with limited English-speaking ability is equivalent to the same percentage which persons in the State aged fifteen to twenty-four who have limited English-speaking ability represent to the total population of the State in the same age group.

Maintenance of effort. The combined fiscal effort of both the State educational agency (SEA) and the local educational agency (LEA), on a per pupil or on an aggregate expenditure basis, may not decrease from one fiscal year to the next. No payment is to be made to post-secondary education institutions until the analogous requirements are met.

Federal and State Evaluations. The Commissioner is to transmit to each State board annually an analysis of the State's annual plan. The Office of Education's Bureau of Occupational and Adult Education is to analyze the strengths and weaknesses of programs in at least ten States per fiscal year. These analyses are to be complemented by fiscal audits done in the same States during the same time period. Each State is to evaluate the effectiveness of each funded program within a five-year period. Programs which purport to impart entry level job skills are to be evaluated, according to the extent to which program completers and leavers find employment in related occupations and are considered well-trained by their employers.

Subpart 2—Basic grant

From funds earmarked for this Subpart (80 percent of each State's allotment), the Commissioner is authorized to make grants to States for vocational education programs, workstudy programs, cooperative vocational programs, energy education programs, construction of area vocational education facilities, support of full-time personnel to eliminate sex bias, stipends for students who have acute economic needs which cannot be met by other programs, placement services for students whose needs cannot be met by other programs, industrial arts programs, support services for women who enter programs designed to prepare individuals for jobs traditionally limited to men, day-care services for children of persons enrolled in vocational programs, and construction and operation of residential vocational schools.

Subpart 3—Program improvement and supportive services

From funds earmarked for this Subpart (20 percent of each State's allotment), the Commissioner makes grants to States for program improvement and supportive services which States may use for any of the following vocational education programs:

(a) Research programs; (b) exemplary and innovative programs; (c) curriculum development programs; (d) vocational guidance and counseling programs; (e) vocational education personnel training programs; and (f) grants to assist in overcoming sex bias.

Research programs (section 131(a)) are to be operated by State research coordination units or are to be conducted by contracts awarded by those units. No research contract can be made "unless the applicant can demonstrate a reasonable probability that the contract will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years other learning situations within five years after the termination date of such contract." The contractors' efforts must be focused on comprehensive program improvement through applied vocational research, experimental programs to test effectiveness of research findings, improved curriculum materials, projects in the development of new careers, and dissemination of the results of these activities.

The exemplary and innovative programs (section 132(a)) supported must be part of these comprehensive plans. Each of these programs is to give priority to reducing sex stereotyping in vocational education. The annual plan covering the final year of support by a State for any exemplary program must indicate the proposed disposition of the project following the cessation of Federal support and the means for continued support of successful projects.

A State may not contract with an applicant for a curriculum development project (section 133(a)) "unless the applicant can demonstrate a reasonable probability that the contract will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination of such contract." The Federal share for curriculum projects is 100 percent.

Not less than 20 percent of Subpart 3 funds is to be used for guidance and counseling services, which must include initiation and improvement of counseling services, counseling leading to greater understanding of educational and vocational options for both sexes, provision of placement and follow-up services for vocational and non-vocational program students, training to help overcome sex-biased counseling, counseling in correctional institutions, counseling for persons of limited English-speaking ability, resource centers for out-of-school individuals, and leadership for guidance and counseling.

Subpart 4—Special programs for the disadvantaged

There is authorized $35 million in FY 1978, increasing to $50 million in FY 1982, for grants to States for special programs for the disadvantaged in areas of high youth unemployment and school dropouts. The funds are distributed by the basic State grant formula. Projects are to receive 100 percent Federal support.

Subpart 5—Consumer and homemaking education

There is authorized $55 million for FY 1978, increasing to $80 million in FY 1982, for consumer and homemaking programs. The Federal share is 50 percent, except in economically depressed areas where the Federal share is 90 percent. One-third of the separate authorization is for these economically depressed areas. Grants may be used for (a) educational

programs that encourage males and females to prepare for combining homemaking and wage earning roles, develop curriculum materials which encourage elimination of sex stereotyping, give greater consideration to needs in economically depressed areas, encourage outreach programs, prepare persons for the homemaker role, and emphasize consumer, nutrition, and parenthood education, and (b) for ancillary services.

PART B—NATIONAL PROGRAMS

Subpart 2—Programs of national significance

Program Improvement. From the 5 percent of the basic grant reserved for the Commissioner for this Subpart, the Commissioner may fund up to 100 percent of the cost of the following types of activities if they are found to be of national significance:

(a) Research projects; (b) exemplary and innovative projects; (c) vocational curriculum development projects; (d) vocational guidance and counseling programs; (e) vocational education personnel training programs; and (f) grants to assist in overcoming sex bias.

A grant applicant must be able to demonstrate a reasonable probability that the "grant will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date of such grant." Contractors for exemplary and innovative projects must provide for appropriate participation by nonprofit private school children. Activities funded shall include contracts to convert job preparation curriculums prepared for use by the armed services to curriculums usable by the schools.

Training and Development Programs for Vocational Education Personnel. From the 5 percent reserved for Subpart 2, the Commissioner is to provide opportunities for full-time advanced study of vocational education, opportunities for certified teachers in other fields to become vocational educators, and opportunities for persons in industry with skills in fields for which there is a need for vocational educators to be so trained. Persons having two years of experience in vocational education or in comparable types of situations and who have a baccalaureate degree may receive awards for use at the graduate level, in approved institutions of higher education. Persons certified to teach in any field who have applicable vocational skills or persons employed in industry with similar skills can receive awards for use in approved teacher-training institutions. Award recipients in the first category can receive stipends for three years, award recipients in the second category for two years. The training institution receives up to $4,500 an academic year and up to $1,000 a summer term per award recipient.

Subpart 3—Bilingual vocational training

There is authorized $60 million for FY 1978, increasing to $80 million for FY 1982, for bilingual vocational training programs. Sixty-five percent of this amount is earmarked to conduct bilingual vocational training programs; 25 percent is earmarked for pre-service and in-service programs to train instructors for bilingual vocational training programs; and 10 percent is earmarked for grants for the development of instructional materials, research, demonstration activities, and related teacher-training activities in the area of bilingual vocational training.

Subpart 4—Emergency assistance for remodeling and renovation of vocational education facilities

There is authorized $25 million for FY 1978, increasing to $100 million in FY 1981, for grants by the Commissioner to rural and urban local educational agencies which are unable to provide vocational programs to meet existing manpower needs because of the obsolescence of their facilities or equipment. Grants can be used to support 75 percent of the cost of modernizing such facilities (100 percent in cases of extreme need) and the cost of changes necessary to comply with the Architectural Barrier Act.

INVITATION TO COMMENT

Persons or organizations wishing to submit comments or suggestions on the issues raised in this Notice of Intent should write to:

Regulations Task Force, Bureau of Occupational and Adult Education, Room 5002, Regional Office Building, No. 3, Washington, D.C. 20202.

Written comments and information may be submitted in any form, such as by means of letters, position papers, or memoranda. There are no special rules concerning format. In order to assure full consideration, commenters are encouraged to submit their comments, suggestions, and questions on or before December 17, 1976. Following this date, comments received in response to this Notice of Intent or in response to public hearings will be considered, to the extent time allows, during the drafting of the notice of proposed rulemaking.

To enable the Commissioner to benefit fully from the public's views on the various questions raised in this Notice, public meetings with interested persons and organizations will be conducted. (See the last section of this Notice entitled "Public Meetings.") These meetings will focus on a broad discussion of the ideas, comments, and recommendations presented to HEW for consideration.

ISSUES

Comments, advice, and guidance from the public are requested on the issues set forth below. When suggested alternatives are given, members of the public should feel free to suggest additional alternatives. Other issues which members of the public believes to be important in the new Act may also, of course, be identified and made the subject of comment. Issues are grouped by subject matter, not necessarily in the order in which they appear in the new Act.

ISSUE 1. GUIDELINES FOR STATE PLANS

One of the primary objectives of the Office of Education and HEW is to promulgate simplified and clear regulations. In order to achieve this objective, no consideration is presently being given to the separate publication of guidelines for the development of the State plan. Instead, the new Act itself and its regulations will provide the necessary guidance for the development of State plans. By providing minimum instructions, the States will have considerable latitude in determining the format of their State Plans. The emphasis for the development of the plan, therefore, will be on substantive content, not uniformity in the format, of the State plans.

The Office of Education realizes that the States have in the past relied heavily on the State Plan Guide, which has been distributed to the States. In view of the past history of reliance on the State Plan Guide, it seems apropriate, before issuing a Notice of Proposed Rulemaking, to solicit public comment on the question of need for guidelines.

ISSUE 2. SEX STEREOTYPING IN VOCATIONAL EDUCATION

Congress has expressed concern over the existence of sex bias and sex stereotyping in vocational education. A major problem is the sharp differences in male and female enrollments in vocational education programs. Although women make up approximately half of vocational enrollments, 42.1 percent of the women are enrolled in consumer and homemaking classes not designed to prepare them for employment. Most of the remaining 57.9 percent are enrolled in classes preparing them for work in traditional "female" job categories.

A second problem is that society has tended to take the view that most jobs are designed for males, and, therefore, women should be trained for "women's jobs" and not compete with men. Accordingly, students have been counseled into jobs or training for jobs that are traditionally male or female, and frequently girls and women have been guided into employment at lower income levels. Thus, women seeking higher wages have realized that they must seek employment in traditionally male fields.

The problems women face in vocational education were discussed at length in the House and Senate committee hearings. Congress recognized that positive action is strongly needed to eliminate sex bias and sex stereotyping from all vocational education programs and that the initiative for overcoming all forms of sex bias and sex stereotyping must come from the new Act. Congress gave special attention to women's problems and included provisions for women's programs after hearing testimony from witnesses indicating that little was being done to encourage vocational programs to reflect the changing status of women in society.

The new Act contains a statement of purpose that requires State boards of vocational education to take positive action to eliminate sex bias and sex stereo-

typing from all vocational programs. Several sections of the new Act relate to the role of women and are addressed to students, teachers, administrators, counselors, and advisory councils, as well as State boards. These sections raise issues as to how to implement the new provisions. In summary, these issues are as follows:

(a) State plan requirements

Section 107(b)(4) of the new Act requires each State to set forth policies and procedures to assure equal access to vocational education programs for both men and women. Each State must include in its State plan a detailed description of these policies and procedures, specific actions that will be taken to overcome sex bias and sex stereotyping, incentives for local education agencies to encourage the enrollment of men and women in non-traditional courses, and a program to meet the needs of persons identified in item 5 below.

Section 108(b)(1)(c) requires the annual program plan to "show the results of the * * * compliance of the State plan with the provision contained in section 107(b)(4)(A) concerning providing equal access to programs by both men and women."

(1) Public comments and suggestions are invited with respect to the kinds of policies and procedures that should be included in the State Plan on each of the following points.

(i) Access to institutions and programs.

(ii) Enrollment patterns within programs and courses.

(iii) Employment within the field.

(iv) Recruiting practices for students and educational personnel.

(v) Course requirements in terms of prerequisites and test scores.

(vi) Guidance and counseling.

(vii) Pre- and in-service training for instructional personnel.

(viii) Work experience opportunities.

(ix) Day care.

(x) Job placement and counseling.

(2) What criteria should be set out to assure that there will be a timely and fair opportunity for review of and comment on equal access to vocational education programs?

(3) What kinds of incentives could the States supply to LEAs to assure positive steps in this area? What criteria should be used to measure the success of incentive systems in meeting the objectives of the Act? Should different incentives be required if a basic level of effectiveness is not achieved?

(4) In its annual program plan how should a State assess the results of its compliance with the equal access requirement and in what form should these results be reported?

(5) What kind of special courses in employment skills and placement services would best meet the needs of displaced homemakers, unskilled single heads of households, homemakers seeking full-time employment, and persons seeking non-traditional jobs (section 107(b)(4)(B))?

(b) State administration

Section 104(b) provides funding for nine functions of "full-time personnel" to assist tht State board in fulfilling the purpose of the Act. These functions include creation of awareness of women's programs, collecting and analyzing data on the status of men and women in vocational education and making it available, reviewing programs, grant distribution, and annual program plans, and recommending steps to overcome sex bias and sex stereotyping in vocational education programs. States are given leeway in placing these functions within the State structure, and each "State shall reserve $50,000" to carry out the nine functions listed in section 104(b) of the Act. Comment is invited with respect to the development of criteria which would measure the extent to which these objectives of the new Act are being met through the activities of the full-time personnel.

(c) Advisory council

Section 105(a)(17) of the new Act requires that the State advisory councils on vocational education include specified categories of women in their membership to fulfill an advocacy role for women's issues. Problems arise from ambiguities in the language of this section. The phrase "including women who are members of minority groups" leaves several points unclear. This section of the Act also requires that there be "appropriate representation" of both sexes on the State advisory councils. This, too, is ambiguous. The following questions need to be answered:

(1) How should the term "appropriate" be defined?

(2) How should the Commissioner assess the "appropriateness" of the representation?

(3) How many minority groups represented by women must be included to satisfy section 105(a)(17) of the new Act? Can one minority represent "minority groups"?

(d) Vocational education programs

Several sections of the new Act dealing with vocational education programs contain provisions for eliminating sex bias and sex stereotyping from all these programs. These sections are summarized as follows:

(1) Research Programs. Section 131(a) provides funds which may be used for "experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings, including programs and projects to overcome problems of sex bias and sex stereotyping" and for improved curriculum materials which will help "to insure that such curricula do not reflect stereotypes based on sex, race, or national origin."

(2) Exemplary and Innovative Programs. By Section 132, funds are made available to States for support of exemplary and innovative programs, with the requirement that "Every contract . . . shall give priority to programs and projects designed to reduce sex stereotyping in vocational education."

(3) Curriculum Development. Section 133(a)(2) states that funds may be used for curriculum development projects including the development of curriculum, guidance, and testing materials designed to overcome sex bias in vocational education programs and support services designed to enable teachers to meet the needs of individuals enrolled in vocational education programs traditionally limited to members of the opposite sex.

(4) Vocational Guidance and Counseling. To create awareness of women's problems in vocational education and to help eliminate sex stereotyping and sex bias in vocational guidance and counseling, section 134(a)(4) of the new Act includes "vocational guidance and counseling training designed to acquaint guidance counselors with (A) the changing work patterns of women, (B) ways of effectively overcoming occupational sex stereotyping, and (C) ways of assisting girls and women in selecting careers solely on their occupational needs and interests, and to develop improved career counseling materials which are free."

(5) Vocational Education Personnel Training. Section 135(a)(2) makes funds available for in-service training of teachers, administrators, supervisors, and counselors "to overcome sex bias in vocational education programs."

Issues

In order to assure that sex stereotyping is eliminated from vocational education programs, public comments and suggestions are invited with respect to:

(1) What criteria should be developed for the establishment of programs and projects to help overcome sex stereotyping in each of these areas?

(2) What specific assessment tools should be developed to measure the success of these programs and projects?

ISSUE 3. STATE ADMINISTRATION

Each State desiring to participate in programs authorized under the Act is required (section 104(a)) to designate or establish a single State board or agency of vocational education in accordance with State laws. This State board will serve as the sole State agency responsible for the administration, or for the supervision of the administration, of programs authorized under the Act. The responsibilities of the State board, as set forth in Section 104(a)(1) of the Act, are:

(a) Coordination of the development of policy with respect to programs;

(b) Coordination of the development, and the actual submission to the Commissioner, of the five-year State plan, of the annual program plan, and the accountability report; and

(c) Consultation with the State advisory council on vocational education and with other appropriate State agencies, councils, and individuals involved in the planning and reporting.

Except for these three responsibilities, the State board may delegate any of its "other responsibilities involving administration, operation, or supervision, in whole or in part, to one or more appro-

priate State agencies." However, should the State board elect to delegate any part of its responsibility to another State agency, it must certify in its annual program plan and annual accountability report to the Commissioner as to each responsibility delegated to another State agency.

As indicated above, the responsibilities of the State board are described as those of "consultation" and "coordination." Since the term "coordination" has many meanings, it may suggest different kinds of activities to different people. In order to avoid any question as to the exact role of the State board, it seems appropriate to explain in the regulations what is meant by the phrase "coordination of the development of policy" with respect to vocational education programs.

Regarding the role of the State board, the Act requires the active participation of the State board and representatives of the designated coordinating agencies both prior to and during the development of the five-year State plan, and the annual program plan and accountability report, and to obtain their concurrence on each of the final documents. Therefore, does the phrase "coordination of the development of policy" mean, in fact, that the State board is responsible for convening representatives of the designated agencies in order to consult with them as a group relative to the development and direction of vocational education programs?

ISSUE 4. STATE ADVISORY COUNCIL ROLE IN STATE BOARD EVALUATIONS

Section 112(b)(2) of the Act requires the active participation of the State advisory council in the State board's evaluation of programs. Specifically, the Act provides that the council "shall assist the State in developing these plans, monitor the evaluations conducted by the State, and use the results of these evaluations in compiling its annual report required by section 105." Section 105(d)(3) requires the council to submit an annual evaluation report which "evaluates the effectiveness of vocational education programs, services, and activities." Even though there appears to be duplication of effort by the State board and the council, it is evident that the Congress expects the evaluations of the two agencies to be coordinated. By the Act assigning to the council the functions of "assisting" and "monitoring," a question is raised as to the nature and degree of oversight and control the council may exert over the State board's activities.

The issue is whether the regulations should delineate specifically the council's role in the State board's evaluation and the degree of relationship between the separate evaluations. In particular, does the term "monitoring" need to be interpreted in such a manner as to retain autonomy of the agencies

Alternatives

(a) Allow the State boards and councils to develop necessary working relationships within the broad scope of the regulations.

(b) Enumerate in the regulations specific activities to be carried out by the council in fulfilling its responsibilities related to State board evaluations.

(c) Require in the State plan a written cooperative agreement by the State board and the council setting forth the responsibilities of each agency in meeting the requirements for evaluations.

ISSUE 5. FISCAL INDEPENDENCE OF STATE ADVISORY COUNCILS

The new Act affirms the independence of the State advisory council on vocational education by amendments which require the council to have control over its programming, administration, and funds. The extent to which the council has control over the expenditure of funds, however, is an issue. Section 105(e) authorizes the council to employ personnel or to contract for services necessary to enable it to carry out its evaluation functions, "independent of programmatic and administrative control by other State boards or agencies." Section 105(f)(2) further provides that "the expenditure of these funds is to be determined solely by the State advisory council for carrying out is functions under this title, and may not be diverted or reprogrammed for any other purpose by any State board or agency." Although the determination is to be made "solely" by the council, it is not entirely clear whether the council is bound by the fiscal policies and regulations of the State or other public agency serving as its fiscal agent. For example, would a council be at liberty to formulate its own policies on compensation, travel allowances, or contracting procedures without regard to the regulations of its fiscal agent This issue is compounded by the fact that a significant number of councils are presently constituted as State agencies either by State legislation or Executive Order.

Alternatives

(a) Allow the councils to determine their own fiscal policies independently of their fiscal agents and make expenditures of funds subject only to a budget approved by the U.S. Office of Education.

(b) Require the councils to adhere to all regulations applicable to their designated fiscal agents.

(c) Have the Office of Education promulgate specific fiscal regulations for councils that use a State agency or another public agency as their fiscal agent.

(d) Require a council, which is constituted as a State agency, to seek the opinion of the State Attorney General with regard to its fiscal independence.

ISSUE 6. LOCAL ADVISORY COUNCILS

Local educational agencies and postsecondary institutions are required by the Act (section 105(g)) to establish local advisory councils to provide advice on current job needs and on the relevancy of courses being offered to meet these needs. The new Act addresses the composition of these councils in general terms—"members of the general public, especially of representatives of business, industry, and labor." Furthermore, no statutory guidance is provided on the certification, operation, or consultation requirements of the council, although the State advisory council, upon request, may render technical assistance to the local council with respect to its establishment and operation. Thus, the necessity for clarity and specificity in the regulations concerning matters of composition, certification, consultation, and operation of these councils is in question. Commenters are invited to make recommendations and suggestions as to what, if any, guidance the Commisioner may provide in the regulations for the effective functioning of these councils.

ISSUE 7. STUDENT ORGANIZATIONS

Although the efforts by some vocational educators to have more explicit language included in the new Act in order to provide Federal funds for the activities of student organizations were not successful, it seems apparent that Congress was satisfied that no more and no less support from Federal funds should be given to student organizations than has been provided over the past several years under the current Act. Accepting this as the level of support to be provided, the Office of Education may propose in the Notice of Proposed Rulemaking, unless public participation indicates otherwise, that the list of activities of student organizations set forth below be supported to the extent that the activities are an integral part of the instruction. Federal funds and State matching funds could then be used for:

(a) Vocational or technical training or retraining supervised by vocational education personnel; or

(b) Field or laboratory work related to the vocational training and supervised by vocational education personnel; or

(c) Vocational guidance and counseling in connection with vocational training for the purpose of facilitating occupational choices; or

(d) Acquisition of instructional supplies, teaching aids and equipment used by vocational education personnel in instructional activities.

Under the above, as long as the activities of the student organization fall within these four components, expenditures for the activity would be reimbursable.

Since the expenditure of funds for lodging, feeding, conveying, or furnishing transportation to conventions is not permissible unless specifically authorized by statute, it follows that social, athletic, or recreational events of student organizations would not be reimbursable from Federal funds. Travel of vocational students would be reimbursable, however, if the travel is related to their instruction.

ISSUE 8. GENERAL APPLICATION (ASSURANCES)

The new Act (section 106) requires each State to maintain on permanent file with the Commissioner a general application containing assurances that the

State will abide by the Act in carrying out the program. In addition to the general assurances concerning the proper and efficient administration of the Act which have been previously submitted pursuant to section 434(b) of the General Education Provisions Act, the following assurances are also required:

(a) State board will cooperate with specified State agencies in the formulation of the State plan;

(b) Fiscal effort will be maintained at both the State and local level;

(c) Distribution of funds will be based on economic, social, and demographic factors relating to the need for vocational education in the State;

(d) Local applications will be developed in consultation with local advisory councils;

(e) State plans and other policy statements will be made available to the public; and

(f) Use of funds expended for the handicapped will be consistent with the State plan submitted under the Education of the Handicapped Act.

Although section 106 makes reference only to assurances, section 109(a) provides that the Commissioner shall not approve a State plan until he or she is satisfied that adequate procedures are set forth to insure that the assurances of the general application will be carried out. The question, therefore, is how should the State board set forth the procedures it will employ to insure that the assurances of the general application will be carried out? For example, unless the State board provides the Commissioner with the specific factors used in the distribution formula and the procedures followed in such allocation, it would be extremely difficult for the Commissioner to determine if the State is basing the distribution of funds upon the appropriate statutory factors (section 106(a)(5)).

Alternatives

(a) Require the State board to submit in the general application both the assurances and the procedures that will insure that the assurances will be carried out. Once this general application of assurances and procedures is filed with the Commissioner, it will be binding on the State every year in the operation of programs until, as conditions and circumstances may demand a change in procedures, the submission is appropriately amended.

(b) Require the incorporation of these procedures in the five-year State plan, but not in the general application. Under this arrangement, the State must describe in its annual accountability reports the degree to which the State has effectively used these procedures.

(c) Characterize the submission of these procedures as a precondition of grant eligibility. Under this alternative, the description of the procedures used by the State may be submitted to the Office of Education independently of the general application, State plan, and annual accountability reports. The procedures, however, must be on file with the Commissioner in order for the State to receive the Federal allotment.

ISSUES 9. VOCATIONAL GUIDANCE AND COUNSELINGS

The new Act (section 134) gives increased emphasis to vocational guidance and counseling by requiring that not less than 20 percent of the funds made available to the States for program improvement and supportive services shall be used for guidance and counseling. Also funds may be used for related vocational guidance and counseling activities in research, exemplary and innovative programs, curriculum development, vocational education personnel training, grants to assist in overcoming sex bias, special programs for the disadvantaged, and consumer and homemaking education.

The new Act is much more comprehensive and more highly prescriptive than the one it replaces. It supports vocational development programs and services in guidance and counseling for children as well as youth and adults, thus including a greater range and variety of persons to be served. It emphasizes the initiation, implementation, and improvement of the quality of programs and activities. It stresses a broadened purpose of providing counseling and guidance assistances and experiences which lead to greater understanding of both the educational and vocational options in one's total development. It considers both educational and job placement services for all levels and kinds of occupations, including those for entering professions requiring a baccalaureate or higher degree.

Notably, the new Act requires training for counselors in ways of overcoming sex role stereotyping and specifically provides consideration for youth offenders, adults in correctional institutions, bilingual programs, out-of-school individuals and those with other special needs. At two points in the new Act (section 105(d)(3) and section 112(b)(1)(A)) there is the requirement that an evaluation be made of the effectiveness of programs, services, and activities supported with Federal funds. Section 108(b)(2)(B) requires an annual statement of the results achieved with those funds.

In view of the increased emphasis on vocational guidance and counseling, the Commissioner seeks comments and suggestions regarding the development of appropriate regulations. The following exemplify specific areas of concern of the Commissioner:

(a) Criteria for providing and evaluating educational and occupational placement services related both to vocational education and to occupations requiring a baccalaureate or higher degree, hence emphasis on placement of individuals no matter where or when they exit from the curriculum.

(b) Ways of avoiding a sharp cleavage or a division of funds between counseling for occupations that require a baccalaureate or higher degree and those that require less formal training, and instead placing emphasis on each person's total lifetime development and the need for differential (such as occupational and educational) guidance and counseling at different points in development and for different reasons.

(c) Criteria by which the Commissioner can determine whether each State has complied "insofar as is practicable" with the provisions of section 134(b).

(d) Ways of avoiding imbalance of funding programs implemented for better understanding of vocational development as part of total development as opposed to job selection and placement.

(e) Ways of determining the impact of new vocational development emphasis on school dropouts and juvenile offenders.

(f) Criteria for determining effectiveness of training and retraining of administrators and all faculty to reach agreement on and to carry out goals of guidance as set forth in the Act.

(g) Criteria for establishing vocational resource centers to meet the special needs of out-of-school individuals.

ISSUE 10. DETERMINATION OF ACADEMIC HANDICAPS

For the purposes of Subpart 4 of Part A (Special Programs for the Disadvantaged), section 195 defines the term "disadvantaged" as "persons (other than handicapped persons) who have academic or economic handicaps and who require special services and assistance in order to enable them to succeed in vocational education programs, under criteria developed by the Commissioner based on objective standards and the most recent available data." The regulations for the VEA of 1968 defines "disadvantaged" as "persons who have academic, socioeconomic, or other handicaps that prevent them from succeeding in vocational education or consumer and homemaking programs designed for persons without such handicaps, and who for that reason require specially designed educational programs or related services. The term includes persons whose needs for such programs or services result from poverty, neglect, delinquency, or cultural or linguistic isolation from the community at large, but does not include physically or mentally handicapped persons (as defined in this section) unless such persons also suffer from the handicaps described in this paragraph."

It should be noted that the new Act (section 195(16)) defines "disadvantaged" as "persons who have academic or economic handicaps." Before criteria can be developed to identify the disadvantaged, the phrase "academic handicaps" should be clarified in order to apply objective standards.

The House Report No. 94-1085 uses the term "education for disadvantaged persons" in the sense that someone is not succeeding in the regular academic program and risks dropping out of school. Since the Act indicates that special assistance will be provided only for those students in vocational education, it appears that the intent of the Act is to provide assistance for all students in vocational classes who are not succeeding

and are potential dropouts. Public comment is invited on the following (and any other) alternatives:

(a) Should academic handicap be equated with underachievement in the regular school program and determined by performance records to be at least one year below grade level?

(b) Should academic handicap be determined by school tests and student performance which indicate that the student needs help in one or more academic areas in order to succeed in the regular school program?

(c) Should academic handicap be determined by the instructor when a student cannot complete the assignments that are accomplished by the other students in class?

ISSUE 11. PERMISSIBLE NUMBER OF HOURS OF WORK UNDER THE WORK-STUDY PROGRAM

Since the adoption of the VEA in 1963, work-study programs have provided employment for students who have been accepted for enrollment as full-time students or have been in full-time attendance in vocational education programs and have been in need of the earnings to commence or continue their vocational education program.

Whereas section 182 of the current Act contained a ceiling of 15 hours per week and a fixed monetary limit of $350 per year, section 121 of the new Act provides that pursuant to regulations developed by the Commissioner "no student shall be employed under such work-study program for more than a reasonable number of hours in any week in which classes in which he is enrolled are in session."

The Commissioner may propose in the Notice of Proposed Rulemaking to increase the present ceiling of 15 hours, with the caveat that an LEA may reduce this maximum if:

(a) There is a failure on the part of the student to maintain satisfactory scholastic standing, or

(b) Financial need of the student does not warrant the maximum number of hours of employment.

Comment is invited from the public on the issue of what constitutes a reasonable number of hours of employment per week for students in a work-study program.

ISSUE 12. ACCOUNTABILITY AND EVALUATION

The Commissioner seeks help, in the form of comments and recommendations, with regard to certain issues and questions about the requirements for accountability and evaluation. For several years the Office of Education has been adversely criticized for its inability to report on the effectiveness of Federal assistance to vocational education in terms of the success of vocational students in obtaining and keeping jobs. For example, in its Report (No. 94–1085) on H.R. 12835, the House of Representatives insists that in the future the States must evaluate their programs in those terms. There is also a requirement in the new Act for making a determination (evaluation) of the "effectiveness" and "results" of programs, services, and activities supported with Federal funds. In any case, it would seem that the evaluation data should be susceptible to aggregation across all the States.

Specifically, the following questions need to be answered:

(a) How should the terms "program completers" and "program leavers" be defined (section 112(b)(1)(B))?

(b) How long after "completing" or "leaving" the program should the follow-up of each student of vocational education begin, and for how long should the follow-up continue (section 112(b)(1)(B))?

(c) What "statistically valid sampling techniques" are most appropriate for use in the annual evaluation, if the resulting data are to be aggregated across all States (section 112(b)(1)(B))?

(d) What should be the criteria (apart from those given for dealing with "completers" and "leavers") for determining and reporting annually on the "effectiveness" and "results" of programs, services, and activities supported under the new Act (sections 105(d)(3), 108(b)(2)(B), and 112(b)(1)(A))?

ISSUE 13. CONSUMER AND HOMEMAKING EDUCATION

Congress has amended the VEA of 1963 to expand the scope of the consumer and homemaking education programs, services, and activities at all educational levels for the occupation of homemaking to encourage:

(a) Greater participation of both males and females;

(b) Elimination of sex stereotyping in curriculum development;

(c) Provision for bilingual instruction in consumer and homemaking education programs, where appropriate; and

(d) Outreach programs giving consideration to special needs, such as those of the aged, young children, school-age parents, single parents, handicapped persons, educationally disadvantaged persons, and programs connected with health care delivery systems, and programs providing services for courts and correctional institutions.

While continuing to recognize the importance of consumer and homemaking education programs for preparing persons for the occupation of homemaking, Congress in section 150 of the new Act emphasizes that (1) this occupation is vital for everyone; and (2) consumer and homemaking education programs should address preparation of both males and females for combining the roles of homemaker and wage earner.

Additionally, Congress, in amending this section, urges the States to encourage the funding of programs which seek the elimination of sex stereotyping through the development of non-sex-stereotyped curriculum materials.

Issues

(a) What specific factors should be required by the regulation to ensure greater availability of consumer and homemaking education programs to both males and females?

(b) How may the Office of Education ensure that States encourage the funding of consumer and homemaking education programs which place emphasis on the preparation of males and females for combining the roles of homemaker and wage earner?

(c) How can the Office of Education ensure that States encourage the utilization of non-sex-stereotyped curriculum materials in consumer and homemaking education programs which deal with:

(1) increased numbers of women working outside the home;

(2) increased numbers of men assuming homemaking responsibilities;

(3) the changing career patterns of females and males; and

(4) new laws relating to opportunity in education and employment?

(d) What changes in instructional methodology, course content, or format would result in consumer and homemaking education programs which are more attractive to participants of both sexes at all educational levels?

(f) What criteria and reporting provisions should be used to measure whether a State has achieved its goals as set out in its (1) five-year plan and (2) annual plan with respect to the funding of consumer and homemaking education programs?

(g) How can SEAs and LEAs encourage, where appropriate, the development and sharing of bilingual instructional materials (e.g., leaflets on consumer education, nutrition education which are available in English and language other than English) for consumer and homemaking education programs?

(h) How can SEAs and LEAs ensure that consumer and homemaking education programs encourage outreach programs for youth and adults, with consideration being given to the special needs of the aged, young children, school-age parents, single parents, handicapped persons, and the educationally disadvantaged?

(i) How can States continue to improve the quality of these programs through ancillary services?

ISSUE 14. ACHIEVING EQUITABLE DISTRIBUTION OF ASSISTANCE UNDER BILINGUAL VOCATIONAL PROGRAMS

Both the Bilingual Vocational Training Program (section 184) and the Bilingual Vocational Instructor Training Program (section 186) provide authority for the Commissioner to approve an application for assistance if the Commissioner determines, where feasible, that "equitable distribution of assistance . . . within that State" will be achieved (section 189B). The Commissioner is required to consult with the State board in order to achieve equitable distribution. The legislative history does not provide guidance on what is intended by "equitable distribution of assistance within that State." It may refer to geographic distribution in the State, although some States have large concentrations of persons of limited English-speaking ability in a few areas while other States have persons of limited English-speaking ability scattered throughout the State. Alternatively, the statutory language may refer to the distribution of assistance among the

several different language groups within a State even though it appears that some States have concentrations of persons of limited English-speaking ability from only one language group. Public comment is invited with respect to the interpretation of this clause.

With respect to the Bilingual Vocational Instructor Training Program (section 186), the Commissioner seeks public input on the standards to be used to determine adequacy of language capabilities of the instructor in the language, other than English, which will be used in the bilingual job training program. Should the determination, for example, be based upon the applicant institution's certification that instructors possess adequate language capability? Or should the applicant institution be required to submit to the Commissioner results of a language test administered to the instructors which would indicate the level of language proficiency?

ISSUE 15. APPEAL OF STATE BOARD DECISION TO THE COMMISSIONER

The Act provides for the active participation of designated agencies, councils, and individuals in formulating the five-year State plans and the annual program plans. If there is a disagreement with the State board's decision to include certain provisions in the plan the council, agency, or individual objecting to the provision, may appeal the board's decision to the Commissioner. In accordance with section 107(a)(1), the Commissioner "shall determine whether the State board's decision is supported by substantial evidence, as shown in the State Plan, and will best carry out the purposes of the Act".

What criteria should the Commissioner apply to determine whether there is substantial evidence that the proposed State Plan "will best carry out the purposes of the Act?"

OTHER ISSUES

The Commissioner of Education welcomes comments, advice, and guidance from any member of the general public on any of the issues set forth in this Notice of Intent and on any other issues related to the new Act. We hope that this Notice of Intent will both benefit the development of regulations and promote an understanding of the process.

PUBLIC MEETINGS

The Commissioner plans to hold at least one public meeting in each State during the comment period on this Notice of Intent. These meetings will be under the sponsorship of the HEW Assistant Regional Commissioner of Occupational and Adult Education in each of the ten HEW Regional Offices. Meetings have been scheduled in each State and are listed by HEW Regions as follows:

REGION I

City, State: Meriden, Connecticut.
Date: December 10, 1976.
Location: Wilcox Regional Vocational School.
Time: 1:00 p.m.

City, State: Auburn, Maine.
Date: December 17, 1976.
Location: Central Maine Vocational-Technical Institute.
Time: 1:00 p.m.

City, State: Boston, Massachusetts.
Date: January 7, 1977.
Location: Boston State College.
Time: 10:00 a.m.

City, State: Westfield, Massachusetts.
Date: January 6, 1977.
Location: Westfield State College.
Time: 10:00 a.m.

City, State: Concord New Hampshire.
Date: December 16, 1976.
Location: New Hampshire Technical Institute.
Time: 1:00 p.m.

City, State: Providence, Rhode Island.
Date: November 22, 1976.
Location: University of Rhode Island Extension Building, Room 108.
Time: 1:00 p.m.

City, State: Montpelier, Vermont.
Date: November 30, 1976.
Location: Pavillion State Office Building.
Time: 10:00 a.m.

Person to contact: Walter C. Verney, Office of Education, HEW, John F. Kennedy Federal Building, Boston, Massachusetts 02203, (617) 223-6814.

REGION II

City, State: Trenton, New Jersey.
Date: December 13, 1976.
Location: State Department of Education.
Time: 10:00 a.m. to 12 noon.

City, State: Albany, New York.
Date: December 14, 1976.
Location: State Department of Education.
Time: 10:00 a.m. to 12 noon.

City, State: San Juan, Puerto Rico.
Date: December 16, 1976.
Location: State Department of Education.
Time: 10:00 a.m. to 12 noon.

City, State: St. Thomas, Virgin Islands.
Date: December 17, 1976.
Location: State Department of Education.
Time: 10:00 a.m. to 12 noon.

Person to contact: Charles A. O'Connor, Jr., Office of Education, HEW, Federal Building, Room 3954, 26 Federal Plaza, New York, New York 10007, (212) 264-4045.

REGION III

City, State: Wilmington, Delaware.
Date: November 23, 1976.
Location: New Castle County Technical School District, 1417 Newport Road.
Time: 6:30 p.m.

City, State: Washington, D.C.
Date: January 12, 1977.
Location: Armstrong Adult Education Center, First and O Streets, N.W.
Time: 2:00 p.m.

City, State: Cambridge, Maryland.
Date: January 5, 1977.
Location: Dorchester County Vocational-Technical Center.
Time: 2:00 p.m. to 4:00 p.m.

City, State: Glen Burnie, Maryland.
Date: January 6, 1977.
Location: North Arundel Vocational-Technical School. Highway 3 and Newcut Road.
Time: 2:00 p.m. to 4:00 p.m.

City, State: Schnecksville, Pennsylvania.
Date: January 11, 1977.
Location: Lehigh County Area Vocational-Technical School. 2300 Main Street.
Time: 10:00 a.m.

City, State: Monroeville, Pennsylvania.
Date: January 13, 1977.
Location: Forbes Road East Area Vocational-Technical School. Beatty and Cooper Road.
Time: 10:00 a.m.

City, State: Richmond, Virginia.
Date: January 4, 1977.
Location: Richmond Technical Center. 2020 Westward Avenue.
Time: 7:30 p.m.

City, State: Dunbar, West Virginia.
Date: December 14, 1976.
Location: Benjamin Franklin Career and Technical Education Center. 500 25th Street.
Time: 2:00 p.m.

Person to Contact: Robert A. Smallwood, Office of Education, HEW, 3535 Market Street, P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596-1011.

REGION IV

City, State: Montgomery, Alabama.
Date: November 30, 1976.
Location: State Office Building, Room 200, Dexter Avenue.
Time: 10:00 a.m.

City, State: Fort Lauderdale, Florida.
Date: January 6, 1977.
Location: Broward County Courthouse, Commissioner's Room, No. 205.
Time: 7:30 p.m.

City, State: Orlando, Florida.
Date: November 30, 1976.
Location: Administrative Center, Orange County School Board, Meeting Room, 434 North Tampa Avenue.
Time: 7:30 p.m.

City, State: Albany, Georgia.
Date: January 5, 1977.
Location: Downtowner Motor Inn, 732 West Oglethorpe.
Time: 10:00 a.m.

City, State: Augusta, Georgia.
Date: January 11, 1977.
Location: Georgia Railroads Bank, Civic Auditorium.
Time: 10:00 a.m.

City, State: Atlanta, Georgia.
Date: January 12, 1977.
Location: Atlanta Technical School, Cafeteria, 1560 Stewart Avenue, S.W.
Time: 2:30 p.m.

City, State: Garden City, Georgia.
Date: December 14, 1976.
Location: Savannah Area Vocational-Technical School, Wheathill Branch, 101 Wheathill Road.
Time: 10:00 a.m.

City, State: Macon, Georgia.
Date: November 29, 1976.
Location: Macon Hilton Hotel.
Time: 2:00 p.m.

City, State: Lexington, Kentucky.
Date: November 22, 1976.
Location: Central Kentucky Vocational High School.
Time: 10:00 a.m.

City, State: Jackson, Mississippi.
Date: December 1, 1976.
Location: Woolfolk Building, Auditorium, First Floor.
Time: 10:00 a.m.

City, State: Raleigh, North Carolina.
Date: January 4, 1977.
Location: State Highway Building, Auditorium.
Time: 10:00 a.m.

City, State: Columbia, South Carolina.
Date: December 15, 1976.
Location: Peoples Auditorium, Sims Building, Third Floor, 2600 Bull Street.
Time: 10:00 a.m.

City, State: Nashville, Tennessee.
Date: November 23, 1976.
Location: Cordell Hull Building, Room 120.
Time: 10:00 a.m.

Person to contact: Donald H. Snodgrass, Office of Education, HEW, 50 Seventh Street NE., Room 555, Atlanta, Georgia 30323, (404) 526-5311.

REGION V

City, State: Springfield, Illinois.
Date: January 11, 1977.
Location: Illinois Office of Education, State Board Room, Fourth Floor, 100 North First Street.
Time: 10:00 a.m.

City, State: Wheaton, Illinois.
Date: January 12, 1977.
Location: DuPage County Offices, Court Room, 421 North County Farm Road.
Time: 10:00 a.m.

City, State: Indianapolis, Indiana.
Date: December 14, 1976.
Location: State Teachers Association Building, 150 West Market Street.
Time: 10:00 a.m.

City, State: Lansing, Michigan.
Date: November 23, 1976.
Location: Law Building, Auditorium, 525 West Ottawa.
Time: 10:00 a.m.

City, State: St. Paul, Minnesota.
Date: November 30, 1976.
Location: Capitol Square Building, Conference Room A.
Time: 10:00 a.m.

City, State: Columbus, Ohio.
Date: November 23, 1976.
Location: State Office Building, Hearing Room 2, 65 South Front Street.
Time: 10:00 a.m.

City, State: Madison, Wisconsin.
Date: December 14, 1976.
Location: State Office Building, State Board Room, Seventh Floor, 4802 Sheboygan Avenue.
Time: 9:30 a.m.

Person to Contact: William L. Lewis, Office of Education, HEW, 300 South Wacker Drive, 32nd Floor, Chicago, Illinois 60606, (312) 353-6679.

REGION VI

City, State: Little Rock, Arkansas.
Date: December 9, 1976.
Location: State Department of Education, Capitol Grounds, Auditorium.
Time: 10:00 a.m.

City, State: Baton Rouge, Louisiana.
Date: December 14, 1976.
Location: A.D. Smith Auditorium, Louisiana State Department of Education Building.
Time: 10:00 a.m.

City, State: Santa Fe, New Mexico.
Date: December 1, 1976.
Location: State Department of Education Building, Mabry Hall.
Time: 10:00 a.m.

City, State: Oklahoma City, Oklahoma.
Date: November 23, 1976.
Location: Foster Estes Area Vocational-Technical Center, 4901 South Bryant.
Time: 10:00 a.m.

City, State: Austin, Texas.
Date: November 29, 1976.
Location: State Department of Education, Board Room, First Floor Riverside North. 150 East Riverside.
Time: 10:00 a.m.

Person to contact: Herbert W. Mackey, Office of Education, HEW, 1200 Main Tower Building, Room 1400, Dallas, Texas 75202, (214) 655-3641.

REGION VII

City, State: Des Moines, Iowa.
Date: January 7, 1977.
Location: Grimes State Office Building.
Time: 10:00 a.m.

City, State: Salina, Kansas.
Date: January 12, 1977.
Time: 10:00 a.m.
City, State: Jefferson City, Missouri.
Date: January 14, 1977.
Time: 10:00 a.m.

City, State: Lincoln, Nebraska.
Date: January 5, 1977.
Time: 10:00 a.m.

Person to contact: Thaine D. McCormick, Office of Education, HEW, 601 East 12th Street, Room 360, Kansas City, Missouri 64106 (816) 374-3976.

REGION VIII

City, State: Denver, Colorado.
Date: November 30, 1976.
Location: Social Services Building, 1575 Sherman Street.
Time: 1:00 p.m.

City, State: Helena, Montana.
Date: December 17, 1976.
Location: Montana Power Company, Auditorium 1315 North Main Street.
Time: 9:00 a.m.

City, State: Bismarck, North Dakota.
Date: December 15, 1976.
Location: State Office Building, Auditorium, 900 East Boulevard.
Time: 1:00 p.m.

City, State: Pierre, South Dakota.
Date: December 13, 1976.
Location: Kniep Building.
Time: 1:00 p.m.

City, State: Salt Lake City, Utah.
Date: January 11, 1977.
Location: State Office Building, 250 East Fifth South Street.
Time: 1:00 p.m.

City, State: Cheyenne, Wyoming.
Date: November 23, 1976.
Location: Hathaway Building, Auditorium.
Time: 1:00 p.m.

Person to contact:
LeRoy Swenson, Office of Education, HEW, Federal Office Building, Room 3412, 19th and Stout Streets, Denver, Colorado 80202 (303) 837-4295.

REGION IX

City, State: Phoenix, Arizona.
Date: December 11, 1976.
Location: Phoenix College, Auditorium, 1202 West Thomas Road.
Time: 10:00 a.m.

City, State: Norwalk, California.
Date: December 13, 1976.
Location: Cerritos College, Health Occupations Building, 11110 Alondra Boulevard.
Time: 9:00 a.m.

City, State: Burlingame, California.
Date: December 14, 1976.
Location: California Teachers Association Building, 1705 Murchison Drive.
Time: 1:00 p.m.

City, State: Honolulu, Hawaii.
Date: December 15, 1976.
Location: Hawaii State Capitol Building, Auditorium.
Time: 7:00 p.m.

City, State: Las Vegas, Nevada.
Date: December 10, 1976.
Location: Clark County Education Center, 2832 Flamingo Road.
Time: 3:00 p.m.

Person to contact: C. Kent Bennion, Office of Education, HEW, 50 Fulton Street, Room 351, San Francisco, California 94102. (415) 556-4570.

REGION X

City, State: Anchorage, Alaska.
Date: December 10, 1976.
Location: Boney Memorial Court Building 303 K Street, Room 402.
Time: 1:30 p.m. to 4:30 p.m.

City, State: Boise, Idaho.
Date: December 20, 1976.
Location: State Board for Vocational Education, Len B. Jordon Building, 650 West State Street.
Time: 1:30 p.m. to 4:30 p.m.

City, State: Salem, Oregon.
Date: November 23, 1976.
Location: State Department of Education, Room 109, 942 Lancaster Drive, N.E.
Time: 1:30 p.m. to 4:30 p.m.

City, State: Seattle, Washington.
Date: December 17, 1976.
Location: Sea-Tac Motor Inn, 18740 Pacific Highway, South.
Time: 9:30 a.m.

Person to contact: Sam Kerr, Office of Education, HEW, Arcade Plaza Building Room 509, Mail Stop 1507, 1321 Second Avenue, Seattle, Washington 98101, (206) 442-0456.

Dated: November 4, 1976.

EDWARD AGUIRRE,
U.S. Commissioner of Education.

[FR Doc.76-33017 Filed 11-9-76;8:45 a.m.]

federal register

WEDNESDAY, NOVEMBER 10, 1976

PART V:

ENVIRONMENTAL PROTECTION AGENCY

■

FUEL ECONOMY TESTING, LABELING AND INFORMATION DISCLOSURE PROCEDURES AND REQUIREMENTS

1977 and Later Model Year Automobiles

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 635-8]

PART 600—FUEL ECONOMY OF MOTOR VEHICLES

Fuel Economy Testing, Labeling and Information Disclosure Procedures and Requirements for 1977 and Later Model Year Automobiles

The Environmental Protection Agency (EPA) is hereby promulgating regulations which require manufacturers of 1977 and later model year automobiles and light trucks to label each vehicle with fuel economy information. The regulations set forth the form and content of the labels and prescribe the manner in which vehicles will be selected and tested for the generation of fuel economy information. This rule making also contains requirements for dealers of these vehicles to maintain the labels on the vehicles and to have copies of a pamphlet, The Gas Mileage Guide, in their showrooms in which prospective purchasers will be able to find the fuel economies of the various models of these vehicles offered for sale in a given model year. This pamphlet will be prepared by EPA and the Federal Energy Administration (FEA) and distributed by FEA.

These rules were the subjects of a Notice of Proposed Rule Making (NPRM) published in the FEDERAL REGISTER on May 21, 1976 (41 FR 21002). The rules are required by Title V of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. § 1901 et seq. (hereinafter "the Act") which was enacted as Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. (901) (December 22, 1975).

Synopsis of regulatory provisions. The regulations require that all new automobiles,[1] at the time they are offered for sale, carry a label disclosing the fuel economy of the vehicle, the average annual fuel cost for operating the vehicle, and the range of fuel economy estimates for comparable automobiles. Manufacturers are required to affix and dealers are required to maintain the labels on the automobiles. All automobiles offered for sale must be labeled, although the range for the label will not be available until approximately October. (Until October, there will not be enough test data available to create meaningful ranges). Vehicles sold before range values are available will state on the label that no range was available at the time the label was affixed.

The format and content of the label is illustrated by example in an Appendix to the regulations. The labels in the Appendix illustrate the explanatory language which EPA expects to be included on the label. However, EPA will review and approve each manufacturer's proposal for a label format, and the manufacturers have reasonable latitude in the specific design and language of their labels, as long as the labels effectively convey the information shown on the samples. For 1978, EPA may consider changes to the sample labels to improve consumer comprehension, such as the use of graphics on the label.

The NPRM solicited public comment concerning the form and content of the labels and concerning the test procedures and test requirements proposed for the development of fuel economy data. Additional comment was requested on the effect of proposed requirements for the use of "specific labels", (i.e., that such labels be used uniformly within a "model type"), the procedures for determining the classification of vehicles into categories of "comparable vehicles," and the criteria proposed for EPA determinations of the acceptability of manufacturer-generated test data.

Some of the regulatory requirements which were the subject of the NPRM of May 21, 1976, have already been promulgated. Certain provisions which are essential for the measurement and calculation of manufacturers' fuel economy averages under section 503 of the Act were originally published as part of this rulemaking since these provisions also relate to the measurement of fuel economy for labeling purposes. The promulgation of these provisions could not await this Notice of Final Rule Making since they are subject to a statutory deadline in section 503 of the Act. Consequently, they were published on September 10, 1976 in the Notice of Final Rule Making pertaining to the calculation of manufacturers' average fuel economies. See, Title 40, Chapter 1, Part 600—Fuel economy of motor vehicles, Fuel Economy Testing for 1978 Model Year Automobiles and Calculation Procedures for 1977 and Subsequent Model Year Automobiles; Exhaust Emission Test Procedures for 1978 Model Year Automobiles and Light Duty Trucks, 41 FR 38674.

Automobile dealers are required to make available, in their showrooms, copies of the current model year Gas Mileage Guide. EPA will compile the data for these guides and FEA will print and distribute the Guide. Manufacturers and dealers may also print guides themselves, providing that they are essentially the same as the EPA/FEA Guide. Dealers must display the Guide prominently, and keep a sufficient stock so as to allow retention of copies by consumers.

The regulations below fulfill the requirements imposed upon EPA by the Energy Policy and Conservation Act with respect to the labeling of 1977 and subsequent model year automobiles. EPA has consulted with the Department of Transportation, Federal Energy Administration, and the Federal Trade Commission, in the preparation of these rules as required by section 506 of the Act.

Detailed description of the action. The following sections of this notice describe in detail the action herein taken and note the major comments received and their disposition by EPA.

1. *Basic definitions.* Several key definitions are used throughout this preamble. An introductory discussion of the terms will aid in understanding the rules. All of the following terms are defined in the text of the regulations.

The Act requires that all automobiles be labeled with a sticker displaying fuel economy information. An automobile is defined as any 4-wheeled vehicle, propelled by fuel, which is manufactured primarily for use on public streets, roads, or highways and which has a gross vehicle weight rating (GVWR) of 6000 pounds or less. This definition includes types of cars and trucks which are currently certified by EPA as "light-duty" and are included in the 1976 EPA/FEA Gas Mileage Guide for New Car Buyers. Present EPA certification regulations (40 CFR 86.077-2) define a light duty vehicle as a passenger car or passenger car derivative capable of seating twelve passengers or less. A light duty truck is defined in the same regulations as being designed primarily for the purpose of transportation of property and having a 6000 pounds GVWR or less. Therefore, all light duty vehicles and all light duty trucks (as defined for emissions certification purposes) will be required to display a fuel economy label except those with a GVWR greater than 6000 pounds. (On February 12, 1976, EPA proposed rules extending the GVWR upper limit for light duty trucks to 8500 pounds beginning with the 1978 model year (41 FR 6279). Light duty trucks above 6000 pounds GVWR will be required to be labeled according to these regulations if the Secretary of Transportation promulgates rules applicable to these vehicles for some future model year.)

For fuel economy purposes, the first subdivision of a manufacturer's product line is car line. A car line denotes a group of vehicles within a make or car division which has a degree of commonality in construction. Car line does not consider any level of decor or opulence and is generally not distinguished by characteristics such as roof line, number of doors, seats or windows, although station wagons are considered distinct car lines from sedans. For example, in the 1976 EPA/FEA Gas Mileage Guide for New Car Buyers, Buick, a division of General Motors had listed nine car lines: Electra, Skylark, Opel, Century/Regal, Century Wagon, Lesabre, Estate Wagon, Skyhawk, and Riviera.

A subdivision of car line and the major level for labeling and reporting fuel economy is model type. A model type is defined as a unique combination of car line, basic engine, and transmission class. Thus, within a car line, a number of model types may exist depending upon the availability of various basic engines (displacement and number of cylinders, fuel system, and catalyst usage) and the transmission classes offered (automatic or manual). Each line entry in the Guide corresponds to a unique model type.

Although weight is not a model type determinant, it does figure into the cal-

[1] "Automobiles", for the purpose of the Act, include light trucks.

[2] The harmonic average fuel economy is computed by taking the inverse of average fuel consumption where consumption is expressed as gallons per mile.

culation of the fuel economy for each model type. For testing and calculation purposes, each manufacturer's product line is subdivided into base levels. A base level is a unique combination of inertia weight class, basic engine, and transmission class (the vehicle characteristics that most profoundly affect fuel economy). Note that base level is nearly the same as model type except that weight is substituted for car line. The fuel economy for any model type is simply the sales-weighted, harmonic average of fuel economy of each base level comprising the model type. Again using the Buick example, a typical base level would be 3500 pound, 231 cubic inch, 6 cylinder engine with 2 barrel carburetor, catalyst, and manual transmission.

Another level of delineation is used to identify individual test vehicles. Base levels are subdivided into vehicle configurations. A vehicle configuration is defined as a unique combination of inertia weight class, basic engine, and transmission class (all of which determine a base level) plus engine code, transmission configuration, and axle ratio. Engine code goes beyond the definition of basic engine by isolating different variations of carburetor, distributor, and other key engine and emission control system components. Transmission configuration considers more than just manual or automatic and distinguishes transmissions primarily by the number of forward gears, e.g., three-speed manual and four-speed manual. An example of a vehicle configuration is 3500 pounds, 231 cubic inch, 6 cylinder, 2 barrel carburetor engine and engine code 4, with catalyst, 4 speed manual transmission and 2.56 axle ratio.

II. *Fuel economy labeling.* The Act requires that manufacturers label (or cause to be labeled) each 1977 and subsequent model year automobile and that dealers maintain the label on the vehicle. Each label is required to indicate, (1) the fuel economy of the automobile, (2) the estimated annual fuel cost associated with the operation of the automobile, and (3) the range of fuel economy of comparable automobiles; all of this information to be determined according to rules prescribed by the Administrator. EPA is also responsible for specifying, by rule, the form and content of the labels and the manner in which they are affixed.

Label format. Appendix IV to these regulations provides samples of the label formats. Comments were solicited on the form, content, and language of the labels, and on the use of graphics on the label. Ford and General Motors responded, suggesting minor revisions to the sample labels.

EPA concluded that minor changes should be evaluated on an individual basis in the process of label approval so that a manufacturer may have some flexibility to individualize his own label. Therefore, without judgment as to the merit of the specified changes suggested by the manufacturers, the sample labels have not been changed from the NPRM for 1977.

Volkswagen commented that all of the explanation should be deleted from the label, including the vehicle description information. Although the labels contain considerable verbiage, deletion of this information would be greater disservice to the consumer than to publish it and risk confusion or deception, in the opinion of EPA and the consulting agencies.

Comments were also requested on the use of graphics on the labels. Ford and Mercedes Benz responded that space did not allow a comprehensive graphic description on the label. Furthermore, the increased complexity of the graphical representation would increase the cost of labeling.

The Office of Consumer Affairs responded critically to the sample labels and suggested graphic substitutes. However, some of the comments seemed to be directed at the labels in the NPRM in the May 21, 1976, FEDERAL REGISTER, which were misprinted. An errata notice was subsequently published on May 28, 1976 (41 FR 21719). Based on the comments, the regulations are being promulgated as proposed, allowing, but not requiring, graphic presentations. However, EPA is considering further the use of graphics for model years following 1977.

Types of labels. The labels are of two basic types, general and specific. The general label displays sales-weighted, fuel economy estimates for a model type—a unique combination of car line, engine displacement, number of cylinders, fuel system, catalyst usage, and transmission type (manual or automatic). A specific label contains the fuel economy of a unique vehicle configuration identified by a more detailed description of the engine (although not identified on the label), weight of the vehicle, axle ratio, and the number of forward speeds of the transmission.

Both general and specific labels list three fuel economy values: city, highway, and combined. The city fuel economy value is determined from operating one or more test vehicles over the driving schedule in the Federal Test Procedure (FTP) (also used to test for exhaust emissions) which simulates an average trip of 7.5 miles in an urban area at an average speed of just under 20 miles per hour. The city schedule consists of cold and hot engine startup segments with vehicle operation on a chassis dynamometer. The highway fuel economy value is measured by operating one or more test vehicles over the driving schedule in the Federal Highway Fuel Economy Test Procedure (HFET), which is designed to simulate non-metropolitan driving at an average speed of 48.6 miles per hour and a maximum speed of 60 miles per hour. The highway schedule consists of a hot-engine startup with the vehicle operated on a chassis dynamometer. The third value displayed is a combined fuel economy value which is the harmonic average of the city and highway fuel economy values, weighted 55 and 45 percent, respectively, to reflect Federal Highway Administration data on national driving patterns.

Specific labeling requirements. In prior years, manufacturers have been permitted to substitute specific labels for general labels on individual configurations without constraint. Manufacturers have used specific labeling to call attention to those vehicle configurations with above average fuel economy within a model type. EPA proposed in the NPRM that if a manufacturer chooses to utilize a specific label, he is also required to apply specific labels to all automobiles of the same model type (i.e., all those automobiles that would have been covered by a single general label). The agency proposed this requirement for the manufacturers to provide protection against deceptive advertising use of the EPA fuel economy estimates. Because of adverse industry comments and concerns from the FEA that specific labels would not be widely used if this requirement were imposed, EPA explored other alternatives to the proposed requirement.

Two types of alternative approaches were examined. The first type of approach would require specific labeling in the larger configurations within a model type. The two suboptions would require that x% of the model type be specific labeled by vehicle configuration ordered by decreasing sales volume, or that all configurations contributing more that y% of sales within a model type be specific labeled. These approaches suffer because they do not fully protect the consumer and they have the potential, as new configurations are added and sales projections change throughout the model year, for requiring as much testing as the EPA proposal.

The other type of approach attempts to insure that the worst car(s) are specific labeled if the best are. This may theoretically be done by specifying either that all cars which are more than x miles per gallon below the general label value must be specific labeled (if specific labeling is elected) or that a worst case car is specific labeled each time a better than average car is specific labeled. Although this approach may inform consumers of the worst fuel economy cars, it is not administratively workable since it is not always possible to identify the worst fuel economy vehicles a priori. Furthermore, the one-for-one suboption may even fail to alert consumers to the fact that some configurations may get substantially poorer fuel economy than the fuel economy leader because the worst car may never show up on dealer's lots.

All things considered, the EPA has found no alternative which is superior with respect to the goals of reduced test load and consumer protection, while still permitting specific labeling, than the option that was proposed. EPA is therefore requiring that after 15 days after fuel economy range information is made available, all configurations within a model type be specific labeled if specific labeling is chosen for any vehicle within the model type.

Model introduction period considerations. Several manufacturers expressed concerns regarding the impact of label-

ing requirements on model introduction and suggested various means by which the requirements should be relaxed during the first weeks of production. Some manufacturers requested that EPA provide a grace period during the first weeks of production during which either no labels would be required or no fuel economy values would be required to be put on the labels. One manufacturer suggested that EPA permit the use of preliminary fuel economy values on general labels during this early production period and permit the revision of these values later in the model year.

Two requirements in early drafts of these regulations were the principal sources of manufacturers' concerns in connection with the model introduction period. First, the requirement that labels include the range of fuel economy values for comparable vehicles would mean that no vehicles could be sold until enough manufacturers had completed fuel economy testing so that EPA could calculate meaningful ranges. It was argued that this would tend to tie manufacturers' introductions to one another, which would be anticompetitive and would be a disruptive departure from past industry marketing practices, and that such an impact was not intended by EPCA.

The second problem associated with the beginning of the model year is related to the requirement that a general label value be approved prior to the approval of specific labels within a given model type. This requirement provided the industry with two unpalatable choices at the beginning of the model year. Either a manufacturer would have to complete all required and voluntary fuel economy testing prior to the sale of the first vehicle, or he would be forced to restrict his early production to those vehicles for which general label values were available. (In the past, manufacturers only had to successfully complete the testing of their emissions certification fleet prior to production, and could complete fuel economy testing after production began.) Thus, this requirement would either delay the start of production or might seriously restrict the number of model types offered for sale near the beginning of the model year. This requirement might also have the effect of reducing the incentive for manufacturers to make early running changes (which often improve fuel economy) since the benefits from such changes would not be reflected in general label values, which do not change during the model year from the values approved at the beginning of a model year. Neither a delay of production (as noted earlier), nor a restriction of the types of cars offered for sale was intended by the Act.

The regulations resolve these problems by relaxing the requirement that general label values be approved prior to the use of specific labels at the beginning of the model year and provide that ranges will not be required to be included on fuel economy labels until a reasonable time after all of the general label values which will be included in the first edition of the *Guide* have been disseminated to the industry. EPA is requiring that labels on cars imported or manufactured 16 or more days after the fuel economy ranges are made available show the applicable value for the range. Since the bulk of general labels will be approved by this time, this is also the time that EPA will impose the requirement that specific labels be used for all configurations within a model type or general labels be used.

One manufacturer did not find these changes to the draft regulations entirely satisfactory. Due to this manufacturer's particular marketing strategy, a very large number of configurations were planned to be put into production at the beginning of production (whereas most manufacturers apparently begin production mainly with the most popular configurations). Consequently, the use of specific labeling for these vehicles would entail a large volume of testing that was not easy to perform in the time available. This manufacturer suggested that EPA accept the use of "interim" label values which would be amended and replaced by "final" values after he had completed all fuel economy testing. Since these interim label values would not include test data from early running changes or from voluntary fuel economy data vehicles (submitted to offset the effects of test data from "worse case" emission data vehicles), interim values would be lower than final values.

EPA rejected the use of such interim values for several reasons. First, the values on these labels would be different from values in the Mileage Guide. This would be unnecessarily confusing to the public. Second, the use of such values would result in two identical model types appearing with different fuel economy values. Once again, public confusion would result. Finally, since the interim values would be invariably lower than the final values, the credibility of the values would be diminished in the eyes of the public. These effects would result in decreased public acceptance and use of the fuel economy information provided by the labels and Mileage Guides which would be inconsistent with the intent of the Act.

The granting of a blanket grace period was rejected by EPA as unauthorized by the Act and contrary to both the intent of the Act and the public interest.

Fuel cost estimate. Every label will display an average annual fuel cost estimate based on the combined fuel economy that appears on that label. The EPA Administrator will, with assistance from the Secretary of Transportation and the Federal Energy Administrator, determine the proper values for the average annual mileage for a new car and the average cost of fuel respectively, and will advise the affected manufacturers of these values.

Neither the fuel economy values nor the average annual fuel costs initially determined for a general label will be revised during the course of a model year. However, on specific fuel economy labels, both the fuel economy figures and the annual fuel cost estimate will be updated to reflect any mid-year production modification that creates a new vehicle configuration.

Fuel economy range. The Act specifies that fuel economy labels contain the range of fuel economy of comparable automobiles. This range will be the range of the city/highway combined fuel economy values for all model types included within a class.

All vehicles within a car line (or truck line) will be grouped into a single class. (Station wagons will constitute a separate car line.) One distinct range will be calculated for each class for use on both general and specific labels. The range will consist of the highest and lowest combined fuel economy results of all model types within the class, i.e., the range of the general label values within the class. Since the fuel economy booklet is the primary source of comparative vehicle fuel economy information and lists general label values, it is desirable that other sources of information, such as the label range values, be consistent. Additionally, for those vehicles included in a published edition of the fuel economy booklet, a consumer will be able to compare the fuel economy values of other model types of the same class and other classes.

EPA recognizes that regardless of the approach adopted for establishing the range of fuel economy values used on labels, there can be some degree of confusion for the potential car buyer. For example, if the range were to be based on specific label values, potential car buyers would have no practical way to ascertain which vehicles represent the extremes of the range since this information cannot readily be kept up-to-date and published in current booklet form. Conversely, if ranges are based on general label values, vehicles that are specific-labeled could show fuel economy values outside of the range. EPA has concluded that less confusion will result from using the latter scheme, and will explain in the fuel economy booklet why some specific-labeled vehicles may show fuel economy values outside the range given on the label. Therefore, the range values will be based upon model type (i.e., general label) combined fuel economy figures for all automobiles determined to be in the same class.

Classification of vehicles. The Agency considered three basic issues relating to vehicle classification:

1. How many classes should there be and what dividing lines (cut points) should be employed between the classes?
2. Should the classes have discriptive names or be designated by a number or letter?
3. On what basis should car lines (and truck lines) be assigned to a class?

EPA concluded that a system that groups automobiles into a relatively small number of classes is most desirable. Too few classes have the effect of grouping too many dissimilar cars together and would not provide meaningful comparative information. On the other hand, a large number of classes is tantamount to putting each vehicle in its own unique class, which frustrates the purpose of putting the range on the label.

Regarding the names of the classes, there are advantages to both approaches posed in question 2 above. The Agency sees merit in a scheme that uses descriptive terms that consumers generally understand. For example, passenger automobiles might be designated as "subcompact", "compact", "intermediate", "full-size", or "sports/specialty". For light trucks, common categories are "small pickup", "standard pickup", and "utility/special purpose". These classes are often used by trade publications, industry associations, and consumer testing organizations to identify vehicles. However, the disadvantage of using such names is that the class into which a vehicle is grouped for fuel economy labeling purposes may differ from the marketing intentions of the manufacturer. EPA wants to avoid any interference with manufacturer's marketing efforts. For this reason, EPA noted in the NPRM that there may be some advantage to identifying the classes by using numbers or letters (e.g., "1", "2", or "A", "B"). Comments to the NPRM were almost evenly split with half the respondents supporting usage of descriptive names due to their greater consumer identification while others were against this usage due to the potentially great and inappropriate marketing impact of the resulting vehicle identification. In order to minimize EPA's intrusion into the manufacturer's marketing schemes and still achieve some consumer recognition, EPA will, to the extent possible, use simple, descriptive names for vehicle classes.

Concerning the third issue, the basis for class determination, EPA could find no commonly accepted, objective criterion by which vehicles could be grouped into categories. Although the majority of existing classification systems are related to vehicle size, classification is apparently determined subjectively based largely on the "marketing intent" of the manufacturer, or his intent as it may be perceived by some other classifying organization. It is not acceptable, in the Agency's opinion, to employ subjective evaluations for class assignments even if an objective approach may appear to misclassify a small number of vehicles.

EPA has examined several methods for objectively categorizing automobiles into classes. A primary consideration in evaluating any alternative approach was that the method be consistent with the proposed labeling scheme (i.e., general and specific) to the extent that no proliferation in the number of labels results. For example, a general label frequently includes automobiles in more than one weight class. Consequently, a method of defining classes of vehicles based on weight would necessitate that either more than one range appear on a single general label or that multiple versions of the same general label be used. Also, using weight as a criterion would provide little consumer information, because few people are believed to buy cars by weight.

In the NPRM, EPA had identified several basic types of vehicles: conventional passenger cars (generally designed to carry at least four persons and a moderate amount of luggage), station wagons (generally designed to carry at least 4 passengers and a large amount of luggage or property), sports passenger cars (normally designed to carry only two persons and a limited amount of luggage), luxury passenger cars (designed to carry anywhere from two to six persons, but costing significantly more than the average consumer normally considers on spending for an automobile), pickup trucks (distinguished by limited passenger capacity and an open cargo bed), vans and a number of other utility or special purpose light duty trucks. EPA concluded that, if administratively possible, vehicles should be objectively grouped in a manner consistent with these basis types of vehicles. The NPRM specifically requested comment on this issue of grouping comparable vehicles into classes.

Almost all manufacturers agreed that an approach that grouped automobiles according to basic design should be used. Most further concurred with the EPA proposal to further subdivide conventional cars according to size. A significant number of adverse comments were received, however, on the proposed separate classification of luxury passenger cars on the basis of a base price of $15,000 or more. It was generally agreed that the $15,000 cut point is arbitrary, has little or no relationship to fuel economy, and would likely have to be continually revised in order to consistently group specific vehicles. Consequently, EPA has decided to drop any consideration of luxury vehicles as a separate class and consistently group vehicles according to design or measurements of size or usefulness.

Light duty trucks will be divided into small pickup trucks, standard pickup trucks, and van/special purpose trucks as proposed. The cut point between the small and standard classes of pickups will be made at 4,500 pounds GVWR. Comments suggested that wheelbase length was not an acceptable discriminator in that it has little relationship to overall or interior vehicle size, cargo capacity or vehicle usefulness and would not be readily understood by consumers. Although one manufacturer suggested that vans be separately categorized on the basis of enclosed cargo volume, this would not adequately separate true van-type trucks from other enclosed light duty trucks and will therefore group these vehicles together in a single class.

Conventional passenger cars are more difficult to classify since there are so many variations and they are continually changing from year to year. EPA and FEA analyzed several different methods for classifying passenger cars. Two approaches were proposed in the NPRM. One approach, classification of cars on the basis of wheelbase length, was not supported by any of the comments and was dismissed by EPA because it did not properly class downsized future product lines. The other approach, termed the "volume" approach, was strongly supported by comments and is compatible with the space and weight conscious design of future product lines. As proposed, the volume approach utilized a combination of interior and exterior volume indexes. However, upon reconsideration of all of the issues involved, EPA has concluded that the approach used should be based, to the greatest extent possible, on a measure of vehicle utility rather than being based on factors which may be influenced primarily by styling considerations and which do not closely correlate with the basic passenger and luggage carrying ability of the vehicle. The exterior volume index does not fit this new criterion. It is entirely possible to change any of the three dimensions that make up the exterior volume index (length, width or height) without affecting the utility of the vehicle. Moreover, it is also possible to significantly increase a vehicle's utility without changing any of those dimensions. Therefore, EPA is using the interior volume index that was discussed in the NPRM as the sole basis for the classification of passenger automobiles into comparable classes, except two seaters.

In order to make this interior volume scheme as simple and manageable as possible, EPA will group all passenger automobiles (other than station wagons) into five classes:

Two-seaters—cars required to be equipped with only two seat belts,
Subcompact cars—cars with interior volume indexes of less than 100 cubic feet,
Compact cars—cars with interior volume indexes from 100 to less than 110 cubic feet,
Mid-size cars—cars with interior volume indexes from 110 to less than 120 cubic feet, and
Large cars—cars with interior volume indexes equal to, or greater than, 120 cubic feet.

Similarly, for station wagons, the classes and cut points are to be:

Small station wagons—station wagons with interior volume indexes of less than 130 cubic feet,
Mid-size wagons—station wagons with interior volume indexes of 130 to less than 160 cubic feet, and
Large station wagons—station wagons with interior volume indexes equal to, or greater than, 160 cubic feet.

This scheme does not represent a great departure from the volume approach originally proposed. However, the Agency does see this modification as an improvement to the overall concept, since the deletion of the exterior volume index removes the sensitivity of the classification scheme to minor or purely cosmetic changes in vehicle exterior dimensions which do not influence vehicle utility.

The calculation of the interior volume index is identical to the proposal in the NPRM (as modified version of the Society of Automotive Engineers (SAE) Recommended Practice J1100a). In addition, the regulations include procedures for the calculation of the usable luggage capacity of two-passenger vehicles, which is not expressly considered by the SAE procedure.

The fuel economy booklet which dealers must stock in their showrooms, (i.e., the Guide) will designate the class for each model type listed. In addition, the booklet will include the passenger/

cargo-luggage volume for each model type as an aid to consumers in the selection of fuel efficient/utilitarian vehicles.

Updating of fuel economy range information. The NPRM proposed that at the beginning of each model year, EPA would issue fuel economy ranges for each class of comparable vehicles as soon as enough data had been collected to calculate meaningful ranges. EPA would update these ranges during the model year if additional data on newly introduced model types made the original ranges unrepresentative. For the 1977 model year, the original issue date for the range was September 17, 1976. In each case, manufacturers would be required to include the most current range on labels affixed to automobiles manufactured or imposed after 15 calendar days following receipt of the data. Automobiles manufactured or imported before the first range is available will be required to contain language on the label stating that no fuel economy range was available as of the date of production or importation. EPA requested comments on the appropriateness of this procedure, and on the specific time period involved.

Most manufacturers supported the basic updating procedure if it were limited to a reasonable number of times within the model year. As noted in the Preamble to the NPRM, it is expected that the range will only be updated once in one model year. However, some manufacturers commented that 15 days were not sufficient lead time in order to implement a change to the label information such as addition or change of the range of fuel economy of comparable vehicles. Rather, they indicated that a minimum of from 30 to 60 days was absolutely necessary. The Agency appreciates the significant burden imposed on manufacturers under a time limitation of 15 days to change label range information. However, allowing 30 to 60 days to implement required label changes would result in a significant number of vehicles being labeled without the latest, correct fuel economy information. The Agency has determined that such proliferation of misinformation is not in the best interests of the public. The final regulations are promulgated as proposed with a 15-day time limit for updating the label range values.

One foreign manufacturer pointed out that under this provision of the proposed regulations, a vehicle labeled in the home country during assembly but arriving in the U.S. twenty days later could be required to be relabeled with an updated range. EPA did not intend to place such an additional labeling burden on foreign manufacturers. Therefore, this section of the regulations has been changed for final rule making so as to require only that vehicles manufactured 16 days after the new range is made available incorporate that updated range on their fuel economy labels.

III. *Booklet availability.* Automobile dealers are required, beginning with the 1977 model year, to make available to prospective purchasers the booklet containing fuel economy and estimated fuel cost information. For each model year, EPA will transmit to the Administrator of the Federal Energy Administration a copy of the booklet suitable for reproduction, with the first edition expected to be available about the end of October. A second edition will be prepared in February which will include all model types certified after the compilation of the first edition. FEA will reproduce the booklets and make copies available to automobile dealers and other interested parties. Other parties may also reproduce the booklet for purposes of satisfying these requirements. Therefore, a description of the ways in which copies may deviate from the FEA-printed booklets are also included in the regulations. Since delivery of the booklets to the dealers is within the control of FEA and not the dealers, no firm calendar date is set for the initial availability to consumers.

EPA intended to include in the NPRM that the booklet would also identify vehicles considered within a specific comparable class. However, this item was omitted from the NPRM but is being included in the final regulations.

IV. *Fuel economy data vehicles.* Fuel economy data vehicles are those vehicles, in addition to emission certification vehicles, which are tested to measure fuel economy for the purposes of including the results in the booklet for labeling or to calculate manufacturers' fuel economy averages.

Fuel economy data vehicles may either be required or may be optional depending on the situation. For example, in a case in which additional data are necessary to calculate the manufacturer's general label values, fuel economy data vehicles are required. On the other hand, a manufacturer may voluntarily submit data from additional vehicles for use in calculation of specific labels or to supplement the minimum data base required to calculate a general label fuel economy value.

The need for fuel economy data vehicles arises from the fact that not all base levels are represented by emission certification tests. For purposes of determining compliance with emission certification standards, manufacturers' product lines are divided into engine families. Relatively few test vehicles (usually three to five) are tested from each engine family. These emission data vehicles are selected on the basis that the configuration is either projected to be a high seller or one that would be expected to exhibit high emissions. The expected high emission vehicle is selected on the premise that if the worst car in the engine family can meet the standards, the rest will likely meet the standards. Hence, a significant fraction of the vehicle configurations covered by a certificate of conformity may not have been tested for emissions or fuel economy.

Fuel economy data vehicles can have one or two origins: prototypes, such as used for emission certification, or production vehicles. Production vehicles, including those that might be a part of a manufacturer's emission audit program or a Selective Enforcement Audit (SEA) test order, must be qualified by such procedures as checking the calibration of key components to assure that the vehicles are capable of generating representative fuel economy values.

One manufacturer commented that SEA vehicles and production vehicles are not appropriate to use as fuel economy data vehicles. SEA vehicles are tested at low mileage, which this manufacturer considers unacceptable. Production vehicles would be unavailable at the beginning of the year to serve as fuel economy data vehicles, and are typically produced at some location far removed from the testing site. However, although this particular manufacturer may not wish to use SEA vehicles, it is still appropriate to leave these provisions in the regulations. The Agency is of the opinion that data generated by SEA vehicles and production vehicles can provide valid fuel economy data (assuming that they meet the requirements of Subpart A of Part 600), and allowing their use gives added flexibility to the manufacturers. The use of SEA vehicles is not required by the regulations, but remains optional with manufacturers.

In addition to these options, to ease the burden of submitting additional data, manufacturers are permitted to change componnets on previously tested vehicles to represent other vehicle configurations. Fuel economy data vehicles may also be tested at different inertia weight and road load power settings in order to represent more than one vehicle configuration.

Fuel economy data vehicles are permitted to have accumulated up to 10,000 miles. Although the 1976 voluntary fuel economy program specified some minimum mileage (2,000 miles for non-catalyst vehicles and 4,000 miles for catalyst vehicles), these final regulations eliminated the minimum. It is generally accepted that the fuel economy of a vehicle improves with the first few thousand miles as friction decreases. However, some automobile engines may be manufactured in such a way that the initial break-in period is minimized by operating the engine on a dynamometer or some other technique. By the time the vehicle completes the production process, the fuel economy characteristics of the vehicle may be essentially representative of a stabilized automobile. Therefore, the Agency has concluded that the question of the minimum mileage at which a test vehicle is capable of producing representative fuel economy data is best left to the manufacturer, since it would be to the manufacturer's disadvantage to test a vehicle prior to the time it is stabilized from a fuel economy standpoint.

As an additional criterion, all fuel economy data vehicles must meet applicable emission standards in order to be accepted for fuel economy purposes. If a vehicle fails to meet standards, no penalty is imposed under the fuel economy program other than rejecting the vehicle for the purposes of fuel economy testing. By permitting this increased flexibility

in selecting and testing fuel economy data vehicles, manufacturers are encouraged to submit additional vehicles, thus improving the accuracy of the booklet and label values and encouraging participation in specific labeling. However, if individual configurations or groups of fuel economy data vehicles experience difficulty in meeting emission standards during fuel economy testing, the Administrator may carry out appropriate investigations under the provisions of the Clean Air Act to identify the specific emission-related problem(s), the extent of the problem(s), and the corrective action.

Two manufacturers commented that they felt that jeopardy under the Clean Air Act based upon the testing of fuel economy data vehicles was unjustified. However, the Agency cannot ignore overt indications of emission non-compliance. Since the manufacturer suffers no direct penalty other than being asked to supply more data (fuel economy data vehicles exceeding emission standards may trigger an investigation, but do not automatically trigger any adverse action), EPA has concluded that a manufacturer that is actually in compliance with the Clean Air Act will suffer no inappropriate jeopardy.

The final regulations also include the proposed provision by which a manufacturer can use analytical techniques to develop additional fuel economy data in lieu of testing actual vehicles. The techniques must be approved by EPA prior to use for generating data for fuel economy labeling. It is expected that the approval of analytical methods would be limited to those addressing parameters with readily quantifiable effects on fuel economy such as axle ratio, inertia weight, and road load power setting.

All comments on this aspect of the NPRM were in favor of the provision. Although a number of issues relating to details of the administration of the provisions were raised, the Agency has concluded that it is inappropriate to include such details as part of these regulations. These details relate to the individual manufacturer's techniques used to predict fuel economy, and each manufacturer's proposal will be evaluated individually when it is submitted.

V. *Additional comments.* A number of manufacturers supplied comments and information which were not specifically solicited by the NPRM.

Comparability of test procedures. One manufacturer was concerned that nowhere in the regulatory package did EPA address the comparability of test procedures to those used in the 1975 model year (a requirement of section 503 of the Act). In particular, this manufacturer pointed out a discrepancy in the carbon balance equation used to calculate fuel economy from exhaust emission test results as published in the NPRM from equations published earlier. Although the Act only requires comparability of test procedures for data used in the calculation of a manufacturer's average fuel economy (not a part of this rule making), EPA fully intends that the labeling program use test procedures comparable to those used in the 1975 model year. Directly addressing the comment, EPA has determined that the version of the carbon balance equation published prior to the NPRM was incorrect and was not the equation actually used by EPA in the 1975 model year. The equation published in the NPRM does correctly represent the 1975 model year procedure, is identical to the 1975 procedure, and is therefore "comparable".

Vehicle configuration definition. Several manufacturers commented on the proposed definition of vehicle configuration. The NPRM defined vehicle configuration, engine code and transmission configuration. Most of the respondents were concerned that the vehicle configuration definition was expanded from the definition used in the 1976 labeling program. EPA intends that these published definitions would actually operate in the same manner as the earlier definitions from voluntary fuel economy programs. Although the prerogative of the Administrator to define transmission configuration is expanded in the definition in the NPRM, in almost all cases, these (transmission) parameters are uniform within a 1976 vehicle configuration, or involve differences of insignificant magnitude, thus very few new configurations would be created by potential subdivision of 1976 configurations according to the new definitions.

Two manufacturers commented that axle ratio should be replaced by N/V[1] in the vehicle configuration definition. N/V was not included as a vehicle configuration parameter because of the excessive number of vehicles required to evaluate the effect of N/V. The often minor differences in fuel economy that this change would monitor do not warrant the additional expense that the testing would entail.

EPA defined vehicle configuration parameters by isolating those characteristics which most predominantly affect fuel economy. Based on data from past model years, the parameters which were most promising from a cost effectiveness/fuel consumption sensitivity standpoint were included in the definition. EPA could not agree with one commentator's contention that engine code and calibration items, as well as the various transmission variables, do not cause detectable changes in fuel consumption. Data from past years' fuel economy testing supports the Agency's position.

The vehicle configuration, engine code, and transmission configuration definitions from the NPRM are being retained in this final rule making.

EPA processing time. The proposed regulations notified manufacturers that they should submit requests for label calculations and approval twenty-five days before the manufacturer wishes to use these labels. Some manufacturers commented that, based upon past experience under the voluntary fuel economy labeling programs, twenty-five working days time allowance for the Administrator to approve label fuel economy values is excessive and should be revised downward to a maximum of 15 working days.

Furthermore, some manufacturers commented that the regulations should also include a minimum time span within which the Administrator initiates action on a labeling request. The purpose of the regulations is to instruct the regulated industry as to the procedures it must follow, not to constrain the Administrator to maximum response time. However, the proposed labeling regulations implied that a working 25-day period would provide sufficient lead-time to assure the Administrator's approval of label values. As in past voluntary programs, it is expected that the Administrator will respond and approve label values on the average in much less than 25 working days. The proposed regulation provision is only intended to provide guidance to the manufacturer, indicating a reasonable maximum time period which he should incorporate in his plans if the timing of receipt of an approved label value is crucial. The probable maximum time considered is still accurate.

Label maintenance. The Motor Vehicle Manufacturer's Association commented that dealers should be permitted to remove labels from automobiles being used for test, demonstration, or similar purposes provided that a proper label is affixed to the automobile before it is offered for sale.

The Act requires that a manufacturer cause to be affixed and a dealer cause to be maintained a fuel economy label. Nowhere in the Act is there provided any exemption to this requirement. The Automobile Information Disclosure Act makes the same requirements for the price label. In addition, common logic dictates that the intended effect of the fuel economy label is most likely to be realized on demonstration vehicles, which are intended to influence buyer decisions. If a dealer removes a label, and the car is sold without a label the manufacturer could be prosecuted for failure to attach the label, or the dealer could be prosecuted for a failure to maintain it.

Label location. Several manufacturers commented that the requirements for label location on the vehicle are too restrictive, are unnecessarily burdensome and will result in disruption of the manufacturing process. The Automotive Information Disclosure Act allows the price ("Monroney") label to be affixed to the "windshield, or any side window". Since the fuel economy may be combined with the Monroney Label, it seems reasonable to use the same guidelines for label location. Thus, these regulations permit the fuel economy label to be affixed to the windshield, or any side window, but it must be located as close to the Monroney label as possible if not incorporated in the Monroney label itself.

[1] N/V ratio is defined as the quotient of engine speed in RPM divided by vehicle speed in MPH measured in the lowest numerical ratio, i.e., highest transmission gear.

Updating of labels. The proposed regulations prohibited a manufacturer from changing the fuel economy values of an approved specific label. One manufacturer requested that these regulations be amended to allow a manufacturer to, at his option, add more test data so as to change the specific label fuel economy value. Prior to label approval, a manufacturer may submit all of the information (including test data) he feels is necessary in order to calculate a representative fuel economy estimate. However, EPA has determined that labeling vehicles which are otherwise identical with different fuel economy values would result in consumer confusion. Therefore, after EPA has approved fuel economy label values, these values may not be changed throughout the rest of the model year.

Definitions. Manufacturer's comments pointed out that since the Preamble and the Notice refer to "introduction date", this term should be explicitly defined in the regulations. EPA has dropped the term "Public Introduction Date" and is using the range requirement date in lieu of the public introduction date.

Inspections. Several comments expressed concern with that portion of the proposed regulations providing for unannounced inspections by authorized EPA Enforcement Officers and suggested that these inspections were violative of the Fourth Amendment to the U.S. Constitution. It was suggested that EPA Enforcement Officers be admitted to a manufacturer's facilities only after reasonable prior written notice and/or a judicial warrant. (It should be noted that the rules provide that unannounced entries may be made only after authorization by the Assistant Administrator for Enforcement.)

Because of the inevitable conflict of interest which results from any compliance system where a significant part of the regulatory activity is controlled by those being regulated, it is essential that EPA personnel have access to manufacturer's facilities in order to determine whether the requirements of the regulations are being faithfully followed. Specifically, the inspection and monitoring activities shall be for the purpose of gathering information to enable the Administrator to satisfy himself that required records are being kept, that products which will be tested are being selected and properly prepared for testing, that tests are being properly conducted and that the testing instruments are accurate. Such inspection and monitoring activities will include access to all facets of the testing program required by the regulations; records, and test results which must be maintained; and facilities (production, test and storage) which are connected with the fuel economy testing and labeling of a manufacturer's automobiles.

At a minimum, 24 hours prior notice will normally be given to a manufacturer by the Director of the Mobile Source Enforcement Division or his representative advising him of any visit of EPA Enforcement Officers. However, the regulation does provide for notice only at the time of the visit provided the visit is specifically authorized in writing by the Assistant Administrator for Enforcement.

Such unannounced entries by properly authorized and certified EPA Enforcement Officers are reasonable and are in compliance with the U.S. Constitution. *Colonade Catering Corp.* v. *United States*, 397 U.S. 30 (1970); *United States* v. *Biswell*, 406 U.S. 311 (1972); *Wyman* v. *James*, 400 U.S. 309 (1971). Such entries are limited to reasonable hours and specified facilities of the manufacturer which are relevant to fuel economy testing. Moreover, because of the critical nature of the Agency's information gathering purpose under the Act, provision for such entry is necessary to insure the accuracy of the fuel economy figures and the compliance by the manufacturer with the fuel economy procedures.

Most importantly, section 505(c) of the Act (15 U.S.C. § 2005(c)) clearly grants authority to make such inspections: "Such manufacturer shall, upon request of a duly designated agent of the Secretary (of DOT) or the EPA Administrator who presents appropriate credentials, permit such agent, at reasonable times and in a reasonable manner, to enter the premises of such manufacturer to inspect automobiles and appropriate books, papers, records, and documents."

Additionally, some manufacturers commented that the Act does not allow EPA to require that manufacturers admit an EPA Enforcement Officer to a facility that the manufacturer neither owns nor controls. This provision is designed for those manufacturers who may contract with an independent testing facility for their fuel economy testing. Such testing by independent laboratories is permissible under the regulations. It is not consistent with the purpose of the Act to allow a manufacturer to circumvent the inspection provisions by contracting the fuel economy testing to independent test facilities. An independent testing facility contracted for by the manufacturer is as much a manufacturer's testing facility for the purposes of this Act as one owned by a manufacturer. A manufacturer who so contracts with an independent laboratory without assurance that the manufacturer's vehicles will be subject to the same inspection as in a manufacturer's own facilities will risk having the test results not accepted by the Administrator.

EPA has deleted the provision under which EPA Enforcement Officers may, during the course of an inspection, require the manufacturer to conduct additional fuel economy testing. However, since the purpose of an inspection is to uncover any potential discrepancies in fuel economy test data submitted by the manufacturer, the right to require additional testing has been retained. If an inspection indicates that manufacturer fuel economy test data may be unreasonable or unrepresentative due to failure of the manufacturer to follow proper testing procedures or use good engineering practice, or improperly calibrated or faulty test equipment, EPA will notify the manufacturer in writing that additional testing is required and either request that the manufacturers conduct the tests or submit vehicles for testing. The fact that fuel economy data has already been accepted by the Administrator shall not limit the Administrator's right to require additional testing. The provision has been added to provide that the Administrator may reject data on the basis of the finding of an inspection and to recalculate a manufacturer's average. A manufacturer would be given the right to a hearing in such an event pursuant to § 600.009.

Assistance to enforcement officers. Comments were received protesting the requirements of § 600.005(b)(5)(iv), the definition of reasonable assistance. The NPRM required clerical services, making personnel available to provide information to the Enforcement Officer, the limitations of an employee's selection of counsel, and the authority of an Enforcement Officer to order additional testing. In response to the comments, these provisions have been reduced in scope in the final rules.

Record keeping. One manufacturer commented that requirements for record-keeping of fuel economy data vehicles were excessive and unnecessary. They contended that they should be required only to document that the vehicle was built to released specifications and that use prior to fuel economy testing was not unusual or extreme.

The Act gives the Administrator very broad power to require that records be made and maintained. Since much of the testing and mileage accumulated conducted under these regulations will not be witnessed by the Administrator or his agent, it is imperative that complete records be kept in order to verify that all procedures employed were in concert with the regulations. The Agency believes that it is imperative that its ability to monitor and maintain the integrity of the program be maintained, and complete and accurate record keeping procedures are essential to this end.

VI. Revision of regulations for 1978 and later model years. Although these regulations are final for 1977 and will continue in effect for subsequent model years unless superseded, EPA recognizes the need to continually consider appropriate improvements to the program. Certain issues have already been identified as appropriate for reconsideration and possible revision for 1978 and later model years. Among the regulatory provisions that have been so identified are the following:

(1) The method of classification of comparable automobiles including the way interior volume is measured, the selection of borders (cut points) between classes of cars and the possible use of additional objective criteria for the classification of car lines which fall on or near the cut points;

(2) The number, types and requirements for use of labels, i.e., should there continue to be two types of labels (general and specific) or should the grouping of vehicles currently included in the general label be revised to be narrower, though less narrow

than that currently used for the specific label, so that only one type of label would be used?

Although any revisions will be subject to formal proposal in the FEDERAL REGISTER and a formal comment period prior to promulgation, EPA would appreciate the comments of interested parties as to appropriate revisions to these regulations for the 1978 model year and those following by January 10, 1976 so that rule making could take place in time for the 1978 model year. Such views may be sent in writing to Deputy Assistant Administrator for Mobile Source Air Pollution Control, (AW-455) U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

VII. Title and statutory authority. This notice of final rule making is issued under the authority of Title V of Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 1901 et seq. as added by Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 901.

Effective date: Since the 1977 model year is several months old and the industry has generally followed the practices contained in these regulations, the Administrator finds good cause to require that these regulations become effective on November 10, 1976.

Dated: November 2, 1976.

RUSSELL E. TRAIN,
Administrator.

Part 600 of Chapter 1, Title 40 of the Code of Federal Regulations is amended in Subparts A and C as follows:

Subpart A—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—General Provisions

1. § 600.002-77 is amended by revising definition (a)(8) and adding definitions (33) through (37) to read as follows:

§ 600.002-77 Definitions.

(a) * * *

(8) "Federal Highway Fuel Economy Test Procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in Subpart G of this part which are used to derive highway fuel economy data.

* * * * *

(33) "Body Style" means a level of commonality in vehicle configurations as defined by number of doors and roof treatment (e.g., sedan, convertible, fastback, hatchback) and number of seats (i.e. front seat, second, or third seat) requiring seat belts pursuant to National Highway Traffic Safety Administration safety regulations. Station wagons and light trucks are identified as car lines.

(34) "Hatchback" means a passenger automobile where the conventional luggage compartment, i.e., trunk, is replaced by a cargo area which is open to the passenger compartment and accessed vertically by a rear door which encompasses the rear window.

(35) "Pickup Truck" means a nonpassenger automobile which has a passenger compartment and an open cargo bed.

(36) "Station Wagon" means a passenger automobile with an extended roof line to increase cargo or passenger capacity, cargo compartment open to the passenger compartment, a tailgate and one or more rear seats readily removed or folded to facilitate cargo carrying.

(37) "Gross Vehicle Weight Rating" means the manufacturer's gross weight rating for the individual vehicle.

(38) "Ultimate Consumer" means the first person who purchases an automobile for purposes other than resale, or leases an automobile.

2. A new section, § 600.002-78, is added and reads as follows:

§ 600.002-78 Definitions.

The following definition applies beginning with the 1978 model year. § 600.002-77 applies except § 600.002-77(8) which is hereby superseded.

(8) "Federal Highway Fuel Economy Test Procedure" refers to the dynamometer driving schedule, dynamometer procedure, and sampling and analytical procedures described in Subpart B of this part and which are used to derive highway fuel economy data.

§ 600.003-77 [Amended]

3. 600.003-77 is amended by adding the following abbreviation: GVWR—Gross Vehicle Weight Rating.

4. A new section, § 600.005-77, is added and reads as follows:

§ 600.005-77 Maintenance of records and right of entry.

The provisions of this section are applicable to all fuel economy data vehicles. Certification vehicles are required to meet the provisions of § 86.007-7.

(a) The manufacturer of any new motor vehicle subject to any of the standards or procedures prescribed in this part shall establish, maintain, and retain the following adequately organized and indexed records.

(1) General records.

(i) Identification and description of all vehicles for which data are submitted to meet the reuirements of this part.

(ii) A description of all procedures used to test each vehicle.

(iii) A copy of the information required to be submitted under § 600.006 fulfills the requirements of paragraph (a)(1)(i).

(2) Individual records.

(i) A brief history of each vehicle for which data are submitted to meet the requirements of this part, in the form of a separate booklet or other document for each separate vehicle, in which must be recorded:

(A) The steps taken to ensure that the vehicle with respect to its engine, drive train, fuel system, emission control system components, exhaust after treatment device, vehicle weight, or any other device or component, as applicable, will be representative of production vehicles.

(B) A complete record of all emission tests performed under Part 86 and all fuel economy tests performed under Part 600 (except tests actually performed by EPA personnel), including all individual worksheets and other documentation relating to each such test, or exact copies thereof, the date, time, purpose, and location of each test, the number of miles accumulated on the vehicle when the tests began and ended, and the names of supervisory personnel responsible for the conduct of the tests.

(C) A description of mileage accumulated since selection or build-up of such vehicles including the date and times of each mileage accumulation listing both the mileage accumulated and the name of each driver, or each operator of the automatic mileage accumulation device, if applicable. Additionally, a description of mileage accumulated prior to selection or build-up of such vehicle must be maintained in such detail as is available.

(D) If used, the record of any devices employed to record the speed or mileage, or both, of the test vehicle in relationship to time.

(E) A record and description of all maintenance and other servicing performed, within 2,000 miles prior to fuel economy testing under this part, giving the date and time of the maintenance or service, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the maintenance or service. A copy of the maintenance information to be submitted under § 600.006-77 fulfills the requirements of paragraph (a)(2)(i)(E).

(F) A brief description of any significant events affecting the vehicle during any time in the period covered by the history not described in an entry under one of the previous headings including such extraordinary events as vehicle accidents or driver speeding citations or warnings.

(3) The manufacturer shall retain all records required under this subpart for a period of five years after the end of the model year to which they relate. Records may be retained as hard copy or reduced to microfilm, punch cards, etc., depending on the record retention procedures of the manufacture. provided that in every case all the information contained in hard copy shall be retained.

(b)(1) Any manufacturer who has supplied fuel economy data to meet the requirements of this part shall admit any EPA Enforcement Officer during operating hours upon presentation of credentials at any of the following:

(i) Any facility where any fuel economy tests from which data are submitted or any procedures or activities connected with these tests are performed.

(ii) Any facility where any new motor vehicle which is being, was, or is to be tested is present.

(iii) Any facility where any construction process used in the modification or build-up of a vehicle into a fuel economy data vehicle is taking place or has taken place.

(iv) Any facility where any record or other document relating to any of the above is located.

(2) Upon admission to any facility referred to in paragraph (b)(1) of this section, the manufacturer shall allow any EPA Enforcement Officer:

(i) To inspect and monitor any part or aspect of procedures activities, and test-

ing facilities, including, but not limited to, monitoring vehicle preconditioning, emission tests and fuel economy tests and mileage accumulation, maintenance, and vehicle soak and storage procedures; and to verify correlation of calibration of test equipment;

(ii) To inspect and make copies of any required records, designs, or other documents; and

(iii) To inspect and photograph any part or aspect of any fuel economy vehicle and any components to be used in the construction thereof.

(3) Any EPA Enforcement Officer will be furnished, by those in charge of a facility being inspected, with such reasonable assistance as may be required to help discharge any function listed in this paragraph (b). Each manufacturer is required to have those in charge of the facility furnish such reasonable assistance without charge to EPA whether or not the manufacturer controls the facility.

(4) The duty to admit any EPA Enforcement Officer shall be applicable whether or not the manufacturer owns or controls the facility in question and is applicable to both domestic and foreign manufacturers and facilities. An EPA Enforcement Officer will not attempt to make any inspections which the officer has been informed are in contravention of any law. However, if local law makes it impossible for the EPA Enforcement Officer to verify or to insure the accuracy of data generated at a facility such that no informed judgment can properly be made as to the accuracy or reliability of data generated by or obtained from the facility, then a vehicle or data from that vehicle shall not be accepted for use in Subparts C or F of this part (unless the Administrator is otherwise convinced of the accuracy and reliability of such data).

(5) For purposes of this paragraph (b):

(i) "Presentation of credentials" means display of the document designating a person as an EPA Enforcement Officer.

(ii) Where vehicle, component, or engine storage areas or facilities are concerned, "operating hours" shall mean all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(iii) For facilities or areas other than those covered by paragraph (b)(5)(ii) the term, "operating hours" will mean all times during which an assembly line is in operation or all times during which testing, maintenance, mileage accumulation, production or compilation of records, or any other procedure or activity related to fuel economy testing, or to vehicle manufacture or assembly is being carried out in a facility.

(iv) "Reasonable assistance" means providing timely and unobstructed access to and opportunity for the copying of any record, book, paper, or document required to be maintained under this section and providing timely and unobstructed access to any motor vehicle, testing facility, or testing equipment.

(v) Any entry without 24 hours prior written or oral notification to the affected manufacturer shall be authorized in writing by the Assistant Administrator for Enforcement.

5. § 600.007–77 is amended by adding paragraph (e) to read as follows:

§ 600.007–77 Vehicle acceptability.

* * * * *

(e) If, based on a review of the emisson data for a fuel economy data vehicle, submitted under § 600.006(b), or emission data generated by a vehicle tested under § 600.008(e), the Administrator finds an indication of non-compliance with Section 202 of the Clean Air Act, 42 U.S.C. Section 1857 et seq. of the regulation thereunder, he may take such investigative actions as are appropriate to determine to what extent emission noncompliance actually exists.

(1) The Administrator may, under the provisions of § 86.077–37(a) request the manufacturer to submit production vehicles of the configuration(s) specified by the Administrator for testing to determine to what extent emission noncompliance of a production vehicle configuration or of a group of production vehicle configurations may actually exist.

(2) If the Administrator determines, as a result of his investigation, that substantial emission non-compliance is exhibited by a production vehicle configuration or group of production vehicle configurations, he may proceed with respect to the vehicle configuration(s) as provided under section 206(b)(2) or section 207(c)(1), as applicable, of the Clean Air Act, 42 U.S.C. section 1857 et seq.

6. § 600.008–77 is amended by adding paragraph (h) to read as follows:

§ 600.008–77 Review of fuel economy data testing by the Administrator.

* * * * *

(h)(1) If, based on the results of an inspection conducted under § 600.005(b) or any other information, the Administrator has reason to believe that the manufacturer has not followed proper testing procedures or that the testing equipment is faulty or improperly calibrated, or if records do not exist that will enable him to make a finding of proper testing, the Administrator may notify the manufacturer in writing of his finding and require the manufacturer to:

(i) Submit the test vehicle(s) upon which the data are based or additional test vehicle(s) at a place he may designate for the purpose of fuel economy testing.

(ii) Conduct such additional fuel economy testing as may be required to demonstrate that prior fuel economy test data are reasonable and representative.

(2) Previous acceptance by the Administrator of any fuel economy test data submitted by the manufacturer shall not limit the Administrator's right to require additional testing under paragraph (h)(1).

(3) If, based on tests required under subparagraph (1), the Administrator determines that any fuel economy data submitted by the manufacturer and used to calculate the manufacturer's fuel economy average was unrepresentative, the Administrator may recalculate the manufacturer's fuel economy average based on fuel economy data that he deems representative.

(4) A manufacturer may request a hearing as provided in § 600.009 if the Administrator decides to recalculate the manufacturer's average pursuant to determinations made relative to this section.

7. A new section, § 600.010–77 is added and reads as follows:

§ 600.010–77 Vehicle test requirements.

(a) For each certification vehicle, as defined in this part:

(1) The manufacturer shall generate city fuel economy data by testing according to the applicable procedures.

(2) The manufacturer shall generate highway fuel economy data by:

(i) Testing according to applicable procedures, or

(ii) Use of an analytical technique as described in § 600.006(e)

(3) The data generated in (1) and (2) shall be submitted to the Administrator in combination with other data for the vehicle required to be submitted in Part 86.

(b) For each fuel economy data vehicle:

(1) The manufacturer shall generate city fuel economy data and highway fuel economy data by:

(i) Testing according to applicable procedures, or

(ii) Use of an analytical technique as described in § 600.006(e), in addition to testing (e.g., city fuel economy data by testing, highway fuel economy data by analytical technique).

(2) The data generated shall be submitted to the Administrator according to the procedures in § 600.006.

Subpart C—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—Procedures for Calculating Fuel Economy Values

1. § 600.206–77 is amended by adding paragraphs (b) and (c) to read as follows:

§ 600.206–77 Calculation and use of fuel economy values for a vehicle configuration.

* * * * *

(b) The city, highway, and combined fuel economy values determined for the vehicle configuration according to paragraph (a) and rounded to the nearest whole mile per gallon comprise the fuel economy values that appear on specific labels as described in § 600.309.

(c) The annual fuel cost estimate for operating an automobile included in a vehicle configuration will be computed by the Administrator by using values for the fuel cost per gallon and average annual mileage and the combined fuel economy determined in (a)(3).

(1) The annual fuel cost estimate for a vehicle configuration is computed by multiplying

(i) Fuel cost per gallon (as obtained by the Administrator from the FEA Administrator), expressed in dollars to the nearest 0.01 dollar, by

(ii) Average annual mileage (as obtained by the Administrator from the Secretary), expressed in miles per year to the nearest mile per year, by

(iii) The inverse of the combined fuel economy value for a vehicle configuration, expressed in miles per gallon to the nearest 0.0001 mile per gallon.

(2) The product computed in (c)(1) and rounded to the nearest dollar per year will comprise the annual fuel cost estimate that appears on specific labels for that vehicle configuration.

2. § 600.207-77 is amended by adding paragraphs (a)(5), (c) and (d) to read as follows:

§ 600.207-77 Calculation and use of fuel economy values for a model type.

(a) * * *

(5) For the purposes of calculating a base level fuel economy value, if the only vehicle configuration(s) within the base level are vehicle configuration(s) which are intended for sale at high altitude, the Administrator may use fuel economy data from tests conducted on these vehicle configuration(s) at high altitude to calculate the fuel economy for the base level.

* * * * *

(c) The city, highway, and combined fuel economy values as calculated in § 600.207(b) and rounded to the nearest whole mile per gallon are the fuel economy values used on general labels for that model type.

(d) The annual fuel cost estimate for operating an automobile included in a model type will be computed by the Administrator by using values for the fuel cost per gallon and average annual mileage, predetermined by the Administrator, and the combined fuel economy determined in (b).

(1) The annual fuel cost estimate for a model type is computed by multiplying

(i) Fuel cost per gallon expressed in dollars to the nearest 0.01 dollar, by

(ii) Average annual mileage, expressed in miles per year to the nearest mile per year, by

(iii) The inverse of the combined fuel economy value for model type, expressed in miles per gallon to the nearest 0.0001 mile per gallon.

(2) The product computed in (d)(1) and rounded to the nearest dollar per year will comprise the annual fuel cost estimate that appears on general labels for that model type.

3. A new section, § 600.208-77, is added and reads as follows:

§ 600.208-77 Sample calculation.

An example of the calculation required in this subpart appears in Appendix III.

Subparts D, E, and G of 40 CFR Part 600 are added as follows:

Subpart D—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—Labeling

Sec.

600.301-77 General applicability.
600.302-77 Definitions.
600.303-77 Abbreviations.
600.304-77 Section numbering, construction.
600.305-77 Record keeping.
600.306-77 Labeling requirements.
600.307-77 Format of labels.
600.308-77 General label contents.
600.309-77 Specific label contents.
600.310-77 Labeling of high altitude vehicles.
600.311-77 Range of fuel economy for comparable automobiles.
600.312-77 Approval of labels.
600.313-77 Timetable for data and information submittal and review.
600.314-77 Updating fuel economy, annual fuel cost, and range of fuel economy for comparable automobiles.
600.315-77 Classes of comparable vehicles.
Appendix IV—Sample fuel economy label formats.

Subpart E—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—Dealer Availability of Fuel Economy Information

600.401-77 General applicability.
600.402-77 Definitions.
600.403-77 Abbreviations.
600.404-77 Section numbering, construction.
600.405-77 Dealer requirements.
600.406-77 Distribution of booklet information.
600.407-77 Booklets displayed by dealers.

Subpart G—Fuel Economy Regulations for 1977 Model Year Automobiles—Test Procedures

600.601-77 General applicability.
600.602-77 Definitions.
600.603-77 Abbreviations.
600.604-77 Section numbering, construction.
600.605-77 Record keeping.
600.606-77 Equipment requirements.
600.607-77 Fuel specifications.
600.608-77 Analytical gases.
600.609-77 EPA driving cycle.
600.610-77 Equipment calibration.
600.611-77 Test procedures.
600.612-77 Exhaust sample analysis.
600.613-77 Fuel economy calculations.

Subpart D—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—Labeling

§ 600.301-77 General applicability.

The provisions of this subpart are applicable to 1977 and later model year automobiles.

§ 600.302-77 Definitions.

The definitions in § 600.002 apply to this subpart.

§ 600.303-77 Abbreviations.

The abbreviations in § 600.003 apply to this subpart.

§ 600.304-77 Section numbering, construction.

The section numbering procedure set forth in § 600.004 applies to this subpart.

§ 600.305-77 Record keeping.

The record keeping requirements set forth in § 600.005 apply to this subpart.

§ 600.306-77 Labeling requirements.

(a) Prior to being offered for sale, each manufacturer shall affix or cause to be affixed and each dealer shall maintain or cause to be maintained on each automobile a general or specific fuel economy label, approved by the Administrator, that includes fuel economy information, and annual fuel cost estimate.

(1) Each manufacturer shall affix or cause to be affixed a general label as described in § 600.308, or

(2) At option of the manufacturer, the requirements of this paragraph may be satisfied by labeling an automobile with a specific label, as described in § 600.309 in place of the general label.

(i) If the manufacturer elects to use a specific label within a model type (as defined in § 600.002(a)(19)), he, shall also have approved specific labels affixed on all automobiles within this model type, except on those automobiles manufactured or imported before the date that labels are required to bear range values as required by paragraph (b) or determined by the Administrator or as permitted under § 600.310.

(ii) If a manufacturer elects to change from general to specific labels or vice versa within a model type, the manufacturer shall, within five calendar days, initiate or discontinue as applicable, the use of specific labels on all vehicles within a model type at all facilities where labels are affixed.

(b) The manufacturer shall include the current range of fuel economy of comparable automobiles (as described in § 600.314) in the label of each vehicle manufactured more than fifteen calendar days after the current range is made available by the Administrator.

(1) Automobiles manufactured before sixteen calendar days after the initial label range is made available under § 600.314(d)(1) will be labeled without a range of fuel economy of comparable automobiles. In place of the range of fuel economy of comparable automobiles, the label will contain a statement indicating that, as of the date of production or importation of this automobile, no range of fuel economy of comparable automobiles was available.

(2) Automobiles manufactured more than fifteen calendar days after the initial or updated label range is made available under § 600.314(d)(1) or (2) will be labeled with the current range of fuel economy of comparable automobiles as approved for that general or specific label.

(c) The fuel economy label must be readily visible from the exterior of the automobile and remain affixed until the time the automobile is delivered to the actual custody and possession of the ultimate consumer.

(1) The fuel economy label must be located on the windshield, or on a side window. If the window is not large enough to contain both the Automobile Information Disclosure Act label and the fuel economy label, the manufacturer shall have the fuel economy label affixed on another window and as close as possible to the Automobile Information Disclosure Act label.

(2) The fuel economy label information may be included with the Automobile Information Disclosure Act label if the prominence and legibility of the fuel economy label is maintained. For this purpose, all fuel economy label information must be placed on a separate sec-

tion of the label and may not be intermixed with the Automobile Information Act label information.

(3) The manufacturer shall have the fuel economy label affixed in a manner so that appearance and legibility are maintained until after the vehicle is delivered to the ultimate consumer.

§ 600.307–77 Format of labels.

The fuel economy label must:

(a) Be rectangular in shape and large enough to allow inclusion of all required information:

(b) Be printed in a color which contrasts with the paper color and in a type size that is easily readable;

(c) Contain a reproduction of both the EPA and the FEA logos;

(d) Contain a statement that the vehicle fuel economy estimates included are based on the results of tests conducted or certified by the U.S. Environmental Protection Agency;

(e) Describe the labeled vehicle in the manner and degree of detail specified in § 600.308 or § 600.309, as applicable.

(f) Contain that vehicle's fuel economy estimates as calculated in § 600.206 or § 600.207, as applicable, and as approved by the Administrator, to represent a city fuel economy, a highway fuel economy, and a combined fuel economy value;

(g) Contain a range of fuel economy estimates and class identification for similar vehicles whether or not manufactured by that vehicle's manufacturer except as provided in § 600.306. This range is determined according to § 600.-311 and supplied to the manufacturer by the Administrator;

(h) Contain the estimated annual fuel cost for the operation of that vehicle based on calculations described in § 600.-206 or § 600.207, as applicable;

(i) State that these fuel economy estimates and the estimated annual fuel cost are based on tests of vehicles equipped with frequently purchased optional equipment;

(j) State that the actual fuel economy of this vehicle will vary depending on the type of driving the customer does, the customer's driving habits, vehicle maintenance, optional equipment installed and used, and road and weather conditions; and

(k) State that for the purposes of comparing fuel economies of vehicles of that model year and to learn how the tests were conducted, the booklet described in Subpart E for that model year is available free upon request from the dealer.

Sample fuel economy label formats and language that would be approved are included in Appendix IV. Some exceptions to the above requirements may be made on an individual basis by the Administrator for the 1977 model year.

§ 600.308–77 General label contents.

The general fuel economy label must contain the following:

(a) The information and statements as described in § 600.307 (a) through (k).

(b) A description of the applicable vehicle specifying:

(1) Vehicle car line,

(2) Number of engine cylinders,

(3) Engine displacement, in cubic inches, cubic centimenters, or liters, whichever is consistent with the customary description of that engine,

(4) Fuel metering system, including number of carburetor barrels, if applicable,

(5) Transmission class,

(6) Catalyst usage, if so equipped,

(7) Other engine or vehicle parameters, if approved by the Administrator, and

(8) California emission control system usage, where applicable, if the Administrator determines that automobiles intended for sale in the State of California are likey to exhibit significant differences in fuel economy from those intended for sale in other states.

(c) General label fuel economy values and estimated fuel cost as calculated according to § 600.207.

(d) The estimated range of fuel economy of comparable automobiles and effective date, except as provided in § 600.306. This range is determined by the Administrator according to § 600.311 for each class of vehicles as described in § 600.315.

§ 600.309–77 Specific label contents.

The specific fuel economy label must contain the following:

(a) The information and statements as described in § 600.307 (a) through (k);

(b) A statement that the fuel economy estimates are from tests of this specific vehicle configuration and might not be in the booklet described in Subpart E.

(c) A description of the applicable vehicle specifying:

(1) Car line,

(2) Engine displacement,

(3) Number of cylinders,

(4) Transmission class and number of forward speeds,

(5) Fuel metering system, including number of carburetor barrels, if applicable,

(6) Catalyst usage, if so equipped,

(7) Other engine or vehicle parameters, if approved by the Administrator,

(8) Test (inertia) weight,

(9) Axle ratio, and

(10) California emission control system usage, where applicable, if the Administrator determines that automobiles intended for sale in the State of California are likely to exhibit significant differences in fuel economy from those intended for sale in other States.

(d) Specific label fuel economy values and estimated fuel cost for that vehicle as determined according to § 600.206.

(e) The estimated range of fuel economy of comparable automobiles and effective date of the range except as provided in § 600.306(b)(1). This range is determined by the Administrator according to § 600.311 for each class of vehicles as described in § 600.315.

§ 600.310–77 Labeling of high altitude vehicles.

(a) The Administrator may approve, at the request of the manufacturer, specific labels for high altitude vehicles according to § 600.309.

(b) A high altitude vehicle may be labeled with an approved general or specific label by a manufacturer without regard to type of label, general or specific, used at low altitude for that model type or vehicle configuration.

§ 600.311–77 Range of fuel economy for comparable automobiles.

(a) The Administrator will determine the range of fuel economy values for each class of comparable automobiles.

(1) The range of fuel economy values within a class is computed from the maximum combined fuel economy value and minimum combined fuel economy value for all general label combined fuel economy values within the class, as determined in § 600.207(b) regardless of manufacturer.

(2) If the Administrator determines that automobiles intended for sale in California are likely to exhibit significant differences in fuel economy from those intended for sale in other states, he will compute separate ranges of fuel economy values for each class of automobiles for California and for the other states.

(3) For high altitude vehicles determined under § 600.310, both general and specific labels will contain the range of comparable fuel economy computed in this paragraph.

(4) The range of comparable fuel economy values for a class of automobiles is derived from the latest available data approved by the Administrator for that class of automobiles.

(b) The manufacturer shall include the range of fuel economy determined by the Administrator in (a) on each label affixed to an automobile within that class except as provided in § 600.306.

§ 600.312–77 Approval of labels.

All fuel economy values, fuel cost estimates, label formats, and other information pertaining to the fuel economy label must be approved by the Administrator before a label is affixed to the vehicle.

(a) If the manufacturer intends to use specific labels, both a specific label format and a general format must be approved prior to use of the specific label except on those vehicles labeled prior to the date that fuel economy labels are required to bear the range of fuel economy of comparable automobiles (specified in § 600.306(b)) or as permitted by the Administrator. The manufacturer shall submit for approval by the Administrator each typical label format exemplifying the intended representation of all information required on the fuel economy label as well as the size and color of print, and paper, and spacing and location of all printed information. After approval by the Administrator, the manufacturer may not change the label except as required for proper vehicle description, fuel economy values, and estimated annual fuel costs. Where the fuel economy label is incorporated with the Automobile Information Disclosure Act label, the above requirements pertain to that

section of the label reserved for fuel economy labeling.

(b) All vehicle descriptions, fuel economy values and annual fuel cost estimates intended for use on general and specific labels must be approved in advance by the Administrator. Fuel economy values are computed according to Subpart C from approved vehicle fuel economy results as determined under § 600.008.

§ 600.313–77 Timetable for data and information submittal and review.

(a) The Administrator will notify the manufacturer of the classification of each of the manufacturer's car lines after the manufacturer makes a request for such determination.

(b) Each fuel economy label format which the manufacturer intends to use must be approved by the Administrator before the manufacturer requests the Administrator to determine fuel economy values for use on that type of label. For example, a California general label format must be approved by the Administrator before the manufacturer requests California general label fuel economy values.

(c) If a manufacturer requests and submits sufficient information, the Administrator will determine, according to Subpart C, general label or specific label fuel economy values based upon information submitted by the manufacturer.

(1) A manufacturer must request general label fuel economy values and submit sufficient information to determine general fuel economy label values prior to a date established by the Administrator.

(2) As of the date of the request, the manufacturer may not submit additional information pertaining to this request except as required by the Administrator.

(3) After receipt of a manufacturer's request for computation of label values, the Administrator will review, according to § 600.008, the fuel economy submission received from the manufacturer and notify the manufacturer of approval or request further data, information, or vehicles in accordance with the approval procedure specified in Subpart A.

(4) After receipt of a manufacturer's data, information, or vehicles in response to paragraph (c)(3), the Administrator will conduct any testing and complete data review required under subparagraph (3), and notify the manufacturer of the results of this testing and review.

(5) After completion of any testing or review of the data which satisfy the requirements of paragraph (c)(3), the Administrator will provide the manufacturer with general label and/or specific label (as requested under this paragraph) fuel economy values, annual fuel cost estimates, and a range of fuel economy of comparable automobiles (when a range is available) as calculated from approved data. After receipt of approved fuel economy label values, the manufacturer may use these data in the labeling of his automobiles.

(6) The manufacturer should submit any request for approval of data under this section at least 25 working days before he desires the Administrator's response. This should allow the Administrator sufficient time to conduct any additional testing required.

§ 600.314–77 Updating fuel economy, annual fuel cost, and range of fuel economy for comparable automobiles.

(a) After the Administrator approves general label fuel economy values for a model type, those values will remain in effect for that model type for the remainder of the model year.

(b) After the Administrator approves specific label fuel economy values for a vehicle configuration, those values will remain in effect for that vehicle configuration for the remainder of the model year.

(c) Estimated annual fuel cost as determined in § 600.206 for specific labeled automobiles and in § 600.207 for general labeled automobiles incorporates factors for average annual miles driven and cost per gallon of fuel.

(1) These factors are determined by the Administrator early in the model year.

(2) These factors do not change during the model year.

(d) The Administrator will compute the range of fuel economy of comparable automobiles from the latest approved fuel economy values available at the time of label approval. Additionally, the Administrator will update the range of fuel economy of comparable automobiles for previously approved labels.

(1) The Administrator will initially make available a range of fuel economy of comparable automobiles for all approved general and specific labels in each class. The range will be made available on a date that coincides as closely as possible to the date of the general model year introduction for the industry.

(2) The Administrator will make available an updated range of fuel economy of comparable automobiles for all approved general and specific labels at any other appropriate date during the model year.

(3) The Administrator will communicate to the affected parties the dates referred to in paragraphs (d)(1) and (2).

§ 600.315–77 Classes of comparable automobiles.

(a)(1) The Administrator will classify passenger automobiles by car line into one of the following comparable classes, based on interior volume index or seating capacity:

(i) Two Seaters—A car line shall be classed as "Two Seaters" if the majority of the vehicles in that car line have no more than two designated seating positions as such term is defined in the regulations of the National Highway Traffic Safety Administration, Department of Transportation, 49 CFR 571.3.

(ii) Subcompact cars—Interior volume index less than 100 cubic feet.

(iii) Compact cars—Interior volume index greater than or equal to 100 cubic feet but less than 110 cubic feet.

(iv) Mid-Size cars—Interior volume index greater than or equal to 110 cubic feet, but less than 120 cubic feet.

(v) Large cars—Interior volume index greater than or equal to 120 cubic feet.

(vi) Small station wagons—Station wagons with interior volume index less than 130 cubic feet.

(vii) Mid-Size station wagons—Station wagons with interior volume index greater than or equal to 130 cubic feet and less than 160 cubic feet.

(viii) Large station wagons—Station wagons with interior volume index greater than or equal to 160 cubic feet.

(2) The Administrator will classify pickup trucks separately from other non-passenger automobiles. Pickup trucks will be separated by car line into one of the following classes by the Administrator on the basis of gross vehicle weight rating (GVWR). For pickup truck car lines with more than one GVWR, the GVWR of the pickup truck car line is the arithmetic average of all distinct GVWR's less than or equal to 6,000 pounds available for that car line.

(i) Small pickup trucks—Pickup trucks with a GVWR less than 4,500 pounds.

(ii) Standard pickup trucks—Pickup trucks with a GVWR of 4,500 pounds up to and including 6000 pounds.

(iii) Vans/Special purpose trucks—All non-passenger automobiles with GVWR less than or equal to 6,000 pounds which do not meet the requirements of (2)(i) or (ii).

(3) Once a certain car line is classified by the Administrator, the classification will remain in effect for the model year.

(b) Interior volume index—passenger automobiles.

(1) The interior volume index shall be calculated for each car line, which is not a "Two Seater" car line, in cubic feet rounded to the nearest 0.1 cubic feet. For car lines with more than one body style, the interior volume index for the car line is the arithmetic average of the interior volume indices of each body style in the car line.

(2) For all body styles except station wagons and hatchbacks with more than one seat (e.g., with a second or third seat) equipped with seat belts as required by DOT safety regulations, interior volume index is the sum, rounded to the nearest 0.1 cubic feet, of the front seat volume, the rear seat volume, if applicable, and the luggage capacity.

(3) For all station wagons and hatchbacks with more than one seat (e.g., with a second or third seat) equipped with seat belts as required by DOT safety regulations, interior volume index is the sum, rounded to the nearest 0.1 cubic feet, of the front seat volume, the rear seat volume and the cargo volume index.

(c) All interior and cargo dimensions are measured in inches to the nearest 0.1 inches. All dimensions and volumes shall be determined from the base vehicles of each body style in each carline and do not include optional equipment. The dimensions H61, W3, L34, H63, W4, L51, H201, L205, L208, L209, H197 and the volume V1 are to be determined in

accordance with the procedures outlined in Motor Vehicle Dimensions SAE J1100a (Report of Human Factors Engineering Committee, Society of Automotive Engineers, approved September 1973 and last revised September 1975) except as noted herein:

(1) SAE J1100a(2.3) Cargo Dimensions—all dimensions measured with the front seat positioned the same as for the interior dimensions and the second seat, for station wagons and hatchbacks, in the upright position. All head restraints shall be in the stowed position and considered part of the seat.

(2) SAE J1100a(8). Luggage Capacity—Total of volumes of individual pieces of standard luggage set plus H-boxes stowed in the luggage compartment in accordance with the procedure described in 8.2. For passenger automobiles with no rear seat or with a rear seat with no rear seat belts, the luggage compartment shall include the area to the rear of the front seat, with the rear seat (if applicable) folded, to the height of a horizontal plane tangent to the top of the front seatback.

(3) SAE J1100a(7). Cargo Dimensions.

(i) L208—Cargo length at second seatback height—hatchback. The minimum horizontal dimension from the "X" plane tangent to the rearmost surface of the second seatback to the inside limiting interference of the hatchback door on the zero "Y" plane.

(ii) L209—Cargo length at floor—second—hatchback. The minimum horizontal dimensions at floor level from the rear of the second seatback to the normal limiting interference of the hatchback door on the vehicle zero "Y" plane.

(iii) H197—Second seatback to load floor height. The dimension measured vertically from the horizontal tangent to the top of the second seatback to the undepressed floor covering.

(d) The front seat volume is calculated in cubic feet by dividing 1728 into the product of three terms:

(1) H61—Effective head room—front. (in inches, obtained according to paragraph (c)),

(2) W3—Shoulder room—front. (in inches, obtained according to paragraph (c)) and,

(3) L34—Maximum effective leg room—accelerator. (in inches, obtained according to paragraph (c)). Round the quotient to the nearest 0.001 cubic feet.

(e) The rear seat volume is calculated in cubic feet, for vehicles with a rear seat equipped with rear seat belts (as required by DOT) by dividing 1728 into the product of three terms:

(1) H63—Effective head room—second. (inches obtained according to paragraph (c)),

(2) W4—Shoulder room—second. (in inches, obtained according to paragraph (c)) and,

(3) L51—Minimum effective leg room—second. (in inches obtained according to paragraph (c)). Round the quotient to the nearest 0.001 cubic feet.

(f) The luggage capacity is V1, the usable luggage capacity obtained according to paragraph (c). For passenger automobiles with no rear seat, or with a rear seat but no rear seat belts, the area to the rear of the front seat shall be included in the determination of V1, usable luggage capacity, as outlined in paragraph (c).

(g) Cargo volume index:

(1) For station wagons the cargo volume index V2 is calculated in cubic feet, by dividing 1728 into the product of three terms:

(i) W4—Shoulder room—second. (in inches obtained according to paragraph (c)),

(ii) H201—Cargo height. (in inches obtained according to paragraph (c)) and,

(iii) L205—Cargo length at belt—second. (In inches obtained according to paragraph (c).) Round the quotient to the nearest 0.001 cubic feet.

(2) For hatchbacks, the cargo volume index V3 is calculated in cubic feet, by dividing 1728 into the product of three terms:

(i) Average cargo length, which is the arithmetic average of:

(*A*) L208—Cargo length at second seatback height—hatchback. (In inches obtained according to paragraph (c)) and,

(*B*) L209—Cargo length at floor—second—hatchback. In inches obtained according to paragraph (c));

(ii) W4—Shoulder room—second. (In inches obtained according to paragraph (c)) and;

(iii) H197—Second seat back to load floor height. (In inches obtained according to paragraph (c).) Round the quotient to the nearest 0.001 cubic foot.

(h) The following data must be submitted to the Administrator no later than the time of a general label request. Data shall be included for each body style in the carline covered by that general label.

(1) For all passenger automobiles:

(i) Dimensions H61, W3, L34 determined in accordance with paragraph (c).

(ii) Front seat volume determined in accordance with paragraph (d).

(iii) Dimensions H63, W4, L51 (if applicable) determined in accordance with paragraph (c).

(iv) Rear seat volume (if applicable) determined in accordance with paragraph (e).

(v) The interior volume index determined in accordance with paragraph (b) for:

(*A*) Each body style and,

(*B*) The car line.

(vi) The class of the car line as determined in paragraph (a).

(2) For all passenger automobiles except station wagons and hatchbacks with more than one seat (e.g., with a second or third seat) equipped with seat belts as required by DOT safety regulations:

(i) The quantity and letter designation of the pieces of the standard luggage set installed in the vehicle in the determination of usable luggage capacity V1 and,

(ii) The usable luggage capacity V1, determined in accordance with paragraph (f).

(3) For station wagons with more than one seat (e.g., with a second or third seat) equipped with seat belts as required by DOT safety regulations:

(i) The dimensions H201 and L205 determined in accordance with paragraph (c) and,

(ii) The cargo volume index V2 determined in accordance with paragraph (g)(1).

(4) For hatchbacks with more than one seat (e.g., with a second or third seat) equipped with seat belts as required by DOT safety regulations:

(i) The dimensions L208, L209, and H197 determined in accordance with paragraph (c) and,

(ii) The cargo volume index V3 determined in accordance with paragraph (g)(2).

(5) For Pickup trucks:

(i) All GVWR's of less than or equal to 6,000 pounds available in the car line.

(ii) The arithmetic average GVWR for the car line.

Subpart E—Fuel Economy Regulations for 1977 and Later Model Year Automobiles—Dealer Availability of Fuel Economy Information

§ 600.401–77 General applicability.

The provisions of this subpart are applicable to 1977 and later model year automobiles.

§ 600.402–77 Definitions.

The definitions in § 600.002 apply to this subpart.

§ 600.403–77 Abbreviations.

The abbreviations in § 600.003 apply to this subpart.

§ 600.404–77 Section numbering, construction.

The section numbering procedure specified in § 600.004 applies to this subpart.

§ 600.405–77 Dealer requirements.

(a) Each dealer shall prominently display at each location where new automobiles are offered for sale booklets containing the information specified in § 600.407. The dealer shall provide these booklets without charge and in sufficient quantity to be available for retention by each prospective purchaser upon his request. The dealer will be expected to make these booklets available as soon as they are received by the dealer, but in no case later than 15 working days after notification is given of booklet availability.

(b) The dealer shall display these booklets in the same manner and in each location used to display brochures describing the automobiles offered for sale by the dealer. The display shall include information that similar booklets containing the EPA fuel economy information are also available through the mail by writing to Fuel Economy, Pueblo, California 81009.

(c) The dealer shall display the booklet applicable to each model year auto-

mobile offered for sale at the location. If, as described in § 600.406, a regional edition of the booklet is prepared for California automobiles:

(1) Each dealer who offers automobiles for sale at a location within the State of California shall display the California regional edition of the booklet.

(2) Each dealer who offers automobiles for sale at locations outside the State of California, and expects that at least 50 percent of the automobiles eventually sold at the location during the model year will be California configurations, shall display the California regional edition of the booklet. These dealers may also display the national edition of the booklet provided both editions are displayed with equal prominence.

§ 600.406–77 Distribution of booklet information.

(a) Each dealer will be provided with a sufficient quantity of booklets to fulfill his obligations under § 600.405(a) by:

(1) The U.S. Federal Energy Administration or

(2) Any other source.

(b) If the Administrator determines that automobiles intended for sale in the state of California are likely to exhibit significant differences in fuel economy from those offered for sale in other states, he will prepare a California edition of the booklet, and the Federal Energy Administration will distribute the California edition of the booklet as provided in this part.

§ 600.407–77 Booklets displayed by dealers.

(a) Booklets displayed by dealers in order to fulfill the obligations of 600.405 may be either the Gas Mileage Guide published by the FEA Administrator or a booklet approved by the Administrator of EPA containing the same information, format, and order as the booklet published by the FEA Administrator.

(b) The booklet may highlight the dealer's product line by contrasting color of ink or boldface type and may include other supplemental information regarding the dealer's product line subject to approval by the Administrator.

(c) A manufacturer's name and logo or a dealer's name and address or both may appear on the back cover of the booklet.

Subpart G—Fuel Economy Regulations for 1977 Model Year Automobiles—Test Procedures

§ 600.601–77 General applicability.

The provisions of this subpart are applicable to 1977 model year automobiles.

§ 600.602–77 Definitions.

The definitions in § 600.002 apply to this subpart.

§ 600.603–77 Abbreviations.

The abbreviations in § 600.003 apply to this subpart.

§ 600.604–77 Section numbering, construction.

The model year of initial applicability is indicated by the section number. The two digits following the hyphen designate the model year for which a section is effective.

§ 600.605–77 Record keeping.

The record keeping requirements set forth in § 600.005 apply to this subpart.

§ 600.606–77 Equipment requirements.

The requirements for test equipment to be used for all fuel economy testing are given in §§ 86.177–16 and 86.177–17, as applicable.

§ 600.607–77 Fuel specifications.

(a) The test fuel specifications for gasoline-fueled automobiles are given in § 86.177–6(a)(1).

(b) The test fuel specifications for diesel automobiles are given in § 86.177–6(b) (1) and (2).

§ 600.608–77 Analytical gases.

The analytical gases for all fuel economy testing must meet the criteria specified in § 86.177–19.

§ 600.609–77 EPA driving cycles.

(a) The driving cycle to be utilized for generation of the city fuel economy data is prescribed in § 86.177–10.

(b) The driving cycle to be utilized for generation of the highway fuel economy data is specified in this paragraph.

(1) The Highway Fuel Economy Driving Schedule is Appendix I. The driving schedule is defined by a smooth trace drawn through the specific speed versus time relationships.

(2) The speed tolerance at any given time on the dynamometer driving schedule specified in Appendix I, or as printed on a driver's aid chart approved by the Administrator, when conducted to meet the requirements of § 600.611(b) is defined by upper and lower limits. The upper limit is 2 mph higher than the highest point on the trace within 1 second of the given time. The lowest limit is 2 mph lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as may occur during gear changes) are acceptable provided they occur for less than 2 seconds on any occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurrences.

(3) A graphic representation of the range of acceptable speed tolerances is found in Appendix I to Part 86.

§ 600.610–77 Equipment calibration.

The equipment used for fuel economy testing must be calibrated according to the provisions of § 86.177–19.

§ 600.611–77 Test procedures.

(a) The test procedures to be followed for generation of the city fuel economy data are those prescribed in Subpart B of Part 86 as applicable. (The evaporative loss portion of the test procedure may be omitted unless specifically required by the Administrator pursuant to 40 CFR 86.)

(b) The test procedures to be followed for generation of the highway fuel economy data are those specified in § 600.611 (b) through (h) inclusive.

(1) The Highway Fuel Economy Dynamometer Procedure consists of a preconditioning highway driving sequence and a measured highway driving sequence.

(2) The highway fuel economy test is designed to simulate non-metropolitan driving with an average speed of 48.6 mph and a maximum speed of 60 mph. The cycle is 10.2 miles long with 0.2 stops per mile and consists of warmed-up vehicle operation on a chassis dynamometer through a specified driving cycle. A proportional part of the diluted exhaust emissions is collected continuously for subsequent analysis using a constant volume (variable dilution) sampler. Diesel dilute exhaust is continuously analyzed for hydrocarbons using a heated sample line and analyzer.

(3) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle must be functioning during all procedures in this subpart. The Administrator may authorize maintenance to correct component malfunction or failure.

(c) Transmissions—The provisions of §§ 86.177–12 through 86.177–14 inclusive apply for vehicle transmission operation during highway fuel economy testing under this subpart.

(d) Road Load Power and Inertia Weight Determination—Section 86.177–11 applies for determination of road load power and inertia weight for highway fuel economy testing.

(e) *Vehicle Preconditioning*—The Highway Fuel Economy Dynamometer Procedure is designed to be performed immediately following the Federal Emission Test Procedure, (Subpart B of Part 86). When conditions allow, the tests should be scheduled in this sequence. In the event tests cannot be scheduled within three hours of the Federal Emission Test Procedure (including the one hour hot soak evaporative loss test, if applicable) the vehicle should be preconditioned as follows:

(1) If the vehicle has experienced between three (3) and twenty-four (24) hours of soak (68°–86°F) since the completion of the Federal Emission Test Procedure, the vehicle must be preconditioned by running 50 mph on the dynamometer for 5 minutes, followed by the Highway Fuel Economy Dynamometer Procedure described in paragraph (f).

(2) If the vehicle has experienced more than 24 hours of soak (68°–86°F) since the completion of the Federal Emission Test Procedure, or periods of storage outdoors, or in environments where soak temperature is not controlled to 68°–86°F, the vehicle must be preconditioned by running one hour on the Road Preconditioning Route, (§ 86.177–8(a)(1)) and one cycle of the EPA Urban Dynamometer Driving Schedule (§ 86.177–10) followed by the Highway Fuel Economy Dynamometer Procedure-paragraph (f).

(f) *Highway Fuel Economy Dynamometer Procedure.* (1) The dynamometer procedure consists of two cycles of

the Highway Fuel Economy Driving Schedule (§ 600.609-77(b)) separated by 15 seconds of idle. The first cycle of the Highway Fuel Economy Driving Schedule is driven to precondition the test vehicle and the second is driven for the fuel economy measurement.

(2) The provisions of § 86.177-11 (b), (c), (d), (e), (f), (h), and (j) apply for fuel economy testing, except that the test vehicle may be used for dynamometer horsepower adjustment.

(3) Only one exhaust sample and one background sample are collected and analyzed for hydrocarbons (except diesel hydrocarbons which are analyzed continuously), carbon monoxide, and carbon dioxide.

(4) The fuel economy measurement cycle of the test includes two seconds of idle indexed at the beginning of the second cycle and two seconds of idle indexed at the end of the second cycle.

(g) *Engine Starting and Restarting.* (1) If the engine is not operating at the initiation of the highway fuel economy test (preconditioning cycle), the start-up procedure must be according to the manufacturer's recommended procedures.

(2) False starts and stalls during the preconditioning cycle must be treated as in § 86.177-15 (d) and (e). If the vehicle stalls during the measurement cycle of the highway fuel economy test, the test is voided, corrective action may be taken, and the vehicle may be rescheduled for testing. The person taking corrective action shall report the action so that the test records for the vehicle contain a record of the action.

(h) Dynamometer Test Run—The following steps must be taken for each test:

(1) Place the drive wheels of the vehicle on the dynamometer. The vehicle may be driven onto the dynamometer.

(2) Open the vehicle engine compartment cover and position the cooling fan(s) as required. Manufacturers may request the use of additional cooling fans for additional engine compartment or under-vehicle cooling and for controlling high tire or brake temperatures during dynamometer operation.

(3) Preparation of the CVS must be performed before the measurement highway driving cycle.

(4) Equipment preparation—The provisions of § 86.177-20(b) (3) through (6) inclusive apply for the highway fuel economy test except that only one exhaust sample collection bag and one dilution air sample collection bag need be connected to the sample collection systems.

(5) Operate the vehicle over one Highway Fuel Economy Driving Schedule cycle according to the dynamometer driving schedule specified in § 600.609 (b).

(6) When the vehicle reaches zero speed at the end of the preconditioning cycle, the driver has 13 seconds to prepare for the emission measurement cycle of the test.

(7) Operate the vehicle over one Highway Fuel Economy Driving Schedule cycle according to the dynamometer driving schedule specified in § 600.609(b) while sampling the exhaust gas.

(8) Sampling must begin two seconds before beginning the first acceleration of the fuel economy measurement cycle and must end two seconds after the end of the deceleration to zero.

§ 600.612-77 Exhaust sample analysis.

The exhaust sample analysis must be performed according to § 86.177-19(b).

§ 600.613-77 Fuel economy calculations.

The calculations of vehicle fuel economy values require the weighted grams/mile values for HC, CO, and CO_2 for the city fuel economy test and the grams/mile values for HC, CO, and CO_2 for the highway fuel economy test. The city and highway fuel economy values must be calculated by the procedures of this section. A sample calculation appears in Appendix II.

(a)(1) Calculate the weighted grams per mile values for the city fuel economy test for HC and CO by the method in § 86.177-22.

(2) Calculate the weighted CO_2 grams per mile value for the city fuel economy test according to the procedure in this subparagraph.

(A) Calculate the CO_2 concentration of the dilute exhaust sample corrected for background, CO_2 conc:

$$CO_2 \text{ conc} = CO_{2_e} - CO_{2_d}(1 - 1/DF)$$

where:

CO_{2_e} = CO_2 concentration of the dilute exhaust sample as measured in molar percent

CO_{2_d} = CO_2 concentration of the dilution air as measured in molar percent

DF = Dilution factor calculated according to § 86.177-22

(B) Calculate the CO_2 mass for each of the phases of the cold start and hot start tests:

$$CO_{2\,mass} = V_{mix} \times \text{Density}_{CO_2} \times (CO_2 \text{ conc})/100)$$

where:

$CO_{2\,mass}$ = Mass of CO_2 per test phase, in grams per test phase

V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528° R (293°K) and 760 mm Hg (101.3kPa)). Calculate this quantity by the procedure contained in § 86.177-22.

Density_{CO_2} = Density of CO_2 corrected to standard conditions in grams per cubic foot. This value is 51.86 gm/ft³.

(C) Calculate the weighted CO_2 grams per mile mass emissions:

$$[CO_2]_{wm} = (0.43[CO_2]_{ct} + 0.57[CO_2]_{ht} + [CO_2]_s)/7.5$$

where:

$[CO_2]_{wm}$ = Weighted CO_2 grams per mile mass emissions

$[CO_2]_{ct}$ = CO_2 mass calculated from the "transient" phase of the cold start test, in grams per test phase

$[CO_2]_{ht}$ = CO_2 mass calculated from the "transient" phase of the hot start test, in grams per test phase

$[CO_2]_s$ = CO_2 mass calculated from the "stabilized" phase of the cold start test, in grams per test phase

(b)(1) Calculate the mass values for the highway fuel economy test for HC and CO as specified in § 86.177-22(b). Calculate the mass values for the highway fuel economy test for CO_2 as specified in paragraph (a)(2)(B) of this section.

(2) Calculate the grams/mile values for the highway fuel economy test for HC, CO, and CO_2 by dividing the mass values obtained in (b)(1) by 10.242 miles.

(c) Calculate the city fuel economy and highway fuel economy values from the grams/mile values for HC, CO, and CO_2. The HC values (obtained per paragraph (a) or (b) as applicable) used in each calculation in this section are rounded to the nearest 0.01 grams/mile. The CO values (obtained per paragraph (a) or (b) as applicable) used in each calculation in this section are rounded to 0.1 grams/mile. The CO_2 values (obtained per paragraph (a) or (b) as applicable) used in each calculation in this section are rounded to the nearest gram/mile.

(d) For gasoline-fueled automobiles, calculate the fuel economy in miles per gallon of gasoline by dividing 2421 by the sum of three items:

(1) 0.866 multiplied by HC (in grams/mile as obtained in paragraph (c)),

(2) 0.429 multiplied by CO (in grams/mile as obtained in paragraph (c)), and

(3) 0.273 multiplied by CO_2 (in grams/mile as obtained in paragraph (c)).

Round the quotient to the nearest 0.1 mile per gallon.

(e) For diesel powered automobiles, calculate the fuel economy in miles per gallon of diesel fuel by dividing 2778 by the sum of three terms:

(1) 0.866 multiplied by HC (in grams/mile as obtained in paragraph (c)),

(2) 0.429 multiplied by CO (in grams/mile as obtained in paragraph (c)), and

(3) 0.273 multiplied by CO_2 (in grams/mile as obtained in paragraph (c)).

Round the quotient to the nearest 0.1 mile per gallon.

APPENDICES

Appendices I and II were published as part of the rule making, "Fuel Economy Testing for 1978 Model Year Automobiles and Calculation Procedures for 1977 and Subsequent Model Year Automobiles; Exhaust Emission Test Procedures for 1978 Model Year Automobiles and Light Duty Trucks," 41 FR 38674, September 10, 1976.

APPENDIX III.—SAMPLE FUEL ECONOMY LABEL CALCULATION (1977 MODEL YEAR)

Suppose that a manufacturer called Mizer Motors has a product line composed of eight car lines. Of these eight, four are available with the 300 CID, 2 barrel, non-catalyst, 49-state engine. These four car lines are:

Ajax

Boredom III

Dodo

Castor (Station Wagon)

A car line is defined in Subpart A as a group of vehicles within a make or division which has a degree of commonality in construction. Car line does not consider any level of decor or opulence and is not generally distinguished by such characteristics as roofline, number of doors, seats, or windows. Station wagons and light duty trucks are, however, identified separately from the remainder of each car line. In other words, a Castor station wagon would be considered a different car line than the normal Castor car line made up of sedans, coupes, etc.

The engine considered here is defined as a basic engine in Subpart A. A basic engine is a unique combination of fuel system, number of cylinders, catalyst usage, and engine displacement.

A model type is a unique combination of car line, basic engine, and transmission class. Thus Ajax is a car line but Ajax 300–2V non-catalyst, 49-state, manual transmission is a model type whereas Ajax 300–2V non-catalyst, 49-state, automatic transmission is a different model type.

The following calculations provide an example of the procedures described in Subpart C of this part for the calculation of vehicle configuration and model type fuel economy values. In order to simplify the presentation, only city fuel economy values are included. The procedure is identical for highway and combined fuel economy values.

Step I. *Input data as supplied by the manufacturer or as determined from testing conducted by the Administrator.*
Manufacturer—Mizer Motors.
Basic Engine: (300-2 barrel, 8-cylinder, non-catalyst, 49 state).

Test vehicle carline	Engine code	Transmission	Inertia weight	Axle ratio	Average miles per gallon	Label miles per gallon [1]	Vehicle configuration sales
Ajax	1	M-3	3,500	2.75	16.1001	16	15,000
Do	2	A-3	3,500	2.56	15.9020	16	35,000
Boredom III	4	M-3	4,000	3.08	14.2343	14	10,000
Ajax	3	M-4	4,000	3.36	15.0000	15	15,000
Boredom III	8	A-3	4,000	2.56	13.8138	14	25,000
Do	5	A-3	4,500	3.08	13.2203	13	20,000
Castor	5	A-3	5,000	3.08	10.6006	11	40,000

[1] The vehicle configuration fuel economy values, rounded to the nearest mile per gallon, are the fuel economy values that would be used on specific labels for that vehicle configuration.

Step II. *Group vehicle fuel economy and sales data according to base level combinations within this basic engine.*

	Transmission	Inertia weight	Miles per gallon	Projected vehicle configuration sales
Base level:				
A	Manual-3	3,500	16.1001	15,000
B	Automatic	3,500	15.9020	35,000
C	Manual-3	4,000	14.2343	10,000
C	Manual-4	4,000	15.0000	15,000
D	Automatic	4,000	13.8138	25,000
E	do	4,500	13.2203	20,000
F	do	5,000	10.6006	40,000

Step III. *Determine base level fuel economy values.*
A. For all the base levels except the base level which includes 4,000 pound, manual transmission data, the base level fuel economy is as noted in Step II since only one vehicle configuration was tested within each of these base levels.

	Miles per gallon
3,500 lb/manual transmission	16.1001
3,500 lb/automatic transmission	15.9020
4,000 lb/automatic transmission	13.8138
4,500 lb/automatic transmission	13.2203
5,000 lb/automatic transmission	10.6006

B. Since data from more than one vehicle configuration are included in the 4,000-pound, manual transmission base level, this fuel economy is harmonically averaged in proportion to the percentage of total sales of all vehicle configurations tested within that base level represented by each vehicle configuration tested within that base level.

$$\text{Base level fuel econ.} = \frac{1}{\left[\begin{array}{l}\text{Fraction of total sales of configurations tested represented by configuration No. 1 sales}\end{array}\right]\left[\begin{array}{c}1\\ \hline \text{Configuration No. 1 fuel economy}\end{array}\right] + \left[\begin{array}{l}\text{Fraction of total sales of configurations tested represented by configuration No. 2 sales}\end{array}\right]\left[\begin{array}{c}1\\ \hline \text{Configuration No. 2 fuel economy}\end{array}\right] + \ldots}$$

Base Level: Manual, 4,000 pounds.

$$\frac{1}{\left[\frac{10000}{25000}\right]\frac{1}{14.2343} + \left[\frac{15.000}{250000}\right]\frac{1}{15.0000}} = 14.6840 \text{ mi/gal}$$

Therefore, the 4,000 pound/manual transmission fuel economy is 14.6840 mi/gal.

4,000 pound/manual transmission = 14.6840 mi/gal

Note that the car line of the test vehicle using a given engine makes no difference—only the weight and transmission do.

Step IV. *For each model type offered by the manufacturer with that basic engine, determine the sales fraction represented by each inertia weight/transmission class combination and the corresponding fuel economy.*

Ajax:		
Manual	1.0000 at 3,500 lb	16.1001
Automatic	0.3000 at 3,500 lb	15.9020
	0.7000 at 4,000 lb	13.8138
Dodo:		
Manual	0.4000 at 3,500 lb	16.1001
	0.6000 at 4,000 lb	14.6840
Automatic	0.3000 at 3,500 lb	15.9020
	0.7000 at 4,000 lb	13.8138
Boredom III:		
Manual	1.0000 at 4,000 lb	14.6840
Automatic	0.2500 at 4,000 lb	13.8138
	0.7500 at 4,500 lb	13.2203
Castor:		
Automatic	0.2000 at 4,500 lb	13.2203
	0.8000 at 5,000 lb	10.6006

Step V. *Determine fuel economy for each model type (that is, car line/basic engine/transmission class combination).*

Ajax, 300-2 barrel, automatic, MPG=

$$\frac{1}{\frac{\text{The fraction of Ajax vehicles using the 300-2 bbl, engine which fall in the 3,500 lb inertia weight class with an automatic transmission.}}{\text{Fuel economy for 300-2 bbl, 3,500 lb automatic transmission base level.}} + \frac{\text{The fraction of Ajax vehicles using the 300-2 bbl, engine which fall in the 4,000 lb inertia weight class with an automatic transmission.}}{\text{Fuel economy for 300-2 bbl, 4,000 lb automatic transmission base level.}}}$$

$$\text{Ajax, 300-2 barrel, automatic, MPG} = \frac{1}{\frac{0.3000}{15.9020} + \frac{0.7000}{13.8138}} = 14.3803$$

Similarly,

Ajax, 300-2 barrel, manual MPG=16.1 16 MPG [1]

$$\text{Dodo, 300-2 barrel, manual MPG} = \frac{1}{\frac{0.4000}{16.1001} + \frac{0.6000}{14.6840}} = 15.2185, 15 \text{ mi/gal}^{1}$$

$$\text{Dodo, 300-2 barrel, automatic MPG} = \frac{1}{\frac{0.3000}{15.9020} + \frac{0.7000}{13.8138}} = 14.3803, 14 \text{ mi/gal}^{1}$$

Boredom III, 300-2 barrel, manual MPG=14.6840, 15 mi/gal[1]

$$\text{Boredom III, 300-2 barrel, automatic MPG} = \frac{1}{\frac{0.2500}{13.8138} + \frac{0.7500}{13.2203}} = 13.3638, 13 \text{ mi/gal}^{1}$$

$$\text{Castor, 300-2 barrel, automatic MPG} = \frac{1}{\frac{0.2000}{13.2203} + \frac{0.8000}{10.6006}} = 11.0381, 11 \text{ mi/gal}^{1}$$

Note that even though no Dodo was actually tested, this approach permits its fuel economy figure to be estimated, based on the inertia weight distribution of projected Dodo sales within a specific engine and transmission grouping.

[1] The model type fuel economy values, rounded to the nearest mile per gallon, are the fuel economy values as used on general labels for that model year.

APPENDIX IV.—SAMPLE FUEL ECONOMY LABEL FORMATS

The following sample fuel economy labels represent formats and language which would be approved by the Administrator for various labeling schemes. Of course, the actual vehicle description, vehicle class, fuel economy values, and annual fuel costs would correspond to the appropriate information approved for the labeled vehicle. Additionally, the range of combined fuel economy, the effective date of the range, the fuel cost per gallon, and the miles driven per year would be as specified by the Administrator at the time of label approval.

GENERAL LABEL
WITH RANGE

Based on the results of tests conducted or certified by the U.S. ENVIRONMENTAL PROTECTION AGENCY, the typical gas mileage of this car is estimated to be:

Federal Energy Administration

Vehicle: Ajax, 8-cylinder, 300 cubic inch displacement, 2 barrel carburetor, automatic transmission, catalyst equipped

10 MILES PER GALLON FOR CITY DRIVING
16 MILES PER GALLON FOR HIGHWAY DRIVING
AND
12 MILES PER GALLON FOR COMBINED CITY AND HIGHWAY DRIVING

As of September 17, 1976, the combined city and highway fuel economy for other Large vehicles ranged from 8 to 20 miles per gallon.

Based on $0.65 per gallon, 15,000 miles driven per year, and an average combined fuel economy of 12 miles per gallon, the estimated annual fuel cost for this vehicle is $812.

These estimates are based on tests of vehicles equipped with frequently purchased optional equipment.

Reminder: The actual fuel economy of this car will vary depending on the type of driving you do, your driving habits, how well you maintain your vehicle, optional equipment installed and used, and road and weather conditions.

To compare the fuel economy of this car with other 1977 cars, and to learn how the tests were conducted, ask your dealer for a free copy of the EPA/FEA 1977 Gas Mileage Guide.

GENERAL LABEL
WITHOUT RANGE

Based on the results of tests conducted or certified by the U.S. ENVIRONMENTAL PROTECTION AGENCY, the typical gas mileage of this car is estimated to be:

Federal Energy Administration

Vehicle: Ajax, 8 cylinder, 300 cubic inch displacement, 2 barrel carburetor, automatic transmission, catalyst equipped

10 MILES PER GALLON FOR CITY DRIVING
16 MILES PER GALLON FOR HIGHWAY DRIVING
AND
12 MILES PER GALLON FOR COMBINED CITY AND HIGHWAY DRIVING

As of the date this vehicle was built (or imported), a range of combined city and highway fuel economy for large vehicles was not available.

Based on $ 0.65 per gallon, 15,000 miles driven per year, and an average combined fuel economy of 14 miles per gallon, the estimated annual fuel cost for this vehicle is $812.

These estimates are based on tests of vehicles equipped with frequently purchased optional equipment.

Reminder: The actual fuel economy of this car will vary depending on the type of driving you do, your driving habits, how well you maintain your vehicle, optional equipment installed and used, and road and weather conditions.

To compare the fuel economy of this car with other 1977 cars, and to learn how the tests were conducted, ask your dealer for a free copy of the EPA/FEA 1977 Gas Mileage Guide.

GENERAL LABEL
CALIFORNIA

Based on the results of tests conducted or certified by the U.S. ENVIRONMENTAL PROTECTION AGENCY, the typical gas mileage of this car is estimated to be:

Federal Energy Administration

Vehicle: Ajax, 8 cylinder, 300 cubic inch displacement, 2 barrel carburetor, automatic transmission, catalyst equipped, California emission control system.

10 MILES PER GALLON FOR CITY DRIVING
16 MILES PER GALLON FOR HIGHWAY DRIVING
AND
12 MILES PER GALLON FOR COMBINED CITY AND HIGHWAY DRIVING

As of September 17, 1976, the combined city and highway fuel economy for other Large vehicles ranged from 8 to 20 miles per gallon.

Based on $0.65 per gallon, 15,000 miles driven per year, and an average combined fuel economy of 12 miles per gallon, the estimated annual fuel cost for this vehicle is $812.

These estimates are based on tests of vehicles equipped with frequently purchased optional equipment.

Reminder: The actual fuel economy of this car will vary depending on the type of driving you do, your driving habits, how well you maintain your vehicle, optional equipment installed and used, and road and weather conditions.

To compare the fuel economy of this car with other 1977 cars, and to learn how the tests were conducted, ask your dealer for a free copy of the EPA/FEA 1977 Gas Mileage Guide.

SPECIFIC LABEL
WITH RANGE

Based on the results of tests conducted or certified by the U.S. ENVIRONMENTAL PROTECTION AGENCY, the typical gas mileage of this car is estimated to be:

Federal Energy Administration

Vehicle: Ajax, 8 cylinder, 300 cubic inch displacement, 2 barrel carburetor, automatic transmission, catalyst equipped, 4,000 pounds test weight, 3.02 axle ratio.

10 MILES PER GALLON FOR CITY DRIVING
16 MILES PER GALLON FOR HIGHWAY DRIVING
AND
12 MILES PER GALLON FOR COMBINED CITY AND HIGHWAY DRIVING

THESE FUEL ECONOMY NUMBERS ARE FROM TESTS OF THIS VEHICLE CONFIGURATION AND MAY NOT BE IN THE EPA/FEA BUYER's GUIDE.

As of September 17, 1976, the combined city and highway fuel economy for other large vehicles ranged from 8 to 20 miles per gallon. The range on this label is based upon average fuel economy results, and does not reflect the range of tests of specific vehicle configurations.

Based on $ 0.65 per gallon, 15,000 miles driven per year, and an average combined fuel economy of 12 miles per gallon, the estimated annual fuel cost for this vehicle is $812.

These estimates are based on tests of vehicles equipped with frequently purchased optional equipment.

Reminder: The actual fuel economy of this car will vary depending on the type of driving you do, your driving habits, how well you maintain your vehicle, optional equipment installed and used, and road and weather conditions.

To compare the fuel economy of this car with other 1977 cars, and to learn how the tests were conducted, ask your dealer for a free copy of the EPA/FEA 1977 Gas Mileage Guide.

[FR Doc.76-33096 Filed 11-9-76;8:45 am]

federal register

WEDNESDAY, NOVEMBER 10, 1976

PART VI:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

■

CITIZEN PARTICIPATION

Request for Public Comments

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

CITIZEN PARTICIPATION

Request for Public Comment

DEAR CITIZEN: I appointed a Department Task Force on Citizen Participation and charged it with the responsibility of identifying additional ways to open the Department to a greater degree of effective public interaction and citizen involvement. The Task Force has developed a Report which I wish to share with you. I would appreciate your views and recommendations on its work, especially the suggested Opportunities for Reform. I am also interested in your reactions to the following general questions and issues:

1. What reactions, comments, or criticisms do you have on the Opportunities for Reform suggested by the Task Force in its Report? If any or all of these opportunities were available, which ones would you use?

2. Do you see other opportunities not mentioned in the Report? What are they? What do you need from us to enable you to better participate in our decision-making processes?

3. What are your reactions to the findings and goal of the Task Force? What have they overlooked?

4. Currently HEW does not have an articulated policy on citizen participation. Would a published policy statement derived from the debate generated by the Task Force Report be helpful to you in your efforts to interact effectively with the Department?

5. To what extent would you support increased citizen participation if you knew it would increase the costs and timing of HEW decisions and programs?

6. The Department has been holding a number of public hearings, town meetings and public sessions across the country to discuss various issues. Are you aware of HEW's efforts in this regard? If so, do you feel public meetings are effective ways to solicit the public's views and opinions? If you have participated in any of these meetings, what have been your experiences? Do you have any suggestions for other techniques we could be using?

7. How would you suggest we evaluate the success of our own increased citizen participation efforts?

If you wish to receive a copy of the Report or to submit comments or suggestions on the matters raised in this Request for Public Comment, please write, on or before December 25, 1976, to:

HEW Task Force on Citizen Participation, Department of Health, Education, and Welfare, P.O. Box 1123, Washington, D.C. 20013.

You may submit comments and information in any form, such as letters, position papers, or memoranda. I assure you that all comments received will be carefully considered and will be responded to. Comments received in response to this Request for Public Comment will be available for public inspection at the following address:

Office of the Special Assistant to the Secretary for External Affairs, Room 631F, South Portal Building, Department of Health, Education, and Welfare, 200 Independence Avenue, S.W., Washington, D.C. 20201.

While we welcome your thoughts at any time, those on this subject will be most helpful if we receive them before December 25, 1976.

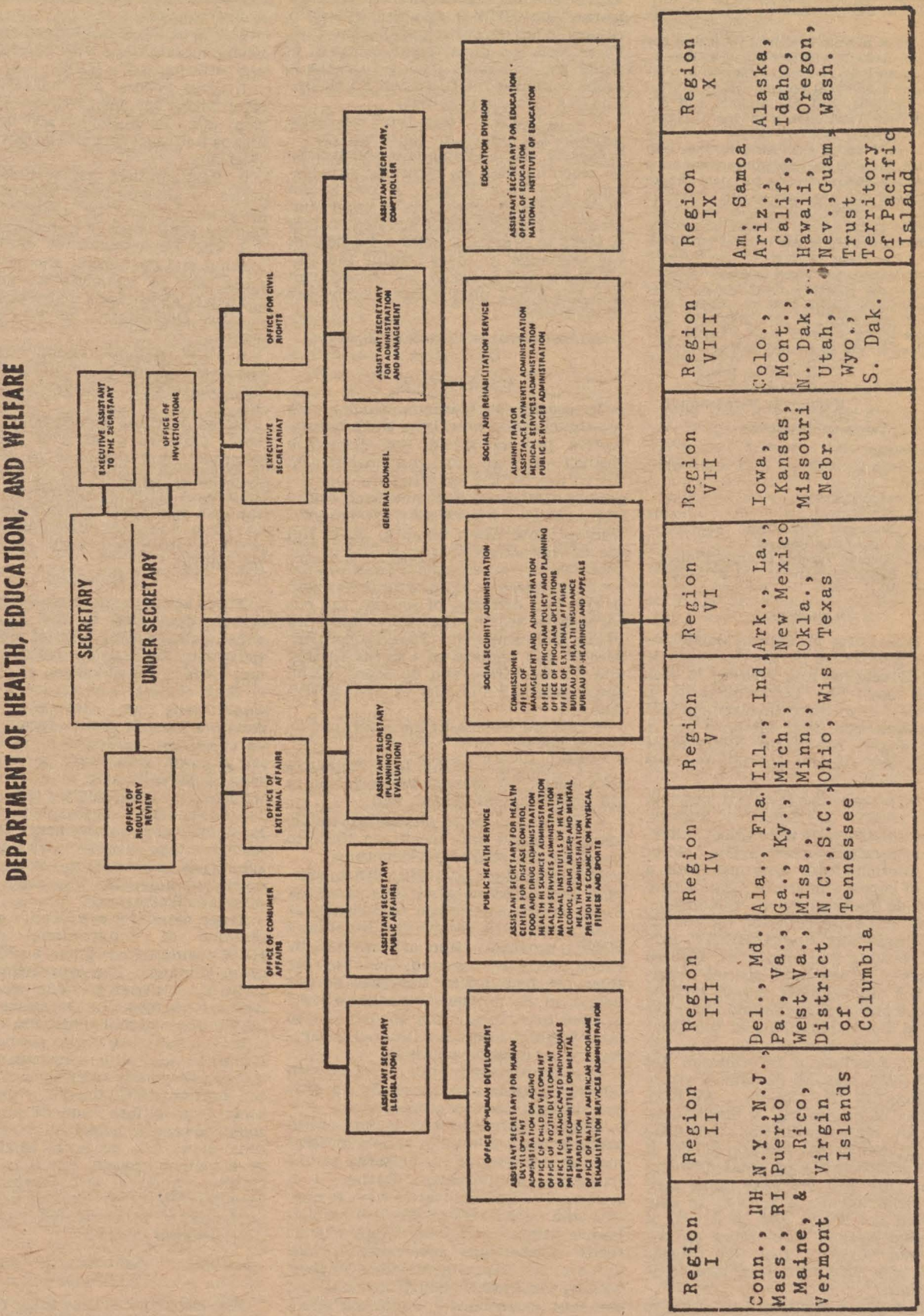
We intend to publish a second "Notice to the Public" based on the comments we receive as a result of this Request. That second Notice will contain the final recommendations of the Citizen Participation Task Force.

In addition to studying written comments from the public, the Task Force on Citizen Participation will hold meetings with interested citizens and organizations. Individuals who desire to participate in such meetings should advise the Task Force.

Dated: November 8, 1976.

DAVID MATHEWS,
Secretary.

REPORT OF THE TASK FORCE ON CITIZEN PARTICIPATION TO THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE



If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost.
—ARISTOTLE.

I think that if we are willing to reform the world, and make it a better place to live in, the way to do it is not with talk about relationships of a political nature, which are inevitably dualistic, full of subjects and objects and their relationship to one another; or with programs full of things for other people to do. I think that kind of approach starts it at the end and presumes the end is the beginning. Programs of a political nature are important end products of social quality that can be effective only if the underlying structure of social values is right. The social values are right only if the individual values are right. The place to improve the world is first in one's own heart and head and hands, and then work outward from there. Other people can talk about how to expand the destiny of mankind. I just want to talk about how to fix a motorcycle. I think that what I have to say has more lasting value.

ROBERT M. PIRSIG
in Zen and the Art of Motorcycle Maintenance.

TABLE OF CONTENTS

I. Background
II. Assumptions, findings, goal and objectives
A. Assumptions
B. Findings
C. Goal and Objectives
III. Opportunities For Reform
A. Specific Targets of Opportunity
B. Broad Targets of Opportunity
IV. Conclusion

I. BACKGROUND

The Task Force on Citizen Participation was established by the Secretary of Health, Education, and Welfare to seek ways to open the Department to a greater degree of citizen involvement and public interaction. It is our hope that a greater degree of citizen involvement will help the Department improve the quality of its service.

The Task Force has reviewed past and present citizen participation studies; books and writings on the subject; interviewed recognized experts in the field of citizen participation; and met with a variety of people and groups, both within and outside the Department. In addition, the Task Force has reviewed the Report of the Third Commitee HABITAT, 1976 United Nations Conference on Human Settlements, which pays special attention to the responsibility of governments to achieve public participation. We have examined the implications of the Government in the Sunshine Act (P.L. 94–409), The Freedom of Information Act (P.L. 93–502), and the Federal Advisory Committee Act (P.L. 92–463). We have benefitted from reading a preliminary draft of the recent evaluation study done by the Lyndon Baines Johnson School of Public Administration on public involvement in Title XX. We have taken note of the Department's obligation to help implement the World Plan of Action of the United Nations Conference on International Women's Year. We considered the new HEW Consumer Representation Plan.

All of these and additional efforts have helped us to understand that citizen participation activity today seems to be "bubbling up" all around us—a force whose time has come again. We have also learned that HEW is not a neophyte with respect to citizen participation. The Task Force feels the Department, however, is ready for and most willing to make a fuller commitment to citizen participation as a continuing activity.

It is in this spirit that the Task Force submits this Report for consideration.

Clearly, the next step is to solicit public recommendations regarding this Report. The Task Force's Report is not meant to resolve the issues or imply that all of the reforms can be adopted; rather it seeks to provide a helpful framework for exchange of ideas within the Department and between the Department and the public on the issues addressed in the Report.

II. ASSUMPTIONS, FINDINGS, GOAL AND OBJECTIVES

A. ASSUMPTIONS

To a society such as ours, which is rich in ethnicity and pluralism, the administrative process within the Executive Branch offers an important mechanism for furthering the opportunities for citizens to participate in government. Looking back over the recent past it seems that we have often failed to make full use of the tremendous potential of the participatory aspect of our form of government, because, along with the growth in size and diversity of society, the bureaucracies serving the public also grew in size and complexity. This has contributed to the removal of citizens further and further from the decisions which deeply affect the quality of their everyday life.

Therefore, it remains the government's obligation to:

1. Provide procedures and structures that ensure the citizen's participation in the governmental system; and

2. Inform citizens (including public officials) about and encourage them to use those procedures and structures.

It is important to begin with a common perception of what it is the Task Force means by "citizen participation."

All people who receive the benefits of HEW's programs, who are affected by those programs, or who help pay for them are included in the Task Force's definition of "citizen." "Participation," as used here, means the opportunity to meaningfully interact with the Department in its decision-making.

In order to meaningfully interact with decision-makers it is necessary for citizens to have timely information.

"Citizen participation" is not necessarily or best achieved by simply increasing the numbers of participants or the frequency of interaction. Rather, it is necessary to find innovative ways to nurture and support more effective participation without overly burdening the already cumbersome governmental machinery. The Department should be open, willing, and flexible enough to utilize and test new approaches to achieving interaction with the public. However, it is often not necessary to replace existing political, policy and program processes, but rather to recognize that they can be improved upon.

The Task Force has agreed on the following assumptions with respect to citizen participation in HEW:

1. Open Federal administrative processes which are designed for citizen access and involvement are legitimate means for improving citizen-government relations.

2. Participation, representation and access to governmental institutions are goals which should be preserved and enhanced at all levels of government.

3. The Department, in its decision-making and operations, should continuously seek to stimulate an active exchange of ideas about the responsibilities of this Department to the public it serves.

4. HEW personnel should regard citizen participation as an integral part of the Department's decision-making process.

Based on these assumptions the Task Force designed a series of tasks, work schedules, and meetings to review the legislative mandates for citizen participation in HEW programs, to examine the past and present strategies used by the Department for citizen participation, and to analyze the present processes and procedures.

a. *Mandates*

There are approximately 90 major and diverse programs in the Department which call for some form of citizen participation. By far the most frequently mandated form of citizen participation is that of state and/or local Advisory Committees, or Governing and/or Advisory Boards. Other forms of mandated citizen participation include: the use of paraprofessionals; the use of nonpaid or partially paid volunteers; parent involvement mechanisms; the use of the target population in the decisions of the local program; requirements that state agencies take citizens' views into consideration in developing policy and to document how that was done; and required public hearings.

These mandates are a result of a combination of Congressional direction, HEW regulatory decision, or HEW program guidance. The overwhelming majority of the citizen participation requirements stem from the Department's regulations or program guidances.

It is in the more recent years that the Congress and the Department have moved toward a broader approach to citizen participation; that is, a movement away from citizen councils and boards solely toward inclusion of "taking citizens' views into account" in the policy development process. But it is the rare statute, regulation, or program guidance memorandum that approaches citizen participation in a creative, flexible, and decentralized manner.

b. *Citizen Participation Strategies and Techniques*

The Department uses some basic citizen participation strategies: (1) solicit-

ing citizen views, (2) disseminating information to the public, (3) dealing with advocacy and consumer complaints, and (4) training and educating our staff to work with the public. Various techniques are used:

(1) *Soliciting Citizen Views*

Advisory boards and councils are the most universally used technique. These advisory groups are found at all levels of government. Increasingly, advisory groups at the state or local level have been mandated either by statute or regulation. However, existing advisory groups vary greatly in terms of size, diversity of representation, scope of concern, and authority.

Meetings (including workshops and conferences) are widely used. However, most of these meetings are not conducted on a routinely scheduled basis. Consequently, the ad hoc nature of most such meetings, and their location in Washington, D.C. and other major metropolitan areas dictate that representation involves mostly national special interest and professional associations and organizations.

Public forums are generally conducted to solicit citizen input regarding proposed regulations and service plans, and major program initiatives. They are less frequently conducted to solicit views regarding long-term planning and policy issues, evaluation, and program operation.

Surveys and program studies are conducted as a means of assessing client satisfaction and evaluating service-delivery effectiveness. Generally, such surveys and studies are conducted either by professional contractors or agency staff.

Use of paraprofessionals is mandated in the legislation or regulations for many programs. Such paraprofessionals, as members of the recipient community, are included on local program staffs as part of a strategy for obtaining recipient involvement in the day-to-day operation and planning of the programs. Some of the programs with a mandate to use paraprofessionals include Headstart, Family Planning, Community Mental Health Centers, Urban Rat Control, Drop-out Prevention, and Follow Through.

Volunteer Development—The Office of Volunteer Development has been working across the entire Department, through a team of volunteer Development Coordinators, to interpret voluntary resources, and to incorporate the effective participation of volunteers into program development and delivery system. Many of the HEW programs do depend on volunteers, and many agencies have recently initiated several creative efforts in this area.

(2) *Disseminating Information*

Publication of proposed regulations in Federal Register for comment—All HEW agencies publish proposed regulations for public review and comment, followed by publication of the final regulations. Many Agencies also mail copies of proposed regulations to a variety of individuals and advocacy, professional, and special interest groups.

Agency-prepared publications include routinely published magazines, newsletters, handbooks, pamphlets, and flyers.

Media—Several agencies make heavy use of electronic and print media.

Meetings—Some agencies disseminate information through public meetings, in which newly enacted legislation or final regulations are described in detail to persons (generally professionals) affected by them. Meetings are also used as vehicles for the provision of training and technical assistance.

Other techniques which are used for information dissemination include: (1) multimedia information campaigns on some issues of special urgency (e.g., new social security benefits, swine flu inoculation); (2) public forums; and (3) provision of HEW speakers through various Speakers' Bureaus.

(3) *Dealing with advocacy and consumer complaints*

Techniques vary within the Department. The 1976 HEW Consumer Representation Plan recognizes the need for greater use and coordination of such techniques among agencies.

(4) *Training and educating HEW staff*

Efforts are underway to help personnel—either through special training programs or through experiential learning—to be more aware of, sensitive to, and responsive to the general public.

c. *Present Processes and Procedures*

The foregoing review led the Task Force to conclude that the most legitimate area for examination, and the one offering the greatest promise for increased meaningful citizen participation, is the policy processes of the Department: policy foward planning, legislation and budget formulation, regulations development, implementation planning, program planning and delivery, evaluation, and audit. The Task Force has analyzed these processes and has identified the key decision points in them.

B. FINDINGS

The Task Force has found that HEW efforts to seek citizen involvement have been informal and sporadic. Furthermore, citizen involvement has been used as an adjunct to, rather than an integral part of, the Department's decision-making. In addition, there is little on-going evaluation of citizen participation activities.

Past studies, such as the HEW-commissioned 1973 Rand Study on Citizen Organizations and the HEW Region X 1976 management planning study The Ties that Bind, as well as our own findings, specifically point to the failure of HEW to adopt any overall citizen participation policy.

C. GOAL AND OBJECTIVES

The Task Force suggests the adoption of a broad citizen participation goal and a set of objectives for the Department. The proposed goal is:

The Department, in the performance of its responsibilities, will seek to become more sensitive and responsive to citizens. It will actively provide broad opportunities for citizen participation in its processes and procedures before decisions are made, and will carefully consider the public's views.

The Task Force suggests the following objectives in support of this goal:

The Department shall encourage and adopt open processes and procedures wherever major policy decisions are being developed, as well as open meetings for public review of plans and programs.

Regional Offices shall seek to involve all segments of the population in the Department's activities, and to develop a variety of opportunities and techniques for on-going and meaningful exchange with the public.

The Department shall pursue every reasonable and practical opportunity to transmit and disseminate pertinent information, in the appropriate language, to the broadest possible audience throughout the country.

III. OPPORTUNITIES FOR REFORM

The Task Force looked at the decision points in the Department's major processes and believes that these decision points offer the greatest potential for citizen participation in the Department. Thus, the following "opportunities for reform." They are possibilities for consideration, not all of which may be implemented. Others may be added, and some deleted, as we become aware of citizen reaction to them. They form an initial set of ideas around which a meaningful dialogue can begin.

A. SPECIFIC TARGETS OF OPPORTUNITIES

Policy Forward Planning is the effort of the Department which encompasses legislation, budget and policy formulation. The Task Force recognizes the interdependence among these three processes, both in terms of substance and timing. Therefore, the specific decision points in each and the proposed opportunities for reform have been combined.

1. *Early Policy Forward Planning-Regional Involvement*

Present Practice:

Each March or April, the Secretary issues guidance to the Department (called the Secretary's Planning Guidance Memorandum) concerning issues and priorities the Secretary believes are important in the development of the Department's budget (to be submitted to the President in November and to the Congress in January), legislation and policies. Staff work defining issues of concern across the country and analyses which will need to be done begins in the preceding October or November. (For example, in October 1976 this "issue identification" began for the March 1977 Planning Guidance Memorandum, which will guide planning for the November 1977 submission to the President, to become part of the President's Budget presented to the Congress in January 1978 for the Fiscal Year beginning October 1978 (Fiscal Year 1979)).

During "issue identification" the Department's ten Regional offices identify, develop and submit to Headquarters analyses of issues of concern in their

particular geographic areas. For each program topic there is a "Lead" Regional Director responsible for compiling, synthesizing and drafting issue papers on major concerns of all ten HEW Regions and submitting a composite paper to the Washington Headquarters for use in strategy meetings in the development of the Planning Guidance Memorandum. The procedures used by the Regional Directors, the kinds of information gathered, and the determination of contributors to the issue analyses vary from region to region, and are often marked by informality.

Opportunity for Reform:

In determining which issues should be reported to Headquarters, the Regional Directors should make liberal use of open meetings and hearings to obtain an assortment of views, both supporting and contrasting, on the issues. Techniques such as, but not limited to, the following should be used to the maximum feasible extent: town meetings, use of local and state media, communication through community and state citizen organizations, and meetings. The techniques employed and views expressed should be documented in the Regional Directors' issues discussion submitted to Headquarters. Regional Directors should send copies of their reports to Department staff with relevant responsibilities, and the Lead Regional Director should "follow up" on any issue which has been identified, with the assistance of the Office of the Assistant Secretary for Planning and Evaluation.

2. *Early Policy Forward Planning—Headquarters*

Present Practice:

From December through February, the Office of the Assistant Secretary for Planning and Evaluation works very informally with Agency Heads and staff to develop a compilation of those concerns which Headquarters' staff believes to be of importance for the Secretary and Department to address in the Planning Guidance Memorandum and forward planning for the upcoming three years.

Opportunities for Reform:

Both Agency staff and the Office of the Assistant Secretary for Planning and Evaluation should systematically conduct meetings and seminars with citizens and citizen groups and solicit input from academics, futurists, and others to gather information regarding important issues likely to arise, and to obtain feedback on previously identified issues. These efforts should relate to legislation, budget and analytic issues, and should take place before final drafting of the Planning Guidance Memorandum for the Secretary.

The Secretary's guidance calls for a considerable number of specific policy analyses. Offices conducting policy analysis should invite citizen input where possible. The Guidance Memorandum should specify those issues where a major effort to solicit such external involvement should be undertaken.

3. *Early Policy Forward Planning—Reviewing the Guidance Memorandum*

Present Practice:

In the period January–March, Agency Heads and Regional Directors are closely involved with the Office of the Assistant Secretary for Planning and Evaluation staff (via meetings, papers and informal discussions) in the development of the issues which will be suggested to the Secretary for inclusion in the Planning Guidance Memorandum.

Opportunities for Reform:

It should be standard procedure for the draft of the Planning Guidance Memorandum to be distributed widely among the Department staff who have been meeting with outside groups so they can review the document for the extent to which it reflects external priorities and concerns.

Background information and documentation as to important issues and concerns, generated by outside groups, could be included with the draft to clarify the external perspectives.

The Office of Regional Liaison (in the Washington Headquarters) should put together a "team" of regional representatives who reside in Washington for the period during which the Planning Guidance Memorandum development is proceeding. The team would be made up of people who, as a result of their early regional involvement and assessment, were knowledgeable in the issues presented by the Regions. They would attend Headquarters' meetings and discussions, serving to ensure that public views expressed at hearings and meetings in the Regions are represented in the Secretary's Planning Guidance.

4. *The Secretary's Planning Guidance Memorandum*

Present Practice:

In late March or early April, the Secretary issues the Planning Guidance Memorandum to Agency Heads for their use in developing their Forward Plans, legislative programs, and proposals.

Opportunity for Reform:

The Secretary should have an opportunity to conduct a public forum or forums on the decisions about to be made, attempting personally to obtain any divergent or additional views.

5. *Development of Agency Forward Plans*

Present Practice:

As a result of the informal meetings in January–March and the more formal directives of the Planning Guidance Memorandum in March–April the Agencies develop their own "Forward Plans," stating their directions, priorities and plans for the upcoming year and outlining more general directions and principles for the subsequent two to four years. In May–June the process ends when the Agencies' Forward Plans are transmitted to the Secretary and form the basis for meetings with staff.

Opportunity for Reform:

Agency staff should seek broad external perspectives in puting together Forward Plans, using techniques similar to those identified above for Regional Directors (meetings, hearings, media, etc.). External involvement (including contrasting views, where expressed) should be significantly documented in the Forward Plan itself.

6. *Department Review of Forward Plans*

Present Practice:

In May or June review sessions are held by the Department on the Forward Plans as submitted by the Agency Heads. Over a two to three week period approximately 10 to 15 meetings take place with the Secretary and staff members with responsibilities relating to the basic topics within the plans. The purpose for the review sessions is to raise and discuss the major issues in the Forward Plans. The Secretary's specific budget and legislative guidance (looking toward the November submission to the President) flow from the information gathered in these meetings.

Opportunity for Reform:

Forward Plans should be reproduced in their final form, and widely distributed for public comment. This should be done as quickly and early as possible, so as to allow for some public feedback prior to the Secretary's final decisions.

7. *Budget and Legislation Development*

The Federal Fiscal Year now runs from October 1 through September 30; for example, Fiscal Year 1977 began on October 1, 1976, and will run through September 30, 1977. The President proposes to the Congress his budget and legislative program for the upcoming fiscal year in January, nine months preceding that fiscal year's beginning (e.g., in January 1977, for FY 1978, which will begin on October 1, 1977). The Department generates its recommendations in the June–November period preceding the President's January submission to Congress. (In the example above, the Department generated its recommendations in June–November 1976 for the fiscal year beginning October 1, 1977 (FY 1978).)

Present Practice:

The Planning Guidance Memorandum's priorities and policies, and the Agencies' Forward Plans, have direct influence on the budget and legislative program as they are developed. As discussed earlier, between January and March the Regional Directors are developing issues for policy legislation, and budget discussions, and Regional Directors, Office of the Secretary, and Agency staffs meet to identify those issues which require specific budget discussions. In April the Agencies prepare analyses of new initiatives which require budget and legislative action, and in June the Comptroller and Planning staffs present an overview of available resources. In June and early

July the Agency Heads submit their budget requests and legislative proposals to the Secretary, and the Secretary holds review sessions with them prior to issuing budget and legislative guidance to the Agencies in July.

Agencies must then develop their budgets and legislative proposals and return to the Secretary with any appeals they may have.

The Department has five legislative teams, within the Office of the Secretary, organized to review, analyze and make recommendations to the Secretary on legislative proposals offered by the Agencies, Regional Directors or any other interested parties. These teams cover the topics of Health, Education, Income Security, Social Services/Human Development, and Civil Rights. Proposals are generally handled for (1) extensions of expiring laws, (2) substantive or technical improvements, (3) new program proposals. Appropriate Agency staff are members of their respective teams.

Opportunities for Reform:

The budget process is very swift moving and complicated. Therefore, it does not seem possible to impose formal procedures here, as the pace is extraordinarily hectic and the deadlines are external to the Department and quite real. Nevertheless, the entire process can be conducted more openly than has historically been the case. Clearly, the connection between the budget and legislation planning processes provides major opportunities for discussion with the public regarding comparative resource allocation, priorities, and policies that will be reflected in the Department's legislation and budget. Outside experts of renown in specific areas and representative groups and organizations should be solicited for their sense of priorities, "real-world" imperatives, and potential impacts of contemplated proposals upon providers and recipients.

The Department has recently begun to take steps in this area and the Task Force is simply suggesting expansion of that effort to the point where the standard procedure would be that the issues the Department is considering should be reviewed with citizens and their views obtained on budget and legislative priorities. The burden of proof should be on HEW staff to justify the exclusion of citizen involvement at any given decision point.

The Task Force believes these open discussions about comparative legislative and budget priorities should apply equally to Agencies, Regions, and Secretarial review.

When Regional Directors are beginning to solicit external views in October–November, they should focus regional and citizen dialogue in meetings and hearings on those specific programs which are expiring.

The "Lead" Regional Directors should bring with them, to the Legislative Team meetings, the information and documentation from the town meetings during the teams' work for their consideration in analyzing legislative issues. The "Lead" Regional Director should be responsible for compiling this information and discussing it with the legislative teams. The Planning staff should develop procedures for the legislative teams to systematically receive external views during their deliberations.

Information on contemplated important legislative proposals should be made available to the public, and reaction requested, if this has not already been done earlier.

A systematic follow-up to Congressional hearings should be established to review and analyze public testimony for potential redraft of HEW's legislative recommendations.

8. *Budget and Legislation Dissemination*

Present Practice:

When the President sends his budget proposal and message to Congress in January, which also identifies his legislative proposals, there is a press conference held by the Department, followed by open briefings on particular subjects for the press and interested groups and organizations.

Opportunities for Reform:

An explanation of the Department's Budget Proposal—written so that constituents and citizens without in-depth program training can comprehend the major points—should be written and disseminated broadly.

The press conference and briefings should be open to the general public and their existence should be announced in a meaningful way beforehand.

Regional Directors and the Regional Commissioners should be fully briefed on the new budget, and they should then conduct in-depth briefings for citizens and interest groups in each of their regions.

9. *Issuance of Regulations*

The Department has recently undergone a major reform of the entire policies and procedures governing the issuance of all HEW regulations. This reform has been designed to open the decision points in the regulations process to significantly greater opportunities for public involvement.

Because this reform is so all-encompassing, the Task Force on Citizen Participation has chosen not to examine the regulations process in the context of its work at this time. The Task Force recognizes its responsibility, however, to work with all appropriate elements of the Department to help guarantee that the reforms become real.

The Secretary's memorandum to the Department stating the regulations reform follows this Report.

10. *Implementation Planning*

Present Practice:

Implementation planning is the establishment of a strategy and detailed plan necessary to carry out a program. Presently, the Department generates 3–5 year long-term plans. Also, short-range, one year implementation plans are developed by the Operational Planning staff of the agency. Guidance for implementation is included in the Planning Guidance Memorandum and the specific plans may be requested by staff in the Office of the Secretary. Generally, major Agency implementation plans are reviewed and "cleared" by Office of the Secretary staff year round, and their timing is basically controlled by when the program was enacted. Where an issue is considered of major importance to the Secretary, it is tracked and monitored as a Secretarial objective within the Department's management-by-objective system run by the Office of the Assistant Secretary for Administration and Management.

Opportunities for Reform:

When the Agency develops its implementation plan for a particular program it should attempt to include a broad perspective from outside citizens, constituent groups and other impacted agencies and state and local governments, and should document this effort in the plan itself. (In order to achieve this, it may be necessary to allow a month's "fact-finding" time in the implementation planning cycle.)

Agency Implementation Plans should be disseminated to a broad audience, particularly those who will be impacted by the plan, are identified in the plan, or took part in developing the plan. If changes are made subsequent to distribution, announcement should be made clearly identifying the changes and their significance.

11. *Program Planning and Policy Development*

Present Practice:

Although the program policy process varies among Agencies, the general practice is for the Agency program staff to complete an assessment of need through interaction with clients and subject experts when the program is enacted by the Congress. Objectives and priorities are set and a delivery strategy is mapped out. The final step is to allocate the dollar and staff resources according to priorities. The process is informal and there is minimal public involvement.

In some programs, principally project grants, HEW has considerable flexibility in setting policies and resource allocation priorities. In others, principally the formula grants to State and local governments, policy and resource allocation priorities are limited for HEW.

Opportunities for Reform:

During the needs assessment, the Agency should insure greater involvement not only of clients but also of other interested or impacted groups and agencies through more systematic and extensive canvassing procedures, such as hearings, surveys, and meetings. Public involvement should also be sought during the determination of program objectives and priorities.

The greater opportunity for public involvement is after the work plan has been completed. The Agency should pro-

vide opportunities to receive public recommendations and be prepared to make appropriate modifications. Periodic review and evaluation by citizen/staff teams should be conducted regularly.

12. *Program Delivery*

The HEW Task Force on Citizen Participation looked at several (not all) HEW programs in an attempt to determine in as generic a sense as possible, the decision points at the State and local level.

The Task Force's purpose in identifying the decision-making process at the State and local level in HEW programs was three-fold:

1. to become more aware of the State and local processes by which our Department's programs are delivered;

2. to actually identify, in a step-by-step approach, the programmatic decisions to be made; and

3. to analyze the "opportunities for reform" in achieving greater citizen participation in those decisions.

Subsequent to the Task Force's identification of State and local decision steps, the Task Force recognized that many of its concerns are to be addressed over the next several months in the implementation of an extensive study entitled "Ties that bind. . . .", an HEW National Management Planning Study—1976. This Study examines the array of Federal mandates regarding State and local management of human service programs and the "overlay of planning programs," with the goal of simplifying, rationalizing, and strengthening intergovernmental relationships and partnerships.

The HEW Task Force on Citizen Participation has decided to share its products in the program delivery area with the various HEW study groups now working on the implementation of "Ties that bind. . . .," and will cooperate in all possible ways to ensure a review by all appropriate parties of the Task Force's concerns that:

1. the HEW responsibility for citizen participation in the Department's programs does not stop with the immediate Department; but that

2. State and local governments should have the greatest flexibility in determining how to achieve citizen involvement.

13. *Evaluation*

Present Practice:

The Planning Guidance Memorandum includes guidance to Agencies for evaluation strategy and plans, in response to which Agencies generate evaluation plans to guide the upcoming year's evaluation projects.

Evaluation is decentralized in the Department and is quite diverse. Each Agency and Region, however, does produce an evaluation plan, which is circulated within the Department for review and comment. Agencies and Regions also solicit some expert views on their evaluation planning as to what should be evaluated. During the conduct of evaluations, clients and citizens are sometimes asked their opinions regarding the activity being evaluated, although this is not yet done on a systematic basis. The Assistant Secretary for Planning and Evaluation has recently issued guidance to make this more systematic, however.

Opportunities for Reform:

Procedures should be established by which Regional Directors and Agency Heads review public input as to what priority areas or activities ought to be evaluated. This external involvement should be documented in the plans themselves.

Greater emphasis should be made to get citizen views, especially minority and certain target groups, as to evaluations being conducted, perhaps to the inclusion of citizen surveys. The Assistant Secretary for Planning and Evaluation should develop further such procedures.

14. *Evaluation Dissemination*

Present Practice:

There is presently little formal provision for dissemination of an Agency's evaluation plan. Results of the evaluations are disseminated informally by the office that contracted for the evaluation. Work has begun on cataloguing a computerized Master List of all Department evaluation plans in progress as well as a digest of completed evaluations.

Opportunities for reform:

Upon completion of the computerized catalog, broad public announcement should be made concerning the availability of this list.

There are ever-increasing numbers of organizations and individuals, and other Federal agencies, seeking information and data analysis on program results—failures and successes. The Office of the Assistant Secretary for Planning and Evaluation should work with Agencies and Regional Directors to improve procedures for broad and thorough dissemination of evaluation to outside groups, as well as to other Federal and to State and local agencies.

15. *Audit*

Present Practice:

The Director of Audit Agency reports directly to the Comptroller and has authority to go directly to the Secretary of the Department of Health, Education, and Welfare, when it is necessary.

Auditing is the process used to assure that Department funds are properly spent and that programs are administered in an efficient and effective manner.

The programs to be audited are determined by the age of the program, sensitivity of the topic, mandated requests, significant problems, fiscal considerations, and when the program was last audited. The Agency compiles an annual work plan which is subject to frequent revisions during the year. The annual work plan is distributed to all Principal Operating Components and other interested HEW officials. Approximately 5,000 reports a year are issued covering a wide variety of subjects.

The Audit Agency releases final reports to the public upon request. There are also periodic reports generated from computer-based audit information systems for control and monitoring of all audit actions.

The Audit Agency issues final reports to the following:

1. All Agencies participating in a program.

2. Those persons requesting a report.

Opportunities for Reform:

The Task Force suggests that the Audit Agency publish annually a public statement detailing how a citizen can obtain access to final audit reports.

The Regional Auditors are responsible for a large portion of the information funneling into the Washington Audit Agency. The Citizen Participation Task Force suggests that Regional Auditors conduct public meetings to gather the public's views and opinions to provide additional information on programs which may require review. This public perspective should be documented by a report to the Washington Audit Agency.

16. *Inspector General*

New Practice:

A new law (P.L. 94–505) establishes an Inspector General for the Department of Health, Education, and Welfare, transferring the audit function from the Comptroller to the Inspector General. The Inspector General's role will be to determine fraud, inefficiency and waste in the Department, much as the Audit Agency has operated in the past.

The Inspector General has authority to report directly to Congress and the Secretary when he or she deems it necessary, and the Inspector General is required to file:

1. An annual report to Congress and the Secretary

2. Quarterly reports to Congress and the Secretary

3. A report of major problems to the Secretary, and the same report immediately to Congress seven days later.

Opportunity for Reform:

In addition to the reform suggested in the previous section on the Audit Agency, the Task Force suggests that the new Inspector General consider making public the annual and quarterly reports.

B. BROAD TARGETS OF OPPORTUNITY

The preceding discussion has focused on key decision points in the Department's processes, and on specific targets for reform. There are, however, broad opportunities for reform which the Citizen Participation Task Force proposes for discussion to further the goal and objectives of citizen participation in HEW.

1. *Annual Report*

The Task Force suggests development of an Annual Report on the state of HEW. A comprehensive, timely report to annually summarize HEW programs, its successes, and its failure in meeting goals; and an itemization of policy goals of the Department for the forthcoming years would assist in generating public

dialogue and discussion about HEW policies.

2. *Ongoing Locus of Citizen Participation Responsibility*

The Task Force believes some consideration is warranted relative to the organizational implications of continuing citizen participation activity at the Department-wide level, particularly if a centralized policy is developed. As a general matter, responsibility for citizen paticipation could be:

a. Assigned to an existing office in the Office of the Secretary;

b. Assigned to a new office created explicitly for that purpose, also in the Office of the Secretary;

c. Assigned to an independent Committee or Task Force reporting directly to the Secretary or Under Secretary; or

d. Decentralized to the Principal Operating Components and Agencies, as their responsibility, with no overall Office of the Secretary review beyond normal policy interactions.

It should be understood that the Task Force would certainly recommend, under any of these alternatives, that elements of the Department be charged with continuous citizen participation responsibility in their daily operations; option (d) above is exclusive of the others only in that it would accompany ongoing Agency responsibility with no explicit central oversight.

The obvious advantages accompanying the assignment of citizen participation to an office within the Office of the Secretary, whether new or existing, are the visibility this would afford the Department's efforts, as an overall initiative, and the ability the Secretary and his staff would have to prompt broader uses of citizen participation and coordinate them across Agencies. If a new office were created, the present coordination problems among citizen participation, Consumer Representation Plans, Volunteer efforts and other considerations of Public and External Affairs might well be compounded, unless some distinct lines of responsibility were drawn. A new office would further expand the already cumbersome Office of the Secretary organization; however, an existing office might lack the bureaucratic leverage or resources to "get things done" as effectively. In either case, the use of a Committee or Task Force by the Director of the office would not be precluded.

If an independent "Citizen Advisory Committee" or "Citizen Task Force" were designated, consisting of citizens not affiliated with HEW, serving at the request of the Secretary or Under Secretary, a quite appropriate external perspective would be brought to bear upon Department-citizen involvement. In particular, such a group could reinforce external pressures on the Department to continue to find opportunities for reform. However, within the Executive Branch the difficulties of organizing and implementing new advisory groups have become quite severe; and the effectiveness of such groups in dealing with the Department from within is often questionable, particularly as relevant determinations are often made far below the Secretarial or Under Secretarial levels.

Option (d) above, that no centralized responsibility be assigned, presumes that the job can best be done by Agencies independently of the Office of the Secretary. On the one hand, it can be argued that opening and maintaining opportunities for involvement is appropriately an integral part of an Agency Head's job, and that cross-Agency differences mandate independence. On the other hand, some feel that a subject of such crucial, long term and visible nature requires Secretarial oversight in more than an ad hoc way. Some coordination—at least as to procedural issues—by an office with perspective broader than an individual Agency, may also be advantageous.

3. *The Use of Advisory Committees*

The use of Advisory Committees ranges from that of an advisory capacity to actual authority to make grants on behalf of an Agency. Their procedures and functions vary from program to program.

The statutorily mandated State and local advisory committees typically follow the same patterns, although their functions and the selection of members are determined by the State and local agencies.

There is little, if any, research information on what constitutes an effective citizen advisory committee or on what features, more than others, contribute to meaningful and successful participation experience. There are outstanding success stories, and some glaring failures.

In recent years the issues arising out of the use of citizen advisory committees are: their membership and makeup, their functions and roles, their staffing and whether or not they should have some budget control. Perhaps the most penetrating of all the issues is the gnawing question citizen advisory committees frequently ask themselves: "do we make a difference?" Recent studies can be misleading. Some point to the numbers of people involved as an indication of meaningful participation, while others view Federal and State mandated citizen advisory committees whose roles and responsibilities are ambiguous as ineffective.

Given all of these differences, most appear to agree on the following:

a. Where the responsible State or Federal agency has been receptive to external involvement, a citizen adivsory committee can be a successful experience for the citizens and the officials.

b. There is confusion, even where guidelines are explicit, as to the role and authority of citizen advisory committees.

c. Specifically, more often than not, other techniques have not been actively sought or used by which citizens can participate.

To assist in the Department's work there are almost 4,000 citizens serving on its own 338 advisory committees. The Citizen Participation Task Force suggests that consideration be given to new and creative uses of these citizen members of HEW citizen advisory committees. The Task Force suggests that close review and continuing assessment be made of the procedures used for recommending members to serve on these advisory committees, with particular regard to obtaining broad and diverse community views.

The Task Force suggests some opportunities for new and creative uses of HEW advisory committees' members:

a. HEW advisory committe members should be used to reflect their broad interests in more general issues. The Department should use (across Agency lines) a variety of diverse and interested individuals who are members of HEW advisory committees to discuss and advise on cross-cutting issues and topics; to review and evaluate proposals submitted to HEW; to provide general advice or reactions to HEW policy issues; to review proposed regulations; and to assist in evaluating Departmental procedures and operations at the request of Department officials.

b. Regional Directors should have a list of all members serving on HEW advisory committees presently residing within their Region. The Regional Directors should make every effort to use the members, and others, as advisors to gather views on general and cross-cutting issues. Additionally, the Regional Directors should use this same pool of people to assist in community networking, communications, and identifying other community persons.

4. *Citizen Assistance and Training*

In its work the Citizen Participation Task Force finds that the Department is making a substantial effort to assist citizens in their efforts to participate, and offers these additional suggestions as opportunities for reform:

a. Appropriate Department funds should be available to reimburse persons and groups who demonstrate a need for financial assistance (to cover travel board and lodging expenses), in order to attend and participate in HEW public hearings. An individual's need for financial assistance should be given equal consideration to that of a person representing an organization. Consideration should be given to providing financial assistance to citizen groups who would otherwise be unable to participate.

b. The Citizen Participation Task Force suggests that high priority be given to funding proposals which identify new and creative techniques for training citizens, as well as proposals whose goals and objectives will further every opportunity for community self-help projects.

5. *HEW Personnel Training*

The Citizen Participation Task Force suggests that in-service training and experience for HEW personnel be strength-

ened to include: training in emerging techniques for improving the quality of citizen participation; training in administrative sensitivity to cultural differences and values; experiences in public and community meetings through field visits; information and understanding about the Federal/State role in public service programs; training concerning citizen/government relationships in public instittuions. The Citizen Participation Task Force believes these areas are a few examples of the current and emerging issues which will be confronting HEW personnel in carrying out their responsibilities.

In addition, programs and seminars can be developed and focused to heighten administrative awareness on the many and varied techniques for obtaining citizen participation. Some of these techniques include use of citizen advisory committees, ombudspersons, task forces, group interviews, surveying, polling, training, employment of clients, representation on policy-making bodies and many, many others. The roles and responsibilities of administrators and HEW personnel make it essential to increase understanding of these new and emerging techniques for citizen participation and citizen involvement.

The Citizen Participation Task Force suggests the Department hold a conference on citizen participation for its personnel to bring about an increased dialogue on citizen/government relations.

6. *Information Dissemination*

The Citizen Participation Task Force suggests that there is an immediate need to further increase the numbers of people receiving information about HEW, to improve on the quality of information being distributed, and to design new methods for receiving feedback from persons outside DHEW.

a. The Citizen Participation Task Force suggests that evaluation of and the development of exemplary models for citizen participation in DHEW be developed for use by citizens and their organizations. Literature, written materials, and guides should be widely distributed to inform citizens about opportunities for citizen participation in HEW.

b. The present recipients of the Federal Register should include the U.S. Post Offices, Social Security District Offices, and City/Town Halls.

c. Agency Heads should be encouraged to keep and use current mailing lists on outside contacts, and to share these lists across Agency lines, where appropriate.

IV. Conclusion

In closing this Report, it must be said that the entire Citizen Participation Task Force has found its mandate and its work to date to be enormously challenging, and a genuine learning experience. The opportunity to think about the issues surrounding citizen participation in this Department has, in and of itself, been a catalytic one, for the Task Force has asked for and willingly received the counsel, help, and collaboration of many people both within and outside HEW. For this support, the Task Force expresses its deep appreciation. All of the back-up analyses, papers, and work products of the various sub-work groups of the Task Force are available should anyone wish to see them.

It is the Task Force's firm belief that all efforts to open the Department to a greater degree of citizen participation must continue, thus achieving a more meaningful citizen/government relationship, as well as ultimately more responsive public policy. The alternative to this is to fail to fulfill a basic mandate of our democratic society to provide equal representation, participation, and access for citizens in the decisions of their government.

Department of Health, Education, and Welfare

Memorandum

July 25, 1976.

To: The Under Secretary
Assistant Secretaries
Principal Operating Components
OS Staff Offices
From: The Secretary
Subject: Regulatory Policies

On the basis of recommendations from the Regulations Advisory Group (RAG), comments on those recommendations by the various units of the Department, advice from a discussion of the RAG recommendations at a Departmental meeting and further comments on my "preliminary rulings" memorandum, a comprehensive body of new policies and procedures for the issuance of regulations has been developed. These policies, together with certain additional directions to the staff of the Department and the outline of my future plans in this area are set forth in this memorandum.

These policies and procedures apply to the development and issuance of regulations, whether of Department-wide effect or limited to a particular program administered by a single component within the Department, except where authority to issue a category of regulations has been specifically delegated by the Secretary.

Although existing delegations remain in effect, such delegations will continue only to the extent that it is demonstrated that policy review and direction by the Secretary's Office is unnecessary.

Even in those cases where authority is delegated, the policy set forth in this memorandum should be followed to the extent feasible by officials to whom the delegations have been made.

The procedures set forth in this memorandum will be applied to regulations for which a Notice of Proposed Rule Making (NPRM) was transmitted to the Office of the Secretary prior to the date of this memorandum.

1. *Departmental Regulations Policy*

a. The development of specific program regulations is the responsibility of the Assistant Secretary or Principal Operating Component (POC) head who is responsible for the administration of that program. The development of crosscutting or Department-wide regulations will be the responsibility of the appropriate Departmental officials.

b. Except where authority to issue regulations without prior approval of the Secretary has been specifically delegated, no Notices of Intent (NOIs), NPRMs or final rules may be issued or published without the signed approval of the Secretary.

c. Any proposed regulation which the appropriate Assistant Secretary, POC head or the Secretary has determined to be of major program significance may not be executed or published even as an NOI or NPRM until a regulation implementation plan has been submitted to the Secretary by the appropriate Assistant Secretary or POC head and the plan has been approved by the Secretary or the Under Secretary.

The regulation implementation plan instructions concerning form and content will also provide for the use of a modified or abbreviated plan for regulations not having a major program significance.

In approving a regulation implementation plan, the Secretary or the Under Secretary may authorize the Assistant Secretary or the POC head to proceed with the development and issuance of an NOI, NPRM or a final rule without obtaining further specific authorization from the Secretary for that regulation or set thereof.

d. An NOI should be published, and the implementation plan should so provide, whenever the Department's consideration of important policy issues will be aided by public comment prior to publication of an NPRM. The NOI mechanism should be liberally used to permit interested outside groups and other members of the public to have an impact on the decisionmaking process at an early stage. Therefore, implementation plans that fail to provide for an NOI will be critically reviewed.

e. In addition to publication in the Federal Register, other channels of communication with the public will be liberally used in order to reach as many interested individuals and organizations as possible.

f. Public hearings to permit the Department to receive information and views on proposed regulations should be held either before or after the publication of NPRMs if it appears that such hearings will aid the Department in developing its position on any of the issues involved. Advance notice of any such hearings will be published either as part of an NOI or separately.

g. Each NOI and NPRM shall set forth the major issues to be addressed in the development of the regulation and the major alternatives that the Department is considering to resolve those issues. If there is more than one Assistant Secretary or POC head having a direct jurisdictional interest in a particular regulation and if any of them have submitted to the Secretary different views concerning the major issues, these views should be stated in the NOI or NPRM along with the source of the views.

h. In the spirit of openness, a draft regulation may be disclosed upon request prior to its publication in proposed form. If, however, the availability of the draft has not already been stated in a public notice, such a notice will be published before the disclosure is made. In addition to publication, steps should be taken to make copies of the draft directly available to interested groups and individuals, including the appropriate committees and Members of Congress.

i. Each NOI and NPRM will give the name, position, address and telephone number of a contact person within the Department who will be available to answer inquiries and receive information concerning the proposed regulation.

j. Except as otherwise authorized or required by the Administrative Procedure Act and the rules and regulations of the Department, the comment period provided for in NPRMs will be at least 45 days unless the regulation implementation plan has justified the lesser period of 30 days and the plan has been approved by the Secretary or the Under Secretary.

k. Each NOI and the preamble to each NPRM and final regulation will be written in common everyday English understandable to the general public.

l. Whenever, as a result of public comment or for any other reason, it appears to the appropriate Assistant Secretary or POC head that a major provision in a proposed regulation should be significantly changed before being published as a final rule, the regulation should be carefully reviewed to determine whether the NPRM fairly permitted public comment on the issue embodied in the change. If it further appears that the public did not have a fair opportunity to comment on the matter which is the subject of the change, a new NPRM should be published inviting such comment.

2. *Internal Procedures for the Regulation Process*

a. The Secretary's Office will develop requirements for the form and content of regulation implementation plans. These requirements will be distributed to the Assistant Secretaries and POC heads for their use in preparing such plans. At a minimum, each plan will be required to include a concise but complete statement of significant issues relating to the proposed regulation and the particular steps and timetable that will be followed.

b. All documents routed to the Secretary on any proposed regulation (including regulation implementation plans, NOIs, NPRMs and final regulations) should be sent through the Executive Secretariat (ES). ES will track the processing of each proposed regulation from the transmittal to the Secretary's Office of a proposed implementation plan until the publication of the final regulation. Each Assistant Secretary and POC head will be responsible for providing current information to ES of each step in the development and processing of the proposed regulation. Further instructions in this regard will be developed and provided by the Secretary's Office.

c. Each Assistant Secretary and POC head should develop a pool of professionally competent and trained regulation draftsmen who will be assigned responsibility to draft NOIs, NPRMs and final regulations on the basis of specifications developed by program staff.

The pool should have sufficient members to meet the regulation drafting needs of the component in an expeditious manner. The membership of the pool should not be restricted to those of any particular professional discipline.

Training and evaluation programs for regulation draftsmen will be developed and implemented by both the Department and the POCs. Training will emphasize writing skills, including clarity of language and organization.

d. In transmitting an NOI, NPRM or final regulation to ES, the Assistant Secretary or POC head making the transmittal should include under separate cover the name of each draftsman who participated in the preparation of the document.

e. Each final regulation sent to the Secretary for approval should be accompanied by a separate written plan for monitoring and reviewing the effect of the regulation after its publication. This plan should state the dates by which the results of the regulation will be reviewed. If the Assistant Secretary or POC head believes that this plan should be made available to the public, by publication in the FEDERAL REGISTER or otherwise, it should be so recommended.

f. Internal clearance procedures will be developed by the Secretary's Office to minimize clearance disputes and to eliminate any redundant processes. Deadlines will be established by which nonconcurrence disputes will be resolved.

g. In those instances where the Secretary or Under Secretary relies upon an informal group of staff members for a briefing on an NOI, NPRM or final regulation that has been submitted for Secretarial approval, the appropriate Assistant Secretaries or POC heads should be included.

h. A long-range plan for reviewing regulations will be developed by P in consultation with RAG. The plan should include:

Categories or criteria for selecting regulations for reconsideration.

Means for comparing results with intent.

Plans for an automatic review system for regulations.

i. A small group of regulations will be selected by the Secretary's Office for review as a pilot project. These regulations will then be assigned to the appropriate Assistant Secretary or POC head for review and, as appropriate, rewrite by specified due dates.

j. If there is inadequate qualified staff within the Office of any Assistant Secretary or POC to accomplish the necessary review of regulations published by that Office, an appropriate detail of personnel from other parts of the Department, or the hiring of, or contracting for, the services of qualified consultants will be arranged.

As indicated in this statement, the development and review of regulations are the primary responsibility of the Assistant Secretaries and POC heads. It is not intended that a central agency be established to add another layer of control on top of an already complicated process. However, both the Secretary and the Under Secretary, in order to discharge their duties described in this document, need staff assistance which will be provided through a Special Asisstant to the Secretary for Regulatory Reform. The Special Assistant will also be the presiding officer of the Regulatory Advisory Group.

A review of these policies and procedures is planned within the next year. At that time changes will be made if desirable.

[FR Doc.76-33263 Filed 11-9-76;8:52 am]

federal register

WEDNESDAY, NOVEMBER 10, 1976

PART VII:

OFFICE OF MANAGEMENT AND BUDGET

■

BUDGET RESCISSION AND DEFERRALS

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSION AND DEFFERALS

To The Congress Of The United States:

In accordance with the Impoundment Control Act of 1974, I am withdrawing one previously proposed rescission and reporting three new deferrals. In addition, I am reporting revisions to two deferrals previously transmitted.

The withdrawal is for the highway crossing federal projects program of the Federal Highway Administration. The three new deferrals, totaling $980.8 million affect programs of the Departments of Defense, Health, Education, and Welfare, and the Treasury. The revised deferrals are for programs in the Department of Health, Education, and Welfare and reflect routine increases in the amounts previously deferred.

The details of the rescission withdrawal and each deferral are contained in the attached reports.

Gerald R. Ford

The White House, *November 5, 1976.*

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission #	Item	Budget Authority
	Transportation:	
	Federal Highway Administration	
R77-4A	Highway crossing federal projects	---
Deferral #		
	Defense-Military:	
	Procurement	
D77-34	Shipbuilding and conversion, Navy	929,250
	Health, Education, and Welfare:	
	Office of Education	
D77-14A	Higher education	303,862
	Social Security Administration	
D77-15A	Limitation on construction	18,673
	Special Institutions	
D77-35	Howard University	500
	Treasury:	
	Office of the Secretary	
	Loans to the District of Columbia	
D77-36	for capital outlay	51,002
	Subtotal, deferrals	1,303,287
	Total, rescissions and deferrals	1,303,287

SUMMARY OF SPECIAL MESSAGES
FOR FY 77

(Amounts in thousands of dollars)

	Rescissions	Deferrals
Fourth special message:		
New Items	---	980,752
Changes to amounts previously submitted	-35,000	273,561
Effect of the fourth special message	-35,000	1,254,313
Previous special messages	134,100	761,697
Total amount proposed in special messages	99,100 (in 4 rescission proposals)	2,016,010 (in 36 deferrals)

NOTE: All amounts listed represent budget authority except for $123,731,858 consisting of two general revenue sharing deferrals (of outlays only).

R77-4A

SUPPLEMENTARY REPORT

Report Pursuant to Sec. 1014(c) of P.L. 93-344

This report updates Rescission No. R77-4 transmitted to the Congress on September 22, 1976, and printed as House Document 94-620.

The requested rescission of $35,000,000 for the Highway crossing federal projects of the Federal Highway Administration is hereby withdrawn. The funds were released to the Federal Highway Administration on October 1, 1976.

Deferral No: D77- 34

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense	New budget authority (P.L. 94-419) $6,195,000,000
Bureau:	Other budgetary resources 2,736,777,747
Appropriation title & symbol: See Coverage section below	Total budgetary resources 8,931,777,747
	Amount to be deferred: Part of year $ ____
	Entire year 929,250,000
OMB identification code: 17-1611-0-1-051 1/	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[XX] Multiple-year (see Coverage section) (expiration date)	[ ] Contract authority
[ ] No-year	[ ] Other ____

Coverage

Shipbuilding and Conversion, Navy	177/11611	$929,250,000
Shipbuilding and Conversion, Navy	176/01611	-0-
Shipbuilding and Conversion, Navy	175/91611	-0-
Shipbuilding and Conversion, Navy	174/81611	-0-
Shipbuilding and Conversion, Navy	173/71611	-0-

Justification

These funds are proposed for deferral through September 30, 1977. Due to the long period of time required to build ships, the Congress makes appropriations available for five-year periods.

Since these funds are, by law, made available beyond the current year, they are not fully apportioned in the current year. The unapportioned amount is withheld and released as the program develops and additional funds are required. The amounts deferred are to be released contingent upon the development of program needs that arise in current and future years.

Prudent financial management requires the deferral of those funds that could not be used effectively during the current year even if made available for obligation.

The above multi-year appropriations are currently being deferred under provisions of the Antideficiency Act (31 U.S.C. 665), which authorize the establishment of reserves for contingencies.

1/ The OMB identification code that appeared in the FY 1977 budget was 07-15-1611-0-1-051.

Estimated Effects

Deferral of $929.2 million will have no program or budgetary impact, since these funds could not be obligated even if made available. Rather, the deferral of these multi-year funds assures availability of funds in future years to meet continuing program requirements.

Outlay Effects

There is no outlay effect resulting from this deferral since the funds could not be used if made available.

D77-14A

SUPPLEMENTARY REPORT

Report Pursuant to Sec. 1014(c) of P.L. 93-344

This report updates Deferral No. D77-14 transmitted to Congress on October 1, 1976, and printed as House Document No. 94-650.

This revised deferral report for the Higher education program in the Office of Education reflects an increase of $272,160,000 in the amount deferred through September 30, 1977, from $31,701,606 to $303,861,606.

The amount being deferred will not be needed to cover FY 1977 requirements and could not be legally obligated during this period. The increase in the amount being deferred primarily results from the additional appropriation made in P.L. 94-439 for FY 1977 which cannot be used during the current fiscal year due to a reduction in the estimate of liabilities for interest subsidies on outstanding loans.

Deferral No: D77-14A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Health, Education, & Welfare	New budget authority (P.L. 94-439) $325,000,000*
Bureau: Office of Education	Other budgetary resources 317,109,606*
Appropriation title & symbol: Higher Education 75X0293	Total budgetary resources 642,109,606*
	Amount to be deferred: Part of year $ ____
	Entire year 303,861,606*
OMB identification code: 75-0293-0-1-502 1/	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

	Total budgetary resources available*	Amount to be deferred*
1. Construction:		
(a) Subsidized construction loan: --Annual interest grants.....	$48,643,000	$23,643,000
(b) Graduate facilities grants.....	3,533,938	3,533,938
2. Subsidized Insured Student Loan:		
(a) Interest payments and special allowance (subsidies).....	587,658,000	275,160,000
(b) Reserve fund advances (loans)..	2,274,668	1,524,668
Total.....	642,109,606	303,861,606

1/ The OMB identification code that appeared in the FY 1977 budget was 09-40-0293-0-1-502.

* Revised from previous report.

Construction:

*A. Annual interest grants--A change in method of accounting for subsidized construction loans caused a substantial amount of prior year appropriations to be deobligated during fiscal year 1974. Obligations are not recorded now until payments are due. Funds on hand are more than adequate to cover anticipated obligations on annual interest grant contracts signed in prior years and no new starts are authorized or planned. The unobligated funds will be needed in the future, however, to pay continuation costs on loans the Federal government has agreed to subsidize. It is anticipated that only $25,000,000 of the $48,643,000 available will be needed during 1977.

B. Graduate facilities--The amount shown as deferred resulted from adjustments of prior year obligations. As projects are completed the estimated obligations are adjusted to reflect actual experience. No new funds have been appropriated for this program since 1969, and there are no program plans to utilize the funds. It is possible that such funds may be needed to cover obligation adjustments.

*Subsidized insured loans:

A. Interest and special allowance--These funds are used to make mandatory payments for subsidies on loans made by private lenders to students under the Guaranteed student loan program. The amount deferred reflects a reduction in the estimates of liabilities for interest subsidies on outstanding loans to be incurred during this period. These decreases result from a lower dollar volume of loans subject to interest and special allowances and a lower special allowance rate paid on outstanding loans. The deferred amount does not represent a restriction on obligation, but consists of an estimate of funds that cannot be legally obligated during 1977. It is estimated that no more than $312,498,000 of the $587,658,000 available will be needed during 1977.

B. Reserve fund advances--These funds were appropriated in 1969 to make advances to guarantee agencies that could not meet reserve requirements. It is estimated that no more than $750,000 of the $2,274,668 available will be needed during 1977.

Estimated Effects

This action has no program effect, since it only reflects an estimate that the funds cannot be legally obligated during 1977. It does not reflect a program constraint.

Outlay Effect

There is no outlay effect of this deferral because the funds could not be used if made available.

* Revised from previous report.

D77-15A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344

This report revises Deferral No. D77-15 transmitted to the Congress on October 1, 1976, and printed as House Document No. 94-650.

This revision reflects a net increase of $1,401,214 in the amount to be deferred through September 30, 1977, for the Social Security Administration's Limitation on construction account. The increase is primarily due to a revised estimate of purchase contract costs for the program service centers which is lower than the amount appropriated for FY 1977. In addition, several construction projects in the district office expansion program are obligating funds at a slower rate than previously anticipated. The toal amount deferred is now $18,673,092.

Deferral No: D 77-15A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Health, Education, and Welfare	New budget authority (P.L. 94-439) $14,400,000*
Bureau Social Security Administration	Other budgetary resources 26,529,905*
Appropriation title & symbol: Limitation on Construction 75X8705	Total budgetary resources 40,929,905*
	Amount to be deferred: Part of year $ ____
	Entire year 18,673,092*
OMB identification code: 20-8006-0-7-601 1/*	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year ____ (expiration date)	☐ Contract authority
☒ No-year	☐ Other ____

JUSTIFICATION

Funds provided under the Limitation on Construction of the Social Security Administration (SSA) remain available until expended in recognition of the long lead time between the provision of funds and their use in carrying out authorized construction projects. A total of $18,673,092 is to be deferred for FY 1977. The amounts involved fall into three general categories, discussed below.

*Headquarters Projects

Ground has been broken for the two new buildings, one in downtown Baltimore and one at the Woodlawn complex. These buildings are being constructed under the purchase contract method but purchase contract funds do not cover project management. Normally such costs are paid from GSA's Federal Buildings Fund and recovered by GSA through the Standard Level User Charge (SLUC). Since the Congress has indicated that SSA should pay only actual costs--no SLUC, SSA is billed directly for these charges. The $1,615,722 deferred will be used to pay these costs through completion of the buildings in 1979.

1/ The OMB identification code that appeared in the FY 1977 budget was 09-60-8006-0-7-601.
* Revised from previous report.

D77-15A

2

*District Office Projects

A balance of $22,209,249 remains from funds appropriated since 1965 for district office construction projects. The district office construction program has been in a period of reevaluation since the offices constructed with funds appropriated prior to 1968 were started. New starts in the construction of district office buildings have lagged in recent years because the new Supplemental Income program changed the workload patterns and introduced a greater element of uncertainty in planning for district office space needs. Further, due to rapid expansion of field facilities and to meet the immediate needs of the SSI program, SSA had to acquire space quickly through lease rather than the longer time frame required for construction.

SSA now plans to resume the district office construction program, starting 10 new offices in FY 1977 and 5 more in FY 1978. In addition, major expansion is planned for 26 district offices to enable them to adequately meet future needs. The $15,872,408 deferred will be used to complete the funding of these projects.

*Program Service Centers

After the 1977 purchase contract payment for the three program service centers, a balance of $1,184,962 will remain from funds appropriated for this purpose. This amount will be deferred in FY 77 and will be used to make future purchase contract payments.

ESTIMATED EFFECTS

The funds intended to be apportioned for obligation in FY 1977 will permit SSA to carry out is authorized construction program in an orderly manner. No currently planned construction would be delayed by this deferral. SSA's construction program will be carried out in a timely fashion to provide well-designed, adequate facilities.

OUTLAY EFFECT

There is no outlay effect of this deferral because the funds could not be used if made available.

Deferral No: D77-35

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Dept. of Health, Education, and Welfare	New budget authority (P.L. 94-439) $ 2,500,000
Bureau Office of the Secretary Special Institutions	Other budgetary resources 11,787,707
Appropriation title & symbol: Howard University - 75X0106 (Construction)	Total budgetary resources 14,287,707
	Amount to be deferred: Part of year $ 500,000
	Entire year --
OMB identification code: 75-0106-0-1-502 1/	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification

The amount of $2,500,000 was appropriated for Howard University (construction) in the Departments of Labor and Health, Education and Welfare Appropriation Act, 1977 (P.L. 94-439), including $500,000 earmarked by Congress for the development of Howard University's property at Beltsville, Maryland. In the Conference Report (No. 94-1384 dated August 3, 1976), the Secretary of Health, Education and Welfare was directed to submit a report to the Congress describing the proposed use of the site. The $500,000 appropriated for this project is being deferred until Congress evaluates this report.

Estimated Effect

This action will temporarily delay the construction of an animal center which would be used for research purposes for the College of Medicine, Howard University Hospital and other major components of the Health Science area.

Outlay Effect

There is no outlay effect of this deferral action since the funds are expected to be released for obligation in FY 77 after the requested report is evaluated by the Congress.

1/ The OMB identification code that appeared in the FY 77 budget was 09-70-0106-0-1-502.

Outlay Effects

There is no outlay effect of this deferral because the funds are not expected to be needed this fiscal year.

[FR Doc.76-33225 Filed 11-8-76;2:30 pm]

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CORRECTION

CODE OF FEDERAL REGULATIONS

(Revised as of October 1, 1976)

Quantity	Volume	Price	Amount
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