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Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
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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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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

[Navel Orange Reg. 397, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation increases the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period January 21–27, 1977. The quantity that may be shipped is increased due to improved market conditions for Navel oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Navel Orange Regulation 397 (42 FR 3846). The marketing picture now indicates that there is a greater demand for Navel oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Navel oranges to fill the current market demand thereby making a greater quantity of Navel oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because 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 restriction on the handling of Navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), and (ii) of § 907.697 (Naval Orange Regulation 397 (42 FR 3846)) are hereby amended to read as follows:

(i) District 1: 1,453,000 cartons;
(ii) District 2: 297,000 cartons.

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

Dated: January 26, 1977.

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

[FR Doc.77-3009 Filed 1-28-77;8:45 am]

PART 981—ALMONDS GROWN IN CALIFORNIA

Administrative Rules and Regulations; Quality Control; Correction

In FR Doc. 77–1421 appearing at page 3159 in the FEDERAL REGISTER of Monday January 17, 1977, a change on page 3160 should be made in subparagraph (6) of the third column. The words "inedibles. However, no waiver shall be granted for more than 30 percent" are added to follow "two percent".

Dated: January 26, 1977.

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

[FR Doc.77-3008 Filed 1-28-77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER II—PACKERS AND STOCKYARDS ADMINISTRATION, DEPARTMENT OF AGRICULTURE

PART 201—REGULATIONS UNDER THE PACKERS AND STOCK YARDS ACT

PART 202—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE PACKERS AND STOCKYARDS ACT

Rules Applicable to Disciplinary Proceedings, Reparation Proceedings, and Rate Proceedings

On January 4, 1977, there was published in the FEDERAL REGISTER (42 F.R. 743) a notice that the Department of Agriculture, had adopted, effective February 1, 1977, uniform rules of practice governing formal adjudicatory proceedings. The rules are applicable to all adjudicatory proceedings under Sections 203, 312, 401, 502(b), and 505 of the Packers and Stockyards Act, 1921, as supplemented (7 U.S.C. 193, 213, 218a, 218d, and 221), and Section 1, 57 Stat. 422, as amended by Section 4, 90 Stat. 1249 (7 U.S.C. 204).

The Administrator of the Packers and Stockyards Administration, as directed by the notice, publishes the following notice.

Effective February 1, 1977, the rules of practice governing disciplinary proceedings under the Packers and Stockyards Act (9 CFR 201.1, 201.22) are revoked with respect to all formal adjudicatory proceedings instituted on and after said date under the provisions of Packers and Stockyards Act referred to above. However, any of the rules of practice so revoked that are made applicable to the rules governing rate and reparation proceedings (9 CFR 202.23, 202.48) by reference, continue in effect for the purposes of such proceedings until modified by further notice.

Done at Washington, D.C., January 26, 1977.

(Section 407, 42 Stat. 169, as amended, 72 Stat. 1750, 77 Stat. 79, and 90 Stat. 1252–3; 7 U.S.C. 228; 7 CFR §§ 2.17, 2.54)

MARVIN L. MCLAIN,
Administrator, Packers and Stockyards Administration.

[FR Doc.77-2956 Filed 1-28-77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. B; Docket No. R–0031]

PART 202—EQUAL CREDIT OPPORTUNITY

Model Credit Application Forms

Pursuant to the 1976 amendments to the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.), the Board published for public comment on July 20 (41 FR 29870) and November 8, 1976 (41 FR 49123) proposed revisions of its Regulation B, which implements the Act. Since many creditors, particularly smaller ones, experienced difficulties in preparing credit application forms to comply with existing Regulation B, the Board included in its July and November proposals sample application forms. In addition, on November 24, the Board published (41 FR 51837) a proposed model residential real estate mortgage loan application.

After consideration of the numerous comments that were submitted regarding the proposed model forms, the Board has adopted revised versions of the forms, which constitute Appendix B of Regulation B as published on January 6, 1977 (42 FR 1242). Appendix B contains five model forms: One designed for use in open end, unsecured consumer credit transactions; one for closed end, secured transactions; another one for closed end transactions, whether unsecured or secured; one for use in community property situations; and one for use in residential real estate mortgage transactions.

The Appendix B forms are only models. Their use is optional. A creditor may design its own forms; use forms prepared by another person or entity; or use or modify the model forms. Proper use of the model forms assures compliance with Regulation B's requirements. Before using a model form, however, a creditor should check that use of the form complies with applicable State law. The subject of application forms is covered in § 202.5(e) of the revised regulation.

The forms will be printed as sample applications in a pamphlet containing the texts of Regulation B and the amended Equal Credit Opportunity Act. If a creditor chooses to use a model form, it should make its own reproduction arrangements using the forms as they appear in the Board's pamphlet or as printed in the FEDERAL REGISTER. Neither the Board nor the Federal Reserve Banks will print or distribute multiple copies for actual use by a creditor. Copies of the model residential real estate mortgage loan application, as modified to meet the requirements of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association (form FHLMC 65/FNMA 1003 (Rev. 3/77)), will be available for reproduction purposes from either FHLMC or FNMA.

A discussion of the changes that have been made in the forms from the November proposals follows. The revised version of Regulation B, including Appendix B, becomes effective on March 23, 1977.

COVER SHEET OF APPENDIX B

The directions printed on the cover sheet of Appendix B have been completely rewritten and expanded. As revised, the directions specify the appropriate use for each form, confirm the optional nature of the forms, and list the three informational items that a creditor is expressly authorized to add to any of the model forms. The directions also note that the model residential real estate mortgage loan application was developed in conjunction with the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association, and is substantially the same as the joint FHLMC 65/FNMA 1003 (Rev. 3/77) form. The directions state, however, that the model form must be modified as required by FHLMC and FNMA or the joint FHLMC/FNMA form must be used if a creditor intends to participate in the governmentally sponsored secondary mortgage market. The FHLMC 65/FNMA 1003 (Rev. 3/77) form, of course, complies with the requirements of the revised version of Regulation B.

NON-REAL ESTATE FORMS

While the general format of the four non-real estate model forms remains unchanged from the November proposal, several significant clarifying changes have been made.

The directions to the applicant at the head of the forms have been rewritten in an attempt to clarify those instructions. Since creditors may include, particularly in open end credit situations, an obligation agreement on the forms and since the issue of who must sign an application is a matter of policy for each creditor to decide in conformity with the requirements of § 202.7(d) of the revised regulation, the directions regarding signatures have been deleted.

While several commentators recommended that the terms "applicant" and "co-applicant" be substituted for the word "you" in the directions, the Board has decided to retain the "you." Although the use of "you" may be ambiguous when a joint applicant is involved, the substitution of "applicant" and "co-applicant" would make the directions lengthier and would, in the Board's opinion, negate any clarity obtained by the substitution.

At the request of several creditors, "birthdate" has been substituted for "age" in the inquiries about age in Sections A and B of the forms. This was done to provide birthdate information as an identifier for credit investigations and credit reporting purposes and to provide the necessary birthdate information when credit insurance is involved.

In order to obtain a more accurate picture of an applicant's disposable income, the word "net" has been inserted before "salary or commission" in both Sections A and B to clarify that the question requests after-tax take-home pay.

The notice regarding the option not to reveal alimony, child support, or separate maintenance income has been further highlighted by placing it within a rectangular box. Also included within the box is the question about the basis on which such income is paid. This was done to underscore the point that no information concerning the receipt of alimony, child support, or separate maintenance need be provided if an applicant chooses not to do so.

Since the revised regulation (§§ 202.6(b)(2)(iii) and 202.6(b)(5)) permits creditors to consider the probable continuity of an applicant's income, a question about the likelihood of a reduction in income has been added to the forms.

Since a creditor is permitted to inquire about the marital status of any party about whom information is furnished when the application is not for an unsecured, individual account, Section C has been expanded to include a request about the marital status of any such other party.

In Section D, under Assets Owned, the third column has been retitled "Subject to Debt?—Yes/No" to replace the confusing title "Encumbered?" In that same section, more space has been provided for listing automobiles, real estate, and marketable securities.

Credit references have been segregated from outstanding debts, a note has been inserted that rent payments should not be included in the Original Debt and Present Balance columns, and the Past Due column has been converted into a yes/no question.

The statement above the signature lines has been completely rewritten to simplify and clarify it. Since the criminal penalty statement would not necessarily apply in every situation and since it appeared inappropriate on a model form, it has been deleted.

Finally, since they were inappropriate in certain contexts, the words "borrow," "loan," and "lender" and similar terms have been eliminated from the forms.

REAL ESTATE FORM

The model residential real estate mortgage loan application published by the Board in November followed the form designed and currently used by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association. In cooperation with those agencies, the Board has revised the proposed form in response to the numerous and extensive comments that were submitted.

For clarification, certain abbreviations have been modified or spelled out.

The item requesting whether the property is a fee, leasehold, condominium, or planned unit development has been deleted. The request would be confusing to an applicant, and the information is better obtained at the appraisal stage.

The blocks relating to the names and manner in which title will be held have been revised to make the questions more understandable to an applicant.

The item asking who the note will be signed by has been deleted. That determination is one to be made by the creditor in compliance with § 202.7(d) of the revised regulation.

The instructions regarding the completion of the co-borrower section have been rewritten to make them clearer. A sentence has also been added to indicate that the form is designed to be completed by an applicant with the lender's assistance.

Lines for the borrower's and co-borrower's Social Security numbers have been added. This information will assist creditors in verifying and furnishing

credit history information. Also, spaces have been inserted on the front of the form for home and office telephone numbers.

A footnote has been added, specifying that present monthly housing expenses should be listed by the borrower and co-borrower on a combined basis. For purposes of a comparison between present and proposed monthly housing expenses, a combined listing makes more sense than the separate listing required in the November proposal.

Under Details of Purchase, the abbreviation "(Est.)" has been inserted on lines b, c, and j to make clear that the listed closing costs are estimates. This section is intended to assist a lender at the application stage in calculating whether an applicant has the funds to meet anticipated closing costs. It is not a substitute for the good-faith estimate of settlement costs required by the Real Estate Settlement Procedures Act.

The section at the bottom of the front of the form has been revised. The request for an explanation of a "yes" answer has been rewritten to make clear that it applies only to the questions in the left-hand column and not to the ones in the right-hand column. The first series of questions in the left column have been rephrased and separated into distinct questions. Finally, the words "sales price" have been substituted for the less definite term "value" in the last question in the column on the right.

On the reverse side, more space has been provided in the schedule of assets and liabilities, and, in the liabilities section, a column has been inserted for the name in which a debt is carried by a creditor if different from the borrower's or co-borrower's name.

The credit references section has been expanded to include a request for any other names in which the borrower or co-borrower has received credit.

The agreement has been modified to include a notice that the application will be retained by the lender. The criminal penalties provision has been deleted since it would not apply to lenders whose assets are not insured by a Federal agency or who do not make Federally insured or guaranteed loans.

The section relating to information for monitoring purposes has been changed in several respects. The title of the section and the text have been revised to underscore that the information is being sought by the Federal government, not the lender, and that furnishing the information is completely voluntary. The text has also been changed to clarify that the request for information applies only if an applicant is seeking a mortgage loan for the purchase of residential real property or the construction of a home.

In addition, the questions regarding marital status and age have been deleted from the monitoring section because their inclusion was confusing. Although marital status and age information is sought for monitoring purposes, questions relating to those items appear on the face of the form, where disclosure of the information is not optional. Furthermore, a creditor may consider that information as authorized in Regulation B.

For the reasons stated in this notice and pursuant to section 703 of the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.), the following materials are adopted as Appendix B of Regulation B (12 CFR Part 202), effective March 23, 1977.

APPENDIX B—MODEL APPLICATION FORMS

This Appendix contains five model credit application forms, each designed for use in a particular type of consumer credit transaction as indicated by the bracketed caption on each form (which should be removed prior to reproduction). The first sample form is intended for use in open end, unsecured transactions; the second for closed end, secured transactions; the third for closed end transactions, whether unsecured or secured; the fourth for use in transactions involving community property of occurring in community property States; and the fifth for use in secured residential real estate transactions. The real estate form should be used only when a lender's representative is available to assist an applicant in completing the form.

The forms contained in this Appendix are models; their use by creditors is optional. In all instances, the use or modification of these forms is governed by § 202.5(e) of this Part and the directions contained in this Appendix.

In addition to deleting any information request printed on the forms or rearranging their format, as specified in § 202.5(e), a creditor is expressly permitted to modify any of the model forms contained in this Appendix by adding any of the following three items:

(1) An inquiry about the names in which an applicant has previously received credit as authorized in § 202.5(c)(3);

(2) A request to designate a courtesy title as authorized in § 202.5(d)(3); or

(3) An inquiry about an applicant's permanent residence and United States immigration status as authorized by § 202.5(d)(5).

The fifth form contained in this Appendix, the model residential real estate mortgage loan application, was prepared in conjunction with the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association. It is substantially identical to the joint FHLMC 65/FNMA 1003 (Rev. 3/77) form, except for type face and the inclusion on the FHLMC/FNMA form of certain items required by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association. If a creditor wishes to participate in the secondary mortgage market involving the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, or Government National Mortgage Association, it should either modify the model form as specified by the Federal Home Loan Mortgage Corporation and Federal National Mortgage Association or use form FHLMC 65/FNMA 1003 (Rev. 3/77) with supporting schedule FHLMC 65A/FNMA 1003A. Use of the FHLMC 65/FNMA 1003 (Rev. 3/77) form constitutes full compliance with subsections (c) and (d) of § 202.5 of this part.

[Open end, unsecured credit]

CREDIT APPLICATION

IMPORTANT: Read these Directions before completing this Application.

Check Appropriate Box

- ☐ If you are applying for an individual account in your own name and are relying on your own income or assets and not the income or assets of another person as the basis for repayment of the credit requested, complete only Sections A and D.
- ☐ If you are applying for a joint account or an account that you and another person will use, complete all Sections, providing information in B about the joint applicant or user.
- ☐ If you are applying for an individual account, but are relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as the basis for repayment of the credit requested, complete all Sections to the extent possible, providing information in B about the person on whose alimony, support, or maintenance payments or income or assets you are relying.

SECTION A—INFORMATION REGARDING APPLICANT

Full Name (Last, First, Middle): _____ Birthdate: / /

Present Street Address: _____ Years there: _____

City: _____ State: _____ Zip: _____ Telephone: _____

Social Security No.: _____ Driver's License No.: _____

Previous Street Address: _____ Years there: _____

City: _____ State: _____ Zip: _____

Present Employer: _____ Years there: _____ Telephone: _____

Position or title: _____ Name of supervisor: _____

Employer's Address: _____

Previous Employer: _____ Years there: _____

Previous Employer's Address: _____

Present net salary or commission: $_____ per _____ No. Dependents: _____ Ages: _____

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order ☐ written agreement ☐ oral understanding ☐

Other income: $_____ per _____ Source(s) of other income: _____

Is any income listed in this Section likely to be reduced in the next two years?
☐ Yes (Explain in detail on a separate sheet.) No ☐

Have you ever received credit from us? _____ When? _____ Office: _____

Checking Account No.: _____ Institution and Branch: _____

Savings Account No.: _____ Institution and Branch: _____

Name of nearest relative not living with you: _____ Telephone: _____

Relationship: _____ Address: _____

SECTION B—INFORMATION REGARDING JOINT APPLICANT, USER, OR OTHER PARTY (Use separate sheets if necessary.)

Full Name (Last, First, Middle): _____ Birthdate: / /

Relationship to Applicant (if any): _____

Present Street Address: _____ Years there: _____

City: _____ State: _____ Zip: _____ Telephone: _____

Social Security No.: _____ Driver's License No.: _____

Present Employer: _____ Years there: _____ Telephone: _____

Position or title: _____ Name of supervisor: _____

Employer's Address: _____

Previous Employer: _____ Years there: _____

Previous Employer's Address: _____

Present net salary or commission: $_____ per _____ No. Dependents: _____ Ages: _____

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order ☐ written agreement ☐ oral understanding ☐

Other income: $_____ per _____ Source(s) of other income: _____

Is any income listed in this Section likely to be reduced in the next two years?
☐ Yes (Explain in detail on a separate sheet.) ☐ No

Checking Account No.: _____ Institution and Branch: _____

Savings Account No.: _____ Institution and Branch: _____

Name of nearest relative not living with Joint Applicant, User, or Other Party: _____ Telephone: _____

Relationship: _____ Address: _____

SECTION C—MARITAL STATUS
(Do not complete if this is an application for an individual account.)

Applicant: ☐ Married ☐ Separated ☐ Unmarried (including single, divorced, and widowed)
Other Party: ☐ Married ☐ Separated ☐ Unmarried (including single, divorced, and widowed)

SECTION D—ASSET AND DEBT INFORMATION (If Section B has been completed, this Section should be completed giving information about both the Applicant and Joint Applicant, User, or Other Person. Please mark Applicant-related information with an "A." If Section B was not completed, only give information about the Applicant in this Section.)

ASSETS OWNED (Use separate sheet if necessary.)

Description of Assets	Value	Subject to Debt? Yes/No	Name(s) of Owner(s)
Cash	$		
Automobiles (Make, Model, Year)			
Cash Value of Life Insurance (Issuer, Face Value)			
Real Estate (Location, Date Acquired)			
Marketable Securities (Issuer, Type, No. of Shares)			
Other (List)			
Total Assets	$		

OUTSTANDING DEBTS (Include charge accounts, instalment contracts, credit cards, rent, mortgages, etc. Use separate sheet if necessary.)

Creditor	Type of Debt or Acct. No.	Name in Which Acct. Carried	Original Debt	Present Balance	Monthly Payment	Past Due? Yes/No
1. (Landlord or Mortgage Holder)	☐ Rent Payment ☐ Mortgage		$ (Omit rent)	$ (Omit rent)	$	
2.						
3.						
4.						
5.						
6.						
Total Debts			$	$	$	
(Credit References)						Date Paid
1			$			
2.						

Are you a co-maker, endorser, or guarantor on any loan or contract? Yes ☐ No ☐ If "yes" for whom? To whom?

Are there any unsatisfied judgments against you? Yes ☐ No ☐ Amount $ If "yes" to whom owed?

Have you been declared bankrupt in the last 14 years? Yes ☐ No ☐ If "yes" where? Year

Other Obligations—(E.g., liability to pay alimony, child support, separate maintenance. Use separate sheet if necessary.)

Everything that I have stated in this application is correct to the best of my knowledge. I understand that you will retain this application whether or not it is approved. You are authorized to check my credit and employment history and to answer questions about your credit experience with me.

Applicant's Signature Date

(Other Signature (Where Applicable)) Date

[Closed end, secured credit]

CREDIT APPLICATION

IMPORTANT: Read these Directions before completing this Application.

Check Appropriate Box

- ☐ If you are applying for individual credit in your own name and are relying on your own income or assets and not the income or assets of another person as the basis for repayment of the credit requested, complete Sections A, C, D, and E, omitting B and the second part of C.
- ☐ If this is an application for joint credit with another person, complete all Sections, providing information in B about the joint applicant.
- ☐ If you are applying for individual credit, but are relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as the basis for repayment of the credit requested, complete all Sections to the extent possible, providing information in B about the person on whose alimony, support, or maintenance payments or income or assets you are relying.

Amount Requested _____ Payment Date Desired _____ Proceeds of Credit To be Used For _____

SECTION A—INFORMATION REGARDING APPLICANT

Full Name (Last, First, Middle): _____ Birthdate: / /

Present Street Address: _____ Years there: _____

City: _____ State: _____ Zip: _____ Telephone: _____

Social Security No.: _____ Driver's License No.: _____

Previous Street Address: _____ Years there: _____

City: _____ State: _____ Zip: _____

Present Employer _____ Years there: _____ Telephone: _____

Position or title: _____ Name of supervisor: _____

Employer's Address: _____

Previous Employer: _____ Years there: _____

Previous Employer's Address: _____

Present net salary or commission: $ _____ per _____ No. Dependents: _____ Ages: _____

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order ☐ written agreement ☐ oral understanding ☐

Other income: $ _____ per _____ Source(s) of other income: _____

Is any income listed in this Section likely to be reduced before the credit requested is paid off?
☐ Yes (Explain in detail on a separate sheet.) No ☐

Have you ever received credit from us? _____ When? _____ Office: _____

Checking Account No. _____ Institution and Branch: _____

Savings Account No. _____ Institution and Branch: _____

Name of nearest relative not living with you: _____ Telephone: _____

Relationship: _____ Address: _____

SECTION B—INFORMATION REGARDING JOINT APPLICANT OR OTHER PARTY (Use separate sheets if necessary.)

Full Name (Last, First, Middle): _____ Birthdate: / /

Relationship to Applicant (if any): _____

Present Street Address: _____ Years there: _____

City: _____ State: _____ Zip _____ Telephone: _____

Social Security No.: _____ Driver's License No.: _____

Present Employer: _____ Years there: _____ Telephone: _____

Position or title: _____ Name of supervisor: _____

Employer's Address: _____

Previous Employer: _____ Years there: _____

Previous Employer's Address: _____

Present net salary or commission: $ _____ per _____ No. Dependents: _____ Ages: _____

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order ☐ written agreement ☐ oral understanding ☐

Other income: $ _____ per _____ Source(s) of other income: _____

Is any income listed in this Section likely to be reduced before the credit requested is paid off?
☐ Yes (Explain in detail on a separate sheet.) No ☐

Checking Account No.: _____ Institution and Branch: _____

Savings Account No.: _____ Institution and Branch: _____

Name of nearest relative not living with Joint Applicant or Other Party: _____

Relationship: _____ Address: _____

SECTION C—MARITAL STATUS

Applicant: ☐ Married ☐ Separated ☐ Unmarried (including single, divorced, and widowed)
Other Party: ☐ Married ☐ Separated ☐ Unmarried (including single, divorced, and widowed)

SECTION D—ASSET AND DEBT INFORMATION (If Section B has been completed, this Section should be completed giving information about both the Applicant and Joint Applicant or Other Person. Please mark Applicant-related information with an "A." If Section B was not completed, only give information about the Applicant in this Section.)

ASSETS OWNED (Use separate sheet if necessary.)

Description of Assets	Value	Subject to Debt? Yes/No	Name(s) of Owner(s)
Cash	$		
Automobiles (Make, Model, Year)			
Cash Value of Life Insurance (Issuer, Face Value)			
Real Estate (Location, Date Acquired)			
Marketable Securities (Issuer, Type, No. of Shares)			
Other (List)			
Total Assets	$		

OUTSTANDING DEBTS (Include charge accounts, instalment contracts, credit cards, rent, mortgages, etc. Use separate sheet if necessary.)

Creditor	Type of Debt or Acct. No.	Name in Which Acct. Carried	Original Debt	Present Balance	Monthly Payments	Past Due? Yes/No
1. (Landlord or Mortgage Holder)	☐ Rent Payment ☐ Mortgage		$ (Omit cents)	$ (Omit cents)	$	
2.						
3.						
Total Debts			$	$	$	
(Credit References)						Date Paid
1.			$			
2.						

Are you a co-maker, endorser, or guarantor on any loan or contract? Yes ☐ No ☐ If "yes" for whom? To whom?

Are there any unsatisfied judgments against you? Yes ☐ No ☐ Amount $ If "yes" to whom owed?

Have you been declared bankrupt in the last 14 years? Yes ☐ No ☐ If "yes" where? Year

Other obligations—(E.g., liability to pay alimony, child support, separate maintenance. Use separate sheet if necessary.)

SECTION E—SECURED CREDIT Briefly describe the property to be given as security:

and list names and addresses of all co-owners of the property:

Name Address

If the security is real estate, give the full name of your spouse (if any):

Everything that I have stated in this application is correct to the best of my knowledge. I understand that you will retain this application whether or not it is approved. You are authorized to check my credit and employment history and to answer questions about your credit experience with me.

Applicant's Signature Date Other Signature (Where Applicable) Date

[Closed end, unsecured/secured credit]

CREDIT APPLICATION

IMPORTANT: Read these Directions before completing this Application.

Check Appropriate Box

☐ If you are applying for individual credit in your own name and are relying on your own income or assets and not the income or assets of another person as the basis for repayment of the credit requested, complete only Sections A and D. If the requested credit is to be secured, also complete the first part of Section C and Section E.

☐ If you are applying for joint credit with another person, complete all Sections except E, providing information in B about the joint applicant. If the requested credit is to be secured, then complete Section E.

☐ If you are applying for individual credit, but are relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as the basis for repayment of the credit requested, complete all Sections except E to the extent possible, providing information in B about the person on whose alimony, support, or maintenance payments or income or assets you are relying. If the requested credit is to be secured, then complete Section E.

Amount Requested _____ Payment Date Desired _____ Proceeds of Credit To be Used For _____

SECTION A—INFORMATION REGARDING APPLICANT

Full Name (Last, First, Middle): _____ Birthdate: / /

Present Street Address: _____ Years there: _____

City: _____ State: _____ Zip: _____ Telephone: _____

Social Security No.: _____ Driver's License No.: _____

Previous Street Address: _____ Years there: _____

City: _____ State: _____ Zip: _____

Present Employer: _____ Years there: _____ Telephone: _____

Position or title: _____ Name of supervisor: _____

Employer's Address: _____

Previous Employer: _____ Years there: _____

Previous Employer's Address: _____

Present net salary or commission: $_____ per _____ No. Dependents: _____ Ages: _____

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order ☐ written agreement ☐ oral understanding ☐

Other income: $_____ per _____ Source(s) of other income: _____

Is any income listed in this Section likely to be reduced before the credit requested is paid off?

☐ Yes (Explain in detail on separate sheet.) ☐ No

Have you ever received credit from us? _____ When? _____ Office _____

Checking Account No.: _____ Institution and Branch: _____

Savings Account No.: _____ Institution and Branch: _____

Name of nearest relative not living with you: _____ Telephone: _____

Relationship: _____ Address: _____

SECTION B—INFORMATION REGARDING JOINT APPLICANT OR OTHER PARTY (Use separate sheets if necessary.)

Full Name (Last, First, Middle): _____ Birthdate: / /

Relationship to Applicant (if any): _____

Present Street Address: _____ Years there: _____

City: _____ State: _____ Zip: _____ Telephone: _____

Social Security No.: _____ Driver's License No.: _____

Present Employer: _____ Years there: _____ Telephone: _____

Position or title: _____ Name of supervisor: _____

Employer's Address: _____

Previous Employer: _____ Years there: _____

Previous Employer's Address: _____

Present net salary or commission: $_____ per _____ No. Dependents: _____ Ages: _____

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order ☐ written agreement ☐ oral understanding ☐

Other income: $_____ per _____ Source(s) of other income: _____

Is any income listed in this Section likely to be reduced before the credit requested is paid off?

☐ Yes (Explain in detail on separate sheet.) ☐ No

Checking Account No.: _____ Institution and Branch: _____

Savings Account No.: _____ Institution and Branch: _____

Name of nearest relative not living with Joint Applicant or Other Party: _____ Telephone: _____

Relationship: _____ Address: _____

SECTION C—MARITAL STATUS
(Do not complete if this is an application for individual unsecured credit.)
Applicant: ☐ Married ☐ Separated ☐ Unmarried (including single, divorced, and widowed)
Other Party: ☐ Married ☐ Separated ☐ Unmarried (including single, divorced, and widowed)

SECTION D—ASSET AND DEBT INFORMATION (If Section B has been completed, this Section should be completed giving information about both the Applicant and Joint Applicant or Other Person. Please mark Applicant-related information with an "A." If Section B was not completed, only give information about the Applicant in this Section.)

ASSETS OWNED (Use separate sheet if necessary.)

Description of Assets	Value	Subject to Debt? Yes/No	Name(s) of Owner(s)
Cash	$		
Automobiles (Make, Model, Year)			
Cash Value of Life Insurance (Issuer, Face Value)			
Real Estate (Location, Date Acquired)			
Marketable Securities (Issuer, Type, No. of Shares)			
Other (List)			
Total Assets	$		

OUTSTANDING DEBTS (Include charge accounts, instalment contracts, credit cards, rent, mortgages, etc. Use separate sheet if necessary.)

Creditor	Type of Debt or Acct. No.	Name in Which Acct. Carried	Original Debt	Present Balance	Monthly Payments	Past Due? Yes/No
1. (Landlord or Mortgage Holder)	☐ Rent Payment ☐ Mortgage		$ (Omit cents)	$ (Omit cents)	$	
2.						
3.						
Total Debts			$	$	$	
(Credit References)						Date Paid
1.			$			
2.						

Are you a co-maker, endorser, or guarantor on any loan or contract? Yes ☐ No ☐ If "Yes," for whom? To whom?

Are there any unsatisfied judgments against you? Yes ☐ No ☐ Amount $ If "Yes," to whom owed?

Have you been declared bankrupt in the last 14 years? Yes ☐ No ☐ If "Yes," where? Year

Other obligations—(E.g., liability to pay alimony, child support, separate maintenance. Use separate sheet if necessary.)

SECTION E—SECURED CREDIT (Complete only if credit is to be secured.) Briefly describe the property to be given as security:

and list names and addresses of all co-owners of the property:

Name Address

If the security is real estate, give the full name of your spouse (if any):

Everything that I have stated in this application is correct to the best of my knowledge. I understand that you will retain this application whether or not it is approved. You are authorized to check my credit and employment history and to answer questions about your credit experience with me.

Applicant's Signature Date Other Signature (Where Applicable) Date

[Community property]

CREDIT APPLICATION

IMPORTANT: Read these Directions before completing this Application.

Check Appropriate Box

☐ If you are applying for individual credit in your own name, are not married, and are not relying on alimony, child support, or separate maintenance payments or on the income or assets of another person as the basis for repayment of the credit requested, complete only Sections A and D. If the requested credit is to be secured, also complete Section E.

☐ In all other situations, complete all Sections except E, providing information in B about your spouse, a joint applicant or user, or the person on whose alimony, support, or maintenance payments or income or assets you are relying. If the requested credit is to be secured, also complete Section E.

Amount Requested $ _____ Payment Date Desired _____ Proceeds of Credit To be Used For _____

SECTION A—INFORMATION REGARDING APPLICANT

Full Name (Last, First, Middle): _____ Birthdate: / /

Present Street Address _____ Years there: _____

City: _____ State: _____ Zip: _____ Telephone: _____

Social Security No.: _____ Driver's License No.: _____

Previous Street Address: _____ Years there: _____

City: _____ State: _____ Zip: _____

Present Employer: _____ Years there: _____ Telephone: _____

Position or title: _____ Name of supervisor: _____

Employer's Address: _____

Previous Employer: _____ Years there: _____

Previous Employer's Address: _____

Present net salary or commission: $ _____ per _____ No. Dependents: _____ Ages: _____

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order ☐ written agreement ☐ oral understanding ☐

Other income: $ _____ per _____ Source(s) of other income: _____

Is any income listed in this Section likely to be reduced in the next two years or before the credit requested is paid off?
☐ Yes (Explain in detail on a separate sheet.) No ☐

Have you ever received credit from us? _____ When? _____ Office: _____

Checking Account No.: _____ Institution and Branch: _____

Savings Account No.: _____ Institution and Branch: _____

Name of nearest relative not living with you _____ Telephone: _____

Relationship: _____ Address: _____

SECTION B—INFORMATION REGARDING SPOUSE, JOINT APPLICANT, USER, OR OTHER PARTY (Use separate sheets if necessary.)

Full Name (Last, First, Middle): _____ Birthdate: / /

Relationship to Applicant (if any): _____ Years there: _____

Present Street Address: _____

City: _____ State: _____ Zip: _____ Telephone: _____

Social Security No.: _____ Driver's License No.: _____

Present Employer: _____ Years there: _____ Telephone: _____

Position or title: _____ Name of supervisor: _____

Employer's Address: _____

Previous Employer: _____ Years there: _____

Previous Employer's Address: _____

Present net salary or commission: $ _____ per _____ No. Dependents: _____ Ages: _____

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order ☐ written agreement ☐ oral understanding ☐

Other income: $ _____ per _____ Source(s) of other income: _____

Is any income listed in this Section likely to be reduced in the next two years or before the credit requested is paid off?
☐ Yes (Explain in detail on a separate sheet.) ☐ No

Checking Account No.: _____ Institution and Branch: _____

Savings Account No.: _____ Institution and Branch: _____

Name of nearest relative not living with Spouse, Joint Applicant, User, or other Party: _____ Telephone: _____

Relationship: _____ Address: _____

SECTION C—MARITAL STATUS

Applicant: ☐ Married ☐ Separated ☐ Unmarried (including single, divorced, and widowed)
Other Party: ☐ Married ☐ Separated ☐ Unmarried (including single, divorced, widowed)

SECTION D—ASSET AND DEBT INFORMATION (If Section B has been completed, this Section should be completed giving information about both the Applicant and Spouse, Joint Applicant, User, or Other Person. Please mark Applicant-related information with an "A." If Section B was not completed, only give information about the Applicant in this Section.)

ASSETS OWNED (Use separate sheet if necessary.)

Description of Assets	Value	Subject to Debt? Yes/No	Name(s) of Owner(s)
Cash	$		
Automobiles (Make, Model, Year)			
Cash Value of Life Insurance (Issuer, Face Value)			
Real Estate (Location, Date Acquired)			
Marketable Securities (Issuer, Type, No. of Shares)			
Other (List)			
Total Assets	$		

OUTSTANDING DEBTS (Include charge accounts, instalment contracts, credit cards, rent, mortgages, etc. Use separate sheet if necessary.)

Name of Creditor	Type of Debt or Acct. No.	Name in Which Acct. Carried	Original Debt	Present Balance	Monthly Payments	Past Due? Yes/No
1. (Landlord or Mortgage Holder)	☐ Rent Payment ☐ Mortgage		$ (Omit rent)	$ (Omit rent)	$	
2.						
3.						
Total Debts			$	$	$	
(Credit References)						Date Paid
1.			$			
2.						

Are you a co-maker, endorser, or guarantor on any loan or contract? Yes ☐ No ☐ If "yes," for whom? To whom?

Are there any unsatisfied judgments against you? Yes ☐ No ☐ Amount $ If "yes," to whom owed?

Have you been declared bankrupt in the last 14 years Yes ☐ No ☐ If "yes," where? Year

Other obligations—(E.g., Liability to pay alimony, child support, separate maintenance. Use separate sheet if necessary.)

SECTION E—SECURED CREDIT (Complete only if credit is to be secured.) Briefly describe the property to be given as security:

and list names and addresses of all co-owners of the property:

Name	Address

Everything that I have stated in this application is correct to the best of my knowledge. I understand that you will retain this application whether or not it is approved. You are authorized to check my credit and employment history and to answer questions about your credit experience with me.

Applicant's Signature — Date — Other Signature (Where Applicable) — Date

[Residential real estate mortgage loan]

RESIDENTIAL LOAN APPLICATION

MORTGAGE APPLIED FOR:	☐ Conventional ☐ FHA ☐ VA ☐ _____	Amount $	Interest Rate %	No. of Months	Monthly Payment Principal & Interest $	Escrow/Impounds (to be collected monthly): ☐ Taxes ☐ Hazard Ins. ☐ Mtg. Ins. ☐ _____

Prepayment Option

1. SUBJECT PROPERTY

Property Street Address | City | County | State | Zip | No. Units

Legal Description (Attach description if necessary) | Year Built

Purpose of Loan: ☐ Purchase ☐ Construction-Permanent ☐ Construction ☐ Refinance ☐ Other (Explain)

Complete this line if Construction-Permanent or Construction Loan

Lot Value Data	Original Cost	Present Value (a)	Cost of Improv. (b)	Total (a + b)
Year Acquired _____	$	$	$	$

ENTER TOTAL AS PURCHASE PRICE IN DETAILS OF "6a. PURCHASE."

Complete this line if a Refinance Loan

Year Acquired	Original Cost	Amt. Existing Liens
	$	$

Purpose of Refinance | Describe Improvements ( ) made ( ) to be made | Cost: $

Title Will Be Held in What Name(s) | Manner in Which Title Will Be Held

Source of Down Payment and Settlement Charges

This application is designed to be completed by the borrower(s) with the lender's assistance. The Co-Borrower Section and all other Co-Borrower questions must be completed and the appropriate box(es) checked if ☐ another person will be jointly obligated with the Borrower on the loan, ☐ the Borrower is relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as a basis for repayment of the loan, or ☐ the Borrower is married and resides, or the property is located, in a community property state.

2. BORROWER

Name | Age | School Yrs.

Present Address | No. Years _____ ☐ Own ☐ Rent

Street _____

City/State/Zip _____

Former address if less than 2 years at present address

Street _____

City/State/Zip _____

Years at former address ☐ Own ☐ Rent

Marital Status: ☐ Married ☐ Separated ☐ Unmarried (incl. single, divorced, widowed)

Dependents other than listed by Co-borrower: No. | Ages

Name and Address of Employer | Years employed in this line of work or profession? _____ years | Years on this job _____ | ☐ Self Employed

Position/Title | Type of Business

Social Security Number | Home Phone | Business Phone

3. CO-BORROWER

Name | Age | School Yrs.

Present Address | No. Years _____ ☐ Own ☐ Rent

Street _____

City/State/Zip _____

Former address if less than 2 years at present address

Street _____

City/State/Zip _____

Years at former address ☐ Own ☐ Rent

Married ☐ Married ☐ Separated

Status ☐ Unmarried (incl. single, divorced, widowed)

Dependents other than listed by Borrower: No. | Ages

Name and Address of Employer | Years employed in this line of work or profession? _____ years | Years on this job _____ | ☐ Self Employed

Position/Title | Type of Business

Social Security Number | Home Phone | Business Phone

4. GROSS MONTHLY INCOME

Item	Borrower	Co-Borrower	Total
Base Empl. Income	$	$	$
Overtime			
Bonuses			
Commissions			
Dividends/Interest			
Net Rental Income			
Other† (Before completing, see notice under Describe Other Income below.)			
Total	$	$	$

5. MONTHLY HOUSING EXPENSE

Rent	Present* $	Proposed $
First Mortgage (P&I)		$
Other Financing (P&I)		
Hazard Insurance		
Real Estate Taxes		
Mortgage Insurance		
Homeowner Assn. Dues		
Other:		
Total Monthly Pmt.	$	$
Utilities		
Total	$	$

6. DETAILS OF PURCHASE

a. Purchase Price	$
b. Total Closing Costs (Est.)	
c. Pre Paid Escrows (Est.)	
d. Total (a+b+c)	$
e. Amount of Mortgage	( )
f. Other Financing	( )
g. Present Equity in Lot	$ ( )
h. Amount of Cash Deposit	( )
i. Closing Costs Paid by Seller	( )
j. Cash Req'd. For Closing (Est.)	$

7. DESCRIBE OTHER INCOME

B-Borrower C-Co-Borrower

NOTICE: † Alimony, child support, or separate maintenance income need not be revealed if the Borrower or Co-Borrower does not choose to have it considered as a basis for repaying this loan.

	Monthly Amount
	$

8. IF EMPLOYED IN CURRENT POSITION FOR LESS THAN TWO YEARS COMPLETE THE FOLLOWING

B/C	Previous Employer/School	City/State	Type of Business	Position/Title	Dates From/To	Monthly Income
						$

9. THESE QUESTIONS APPLY TO BOTH BORROWERS

If a "yes" answer is given to a question in this section, explain on an attached sheet.

	Borrower Yes/No	Co-Borrower Yes/No
Have you any outstanding judgments?		
In the last 14 years, have you been bankrupt?		
Have you had property foreclosed upon or given title or a deed in lieu thereof?		
Are you a co-maker or endorser on a note?		
Are you a party in a law suit?		
Are you obligated to pay alimony, child support, or separate maintenance?		
Is any part of the down payment borrowed?		

	Borrower Yes/No	Co-Borrower Yes/No
Do you have health and accident insurance?		
Do you have major medical coverage?		
Do you intend to occupy the property?		
Will this property be your primary residence?		
Have you previously owned a home?		
Sale price of previously owned home	$	$

* All Present Monthly Housing Expenses of the Borrower and Co-Borrower should be listed on a combined basis.

This statement and any applicable supporting schedules may be completed jointly by both married and unmarried co-borrowers if their assets and liabilities are sufficiently joined so that the statement can be meaningfully and fairly presented on a combined basis; otherwise separate statements and schedules are required. If the Co-Borrower section was completed about a spouse, this statement and supporting schedules must be completed about that spouse also.

☐ Completed Jointly ☐ Not Completed Jointly

STATEMENT OF ASSETS AND LIABILITIES

10. ASSETS		11. LIABILITIES			
Indicate by (*) those liabilities that will be satisfied upon sale of real estate owned or upon refinancing of property.					
Description	Cash or Market Value	Creditor's Name, Address, Account Number	Acct. Name if Not Borrower(s)	Mo. Pmt. and Mos. left to pay	Unpaid Balance
Cash Deposit Toward Purchase Held By	$	Installment Debts (include "revolving" charge accounts)		$ Pmt./Mos. /	$
Checking and Savings Accounts (Names of Institutions/ Acct. Nos.)				/	
				/	
				/	
Stocks and Bonds (No./description)		Automobile Loans		/	
Life Insurance Net Cash Value				/	
Face Amount ($)		Real Estate Loans		XXXXXX	
SUBTOTAL LIQUID ASSETS	$				
Real Estate Owned *(Enter Market Value from Schedule of Real Estate Owned)*					
Vested Interest in Retirement Fund		Other Debt, Including Stock Pledges			
Net Worth of Business Owned *(Attach Financial Stat.)*					
Automobiles (Make and Year)				/	
Furniture and Personal Property		Alimony, Child Support, and Maintenance Payments (Owed To)			XXXXXX
Other Assets (Itemize)					XXXXXX
		TOTAL MONTHLY PAYMENTS		$	XXXXXX
	A			TOTAL	B
TOTAL ASSETS	$	NET WORTH (A minus B) $		LIABILITIES	$

SCHEDULE OF REAL ESTATE OWNED (If Additional Properties Owned Attach Separate Schedule)

Address of Property (Indicate S if Sold, PS if Pending Sale or R if Rental being held for income) ⇩		Type of Property	Present Market Value	Amount of Mortgages & Liens	Gross Rental Income	Mortgage Payments	Taxes, Ins, Maintenance and Misc.	Net Rental Income
			$	$	$	$	$	$
	TOTALS		$	$	$	$	$	$

12. LIST PREVIOUS CREDIT REFERENCES

⇩ B-Borrower C-Co-Borrower	Creditor's Name and Address	Account Number	Purpose	Highest Balance	Date Paid
				$	

List any additional names under which credit has previously been received _____

AGREEMENT: The Undersigned applies for the loan indicated in this application, to be secured by a first mortgage or deed of trust on the property described herein, and represents that the property will not be used for any illegal or restricted purpose and that all statements made in this application are true and are made for the purpose of obtaining the loan. Verification may be obtained from any source named in this application. The original or a copy of this application will be retained by the lender, even if the loan is not granted.

Borrower's Signature _____ Date / / Co-Borrower's Signature _____ Date / /

VOLUNTARY INFORMATION FOR GOVERNMENT MONITORING PURPOSES

If this loan is for purchase or construction of a home, the following information is requested by the Federal Government to monitor this lender's compliance with Equal Credit Opportunity and Fair Housing Laws. The law provides that a lender may neither discriminate on the basis of this information nor on whether or not it is furnished. Furnishing this information is optional. If you do not wish to furnish the following information, please initial below.

BORROWER: I do not wish to furnish this information (initials) _____

Race/National Origin
☐ American Indian, Alaskan Native ☐ Asian, Pacific Islander ☐ Black ☐ Other (specify)

SEX ☐ Female ☐ Male
☐ Hispanic ☐ White

CO-BORROWER: I do not wish to furnish this information (initials) _____

Race/National Origin
☐ American Indian, Alaskan Native ☐ Asian, Pacific Islander ☐ Black ☐ Other (specify)

SEX ☐ Female ☐ Male
☐ Hispanic ☐ White

FOR LENDER'S USE ONLY

By order of the Board of Governors, January 14, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-2762 Filed 1-28-77;8:45 am]

[Reg. Z; FC-0038, FC-0039, FC-0040, FC-0041]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

In accordance with 12 CFR 226.1(d), the Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR 261.6.

Official staff interpretations may be reconsidered by the Board upon request of interested parties and in accordance with 12 CFR 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

This interpretation shall be effective as of January 31, 1977.

[FC-0038]

Section 226.13(j) Bankruptcy court order permitting card issuer to offset customer's debt against funds held by card issuer on deposit would be "court order" within the meaning of 13(j) and the offset would be permissible.

JANUARY 17, 1977.

This is in reply to your letter of * * *, in which you raise a question regarding offsets of credit card debts under § 169 of the Truth in Lending Act and § 226.13(j) of Regulation Z. Specifically, you ask whether a card issuer may offset a customer's credit card debt against the customer's funds held by the card issuer in a deposit account in bankruptcy proceedings in which the customer is the bankrupt. You state that under the Bankruptcy Act all creditors are entitled to offset any provable claims they may have against debts they owe the bankrupt.

This staff does not believe that it is the proper interpreter of questions regarding the meaning of the Bankruptcy Act or the resolution of potential conflicts between that Act and the Truth in Lending Act and Regulation Z. However, § 226.13(j) prohibits a card issuer from offsetting a cardholder's credit card debts against the cardholder's funds held by the card issuer in a deposit account "unless a court order is obtained." It is staff's view that if a bankruptcy court allowed a claim for a credit card debt and permitted an offset of the cardholder's funds held in deposit by the card issuer, such allowance would be a court order within the meaning of § 226.13(j) and the offset would be permissible.

This is an official staff interpretation of Regulation Z issued pursuant to § 226.1(d)(3) of the Regulation and limited in its application to the facts outlined herein. I trust this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC-0039]

§ 226.7(b) Credit unions who do not debit (or add on) finance charges for a billing cycle but take accrued finance charges out of each payment, need not show accrued finance charges as part of their disclosure under § 226.7(b)(1)(iv) or as part of the "new balance" under § 226.7(b)(1)(ix).

JANUARY 21, 1977.

This is in reply to your letter of * * *, in which you raised questions concerning the proper disclosure under Regulation Z of the finance charge and "new balance" on a credit union open end credit periodic statement. Specifically, you ask the following two questions:

1. Can a credit union extending open end credit use a periodic billing statement disclosing only the finance charge paid by the borrower during the cycle rather than the total amount of the finance charge actually incurred during the cycle and still be in compliance with § 226.7(b)(1)(iv)?

2. Can a credit union extending open end credit use a periodic billing statement showing a "new balance" which does not include all finance charges incurred during the billing cycle (as opposed to those paid) and still be in compliance with § 226.7(b)(1)(ix)?

In answering these questions we make the following factual assumptions (which are drawn from your letter, the materials accompanying your letter, and the letter from your trade association). As we understand it finance charges accrue from the application of a percentage rate to the outstanding principal balance, but there is no increase in the obligation reflected in the account from the addition of accrued finance charges to the outstanding principal balance. Instead, the appropriate portion of each payment is attributed to payment of accrued finance charges and the remainder of the payment is reflected in reduction of the principal. Consequently, finance charges are calculated by application of the percentage rate to the outstanding principal balance over the period from one payment to the next. No finance charges are debited to the account except when a payment is credited and even then there is nothing added to the outstanding obligation.

In such circumstances it is staff's opinion that disclosing the amount of finance charges actually debited to the account pursuant to payments received during the billing cycle is sufficient to comply with the requirement of § 226.7(b)(1)(iv) calling for disclosure of the finance charge imposed due to application of a periodic rate. Staff is also of the opinion that in such circumstances the "new balance" required to be disclosed by § 226.7(b)(1)(ix) need not reflect accrued finance charges, which have not been debited to the customer's account and, therefore, have not been added to the total outstanding obligation.

I trust this is responsive to your inquiry. This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the Regulation and limited in its application to the facts outlined herein.

Sincerely,

JERAULD C. KLUCKMAN
Associate Director.

[FC-0040]

§ 226.101 Creditor may quote simple annual interest rate along with APR in response to oral inquiries.

§ 226.6(c) Use of term APR not required in commitment letter, but use of simple interest rate alone may violate § 226.6(c) if commitment letter accompanies disclosure statement and interest rate not identified as component of APR.

JANUARY 18, 1977.

This is in reply to your letter of * * *, requesting an official staff interpretation concerning how interest rates may be communicated in oral transactions and in commitment letters between mortgage lenders and customers.

You state that, when customers shopping for mortgage loans make oral inquiries of what your client's current interest rate on mortgages is, the bank answers these inquiries with a statement of the simple annual interest rate and of the annual percentage rate (which includes the simple interest charge, service charge, mortgage insurance premiums, etc.). You ask whether this procedure is proper under Regulation Z.

Board Interpretation § 226.101 states that in response to a customer making oral inquiry concerning cost of credit, "a creditor when quoting annual rates should use only those rates permitted to be used in advertisements under § 226.10." Section 226.10(d)(1) states that "[w]here the total finance charge includes, as a component, interest computed at a simple annual rate, the simple annual rate may be stated in conjunction with, but not more conspicuously than, the annual percentage rate * * *." Thus it is clear that the bank may give the simple annual rate as well as the annual percentage rate in response to oral inquiries.

You ask whether the final sentence in § 226.101 changes this result. That sentence says, "Irrespective of the method used by the creditor to compute finance charges, the annual rate of the creditor's total finance charges should be quoted only in terms of the 'annual percentage rate.'" It is staff's opinion that this sentence does not contradict the conclusion reached above, i.e., that both the simple interest rate and the annual percentage rate may be quoted. This sentence merely states that when the rate for the total finance charge is given, it must be given in terms of the annual percentage rate, as opposed to an add-on or discount rate. This sentence does not preclude use of the simple annual rate to describe a component of the total finance charge.

You also ask whether the bank may state the simple interest rate in the commitment letter or whether the annual percentage rate is required. You are correct in stating that the Truth in Lending Act and Regulation Z require use of the term "annual percentage rate" on the Truth in Lending disclosure statement but do not dictate terminology to be used in commitment letters or other mortgage contract documents. However you should note that if the commitment letter is delivered to the customer together with the Truth in Lending disclosures, and if the commitment letter does not make clear that the simple interest rate is only one component of the annual percentage rate, it is possible that the statement of the simple interest rate in the commitment letter might constitute a violation of § 226.6(c), since it may mislead consumers or contradict, obscure or detract attention from the annual percentage rate disclosure required by § 226.8(b)(2).

This letter is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the Regulation and is limited to the facts presented herein. I trust that it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC-0041]

§ 226.13(a) The return and re-encoding of an existing card which had no credit privileges attached to it at the time of its unsolicited issuance is an acceptable manner of providing a credit card where the customer has signed a request or application for a card providing credit privileges.

JANUARY 21, 1977.

This is in response to your letter of * * *, concerning § 226.13(a) of Regulation Z and

certain check identification cards which you propose to issue on an unsolicited basis to your present checking account customers.

The cards would be used as a form of identification to facilitate the cashing of checks by bank customers. You also propose at the time of issuance of the card to advise your customers that at some time in the future they may have the opportunity to return their check identification card to the bank and have it encoded to permit access to automatic tellers and electronic terminals. The customer's credit line would be accessible via the encoded card, and the customer would be required to sign and forward a request for a credit card before the new card is issued. If a new card were issued to customers requesting credit privileges, clearly there would be no violation of § 226.13(a) of the Regulation. You have asked whether it would be permissible under the Regulation to re-encode the existing card to provide for credit privileges after receiving a request from the customer for such privileges rather than to issue a new card. Staff feels that the return and encoding of the existing card is an acceptable manner of providing a credit card pursuant to a request or application as you propose.

Some uncertainty may have developed regarding the staff's position on the issuance of a non-credit card where the issuer contemplates at the time of issuance that the holder will be offered a subsequent opportunity to have credit privileges attached to the card if he so requests. Staff feels that the dictates of § 132 are satisfied so long as the cardholder actually makes a specific request that credit privileges be made available on the card prior to the attachment of credit capability to the card. This means that a card issuer may send on an unsolicited basis a non-credit card usable for a specific substantive purpose(s) other than obtaining credit to any of its customers and may, at the same time or at some later date, solicit the customer to request that credit privileges be attached to the card. Accordingly, this letter supersedes Public Information Letter 916 and the last paragraph of Public Information Letter 796.

As part of your proposal, you indicate that the cards will be sent on an unsolicited basis to those customers with overdraft checking privileges as well. Staff does not agree with your initial conclusion regarding the unsolicited issuance of check identification cards to customers with overdraft checking privileges. In your letter you mentioned a series of staff public information letters on the unsolicited issuance of credit cards. That list, however, did not include Public Information Letter 717 (a copy of which is enclosed) which states that a check identification card used in conjunction with a checking account with overdraft checking privileges is a credit card and, thus, cannot be issued on an unsolicited basis. This view is also outlined in Public Information Letter 916. However, assuming the initial check identification cards were issued in response to a request or application as to those customers with overdraft privileges, then, in staff's view, no further steps regarding solicitation for issuance need be taken to convert such credit cards into cards usable in teller machines which access the overdraft line of credit. This could be done, for example, either by encoding the original card or issuing a substitute card.

This is an official staff interpretation of Regulation Z issued in accordance with § 226.1(d)(3) and is confined solely to the facts as stated. I regret our long delay in responding and hope that it has not seriously inconvenienced you.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

Enclosure.

[FC-0042]

§§ 226.2 (h) and (5) and 226.6(d). Merchant who merely supplies customer with credit card application and agreement forms and calls in the application to the card issuing bank to obtain approval of the credit card application, but does not receive a fee or other compensation for this service is not an arranger of credit under § 226.2(h) and, therefore, need not provide the disclosures required by § 226.6(d).

JANUARY 18, 1977.

This is in reply to your letter of * * *, in which you raised questions regarding the language of § 226.6(d) of Regulation Z which requires an "arranger" as defined in § 226.2 (h) to make certain § 226.8 disclosures.

In your letter you indicate that your bank proposes to provide appliance dealers with [credit card] application and agreement forms intended to comply with § 226.7(a) of the Regulation so that the dealers' customers who wish to purchase appliances on credit can obtain a [credit card] account for such purposes. Under the proposal, the dealer supplies the customer with the bank's combined application and agreement form. The customer completes the application and the agreement. The customer keeps the agreement portion and returns the completed application to the dealer. The dealer then calls in the application to the bank, and a [credit card] account is either approved or rejected by the bank within 15 to 30 minutes. If approved, the dealer, using a regular [credit card] sales slip to evidence the transaction, sells the appliance to the customer. Subsequently, the dealer mails the signed application form to the bank and, within a few weeks, the customer receives a [ ] credit card.

As you state, § 226.2(s) of Regulation Z defines "creditor" as a person who, in the ordinary course of business, regularly extends or arranges for the extension of consumer credit. Section 226.2(h) of the Regulation defines "arrange for the extension of credit" as providing or offering to provide consumer credit which is or will be extended by another person under a business relationship pursuant to which the person arranging such credit has knowledge of the credit terms and participates in the preparation of the contract documents in connection with the extension of credit. The term does not include honoring a credit card or similar device where no finance charge is imposed at the time of that transaction.

Staff is in agreement with your suggestion that the appliance dealers' activities do not constitute "arranging for the extension of credit" within the meaning of Regulation Z. In reaching this conclusion, staff assumes that the appliance dealers receive no fee, compensation, or other consideration for their services. Therefore, in accordance with § 226.2(h), the issue as to their characterization as arrangers is whether the dealers' activities are such that they have knowledge of the credit terms and participate in the preparation of the contract documents required in connection with the extension of credit. In staff's view, the fact that the appliance dealers may assist a customer in completing an application-agreement form for a credit card, which may include conveying to the credit card issuer information provided on a completed form, would not be sufficient to classify the dealers as arrangers under Regulation Z.

It is staff's understanding that in your situation the dealer is merely supplying the customer with a printed application-agreement form. When completed by the prospective customer, this form does not identify the dealer or the merchandise to be purchased. Furthermore, the approval of the application-agreement form will entitle the customer to benefits which extend beyond the purchase of the dealer's merchandise. In light of the foregoing, staff does not view the prospective customer's completing and signing the application-agreement form at a dealer's place of business or in a dealer's presence as participation by the dealer in the preparation of the contract documents. Staff is of the opinion that the appliance dealer's activities, to the extent that they are limited as described above, are not to be classified as those of an "arranger." Accordingly, the disclosure requirements of § 226.6(d) need not be made by the appliance dealer.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the Regulation and relates solely to the facts and issues presented. I apologize for the delay in replying and trust that the interpretation is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

Board of Governors of the Federal Reserve System, January 25, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-2939; Filed 1-28-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-EA-63; Amdt. 39-2818]

PART 39—AIRWORTHINESS DIRECTIVES

Narco Avionics

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Narco Avionics Emergency Locator Transmitter—ELT-10.

There have been reports of ELT-10s failing to activate as a result of corroded and broken battery leads.

Since this is a deficiency which can exist or develop in similarly designed transmitters, an airworthiness directive is being issued which will require a repetitive inspection and replacement where necessary of the battery leads and battery.

Since this is an air safety item, notice and public procedure hereon are impractical and good cause exists for making the directive effective in less than 30 days.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] § 39.13 of Part 39 of the Federal Aviation Regulations is amended by issuing a new airworthiness directive, as follows:

NARCO. Applies to all Narco Model ELT-10 Emergency Locator Transmitter batteries, with a battery replacement date prior to November 1977.

Compliance required as indicated. As a result of battery corrosion which results in

battery lead breakage and the resulting failure of the ELT to operate, accomplish the following:

(a) Within the next 90 days and thereafter, at each additional 90-day interval after the effective date of this Airworthiness Directive, accomplish the following:

1. Remove the control head from battery pack by removing four screws.

2. Check for battery leakage, which will appear as a white residue which normally occurs first around battery leads.

3. Check for corrosion at the battery terminals, printed circuit board and components.

4. Check for secure battery leads.

5. If no corrosion is found, determine ELT transmits properly in accordance with FAA Advisory Circular 91-44 or 20-81, and reinstall in accordance with paragraph 8 of the Narco Owner's Manual or approved alternate installation procedures.

6. If corrosion is found, replace battery (Narco P/N 57674-0001) with one which has a replacement date of November 1977, or later.

7. The checks required by this Airworthiness Directive may be conducted by the pilot or aircraft owner.

(Narco Service Bulletin ELT-10 No. 6, dated August 2, 1976, covers this same subject).

The Federal Aviation Agency 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.

This amendment is effective February 1, 1977.

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

Issued in Jamaica, N.Y., on January 18, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-2967 Filed 1-28-77;8:45 am]

[Docket No. 74-WE-12-AD; Amdt. 39-2819]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-10-10, -10F, -30, -30F, -40 Airplanes

Amendment 39-1812 (39 FR 12997), AD 74-08-07, as amended by Amendments 39-1928 (39 FR 30109); 39-2115 (40 FR 8795); 39-2230 (40 FR 23723) and 39-2798 (42 FR 1218) pertains to the DC-10 automatic landing system.

After issuing Amendment 39-2798, AD 74-08-07 the intent of paragraph (h) was questioned. Paragraph (h) as written, could be interpreted to require compliance with its provisions prior to conducting autolandings regardless of weather minimums: this was not our intent. The provisions of paragraph (d) or (f), as previously adopted, provided for conducting autolandings to Category II meteorological conditions. The intent of paragraph (h) is to provide for operation to Category III meteorological conditions. Therefore, the AD is being further amended to restate paragraph (h).

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), Section 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1812 (39 F.R. 12997) AD 74-08-07, as amended by Amendments 39-1928 (39 F.R. 30109), 39-2115 (40 F.R. 8795), 39-2230 (40 F.R. 23723) and 39-2798 (42 F.R. 1218) is further amended as follows:

(1) Amend paragraph (h) in pertinent part, to read:

(h) An operator may use the DC-10-10, -10F, -30, -30F, or -40 Automatic Landing System to Category III meteorological conditions for revenue service, as provided in the applicable FAA approved Airplane Flight Manuals when all of the following are accomplished:

This amendment becomes effective February 1, 1977.

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

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Los Angeles, California on January 18, 1977.

WILLIAM R. KRIEGER,
Acting Director, FAA Western Region.

[FR Doc.77-2974 Filed 1-28-77;8:45 am]

[Docket No. 77-CE-1-AD; Amdt. 39-2820]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Models 150, A150, 172, R172, 182, 206 and 208 Airplanes

An Airworthiness Directive (AD) was adopted on January 12, 1977, and made effective immediately by air mail letter to all known owners of certain serial numbers of Cessna Models 150, A150, 172, R172, 182, 206 and 207 airplanes in which either part number C301002-0101 (12 volt) or part number C301002-0102 (24 volt) wing flap actuators may be installed. This AD was issued because there have been reports of failures of the wing flap actuator ball assemblies on some of the aforementioned aircraft that could result in a total failure of the wing flap system. These failures may be caused by mall assemblies that were improperly heat treated during their manufacture and are more particularly identified by the date code OH, HH, WH or ZH stamped on the wing flap actuator assembly. Since this condition is likely to exist in other airplanes of the same type design, the AD requires immediate visual inspection of the wing flap actuator to determine the date code stamp. If the date code stamp is OH, HH, WH or ZH, the directive requires installation of a placard which prohibits flap extension until the wing flap actuator ball nut assembly is replaced with an airworthy assembly in accordance with Cessna Service Letter No. SE76-25, dated December 13, 1976. This replacement must be accomplished within 50 hours' time in service after the effective date of the AD.

Since it was found that immediate corrective action was required, notice and public procedure hereon were impracticable and contrary to the public interest and good cause existed for making this AD effective immediately to the owners of certain serial numbers of Cessna Models 150, A150, 172, R172, 182, 206 and 207 airplanes. These conditions still exist and the AD is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons who did not receive the letter of notification.

(NOTE.—The Federal Aviation Administration 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.)

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

CESSNA. Applies to the following Models and Serial Numbers of aircraft:

Models:	*Serial numbers*
150----	15078687 through 78783, 78735 through 78782, 78784 through 78789, 78791 through 78839, 78841 through 78848, 78850 through 78856, 78858 through 78865, 78867 through 78906, 78908 through 78921, 78923, 78926 through 78928, 78931, 78932, 78934 through 78938, 78940 through 78947, 78950 through 78955, 78958, 78960 through 78968, 78971 through 78973, 78976, 78977, 78978, 78980, 78981, 78984 through 78987, 78994, 78995, 78998.
A150---	A1500697 through 0706, 0709, 0711.
172----	17267789 through 67814, 67816 through 67877, 67879 through 67884, 67886 through 67957, 67959 through 67988, 67990 through 68021, 68023 through 68029, 68031 through 68053, 68055 through 68060, 68062 through 68077, 68079, 68081 through 68089, 68091 through 68097, 68099 through 68105, 68107, 68108, 68111 through 68116, 68119, 68121 through 68123, 68125 through 68129, 68131 through 68133, 68135 through 68138, 68140, 68142, 68145 through 68153, 68155 through 68158, 68160, 68161, 68163, 68167, 68168, 68170, through 68176, 68178 through 68180, 68183, 68185, 68188, 68190, 68191, 68193, 68195, 68196, 68198, 68200 through 68202, 68207, 68208, 68210, 68211, 68214 through 68217, 68219, 68226, 68239.

Models:	Serial numbers
R172	R1722028 through 2091, 2093 through 2096, 2098 through 2102, 2105 through 2108, 2111, 2112, 2115 through 2117, 2119, 2120, 2123 through 2125, 2134, 2140.
182	18265065 through 65107, 65109 through 65147, 65149 through 65158, 65160 through 65174, 65176 through 65199, 65201 through 65209, 65211, 65212, 65215 through 65219, 65222 through 65227, 65229, 65230, 65233 through 65239, 65241, 65243, 65245, 65247, 65249 through 65252, 65254.
206	U20603454 through 03469, 03471 through 03473, 03475 through 03491, 03493 through 03497, 03501 through 03505, 03507 through 03513, 03515 through 03519, 03521, 03523 through 03527, 03529 through 03534, 03536, 03538 through 03540, 03542 through 03547, 03549 through 03553, 03557, 03561, 03562.
207	20700357 through 00362, 00364 through 00367.

Compliance: Required as indicated, unless already accomplished.

To preclude failure of the wing flap system, accomplish the following:

A. Before the next flight of the affected airplanes, visually inspect the P/N C301002-0101 (12 volt) or C301002-0102 (24 volt) wing flap actuator for the date code stamp.

1. If the date code stamp on the actuator is OH, HH, WH or ZH install a placard near the flap control which reads: "FLAP EXTENSION PROHIBITED" and operate the aircraft in accordance with this limitation.

2. Within 50 hours' time in service after the effective date of this AD, replace the wing flap actuator ball nut assembly with an airworthy assembly in accordance with Cessna Service Letter SE76-25, dated December 13, 1976, or later approved revision. The placard required by Paragraph A.1. may be removed when the replacement ball nut assembly is installed.

3. If the date stamp code on the actuator is not one of those identified in Paragraph A.1., make an entry in the aircraft maintenance records indicating that this AD has been accomplished and the airplane may be returned to service.

B. Airplanes located where the inspection cannot be accomplished may be flown in accordance with FAR 21.197 to a place where the inspection may be accomplished, providing the flaps are not used for the flight.

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

NOTE 1.—The date code stamp is steel stamped into the lower side of the actuator gear housing, adjacent to the flap motor and switch bar, is visible on the lower side of the actuator as it is installed in the aircraft. Inked stamped numbers on the motor housing are to be disregarded.

NOTE 2.—The manufacturer has advised the FAA that sufficient replacement parts are available to accomplish Paragraph A.2. of this AD.

This amendment becomes effective February 3, 1977, to all persons except those to whom it was made effective earlier by air mail letters dated January 13, 1977.

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

Issued in Kansas City, Missouri, on January 19, 1977.

J. A. HARGRAVE,
Acting Director, Central Region.

[FR Doc.77-2975 Filed 1-28-77;8:45 am]

[Docket No. 75-EA-80; Amdt. 39-2821]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

On page 9365 of the FEDERAL REGISTER for March 4, 1976, the Federal Aviation Administration published a proposed rule which would require a repetitive inspection of Canadair Type CL-44D4 and CL-44J type airplane.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

It has been determined that the expected impact of the regulation is so minimal that it does not warrant an evaluation.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 F.R. 13697] § 39.13 of the Federal Aviation Regulations is amended hereby and the airworthiness directive adopted as published.

(NOTE.—The Federal Aviation Agency 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.)

This amendment is effective February 4, 1977.

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

Issued in Jamaica, N.Y., on January 21, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

CANADAIR. Applies to all CL-44D4 and CL-44J airplanes, certificated in all categories.

Compliance required within the next six months, unless already accomplished within the last six months, and thereafter at subsequent intervals not to exceed twenty-four months, after the effective date of this AD.

(a) To detect corrosion in the fuselage skin in the area where the bonding strip under the ice guards contacts the fuselage, inspect bonding strip in accordance with Canadair Service Information Circular No. 385-CL44, dated May 19, 1975, or an approved equivalent inspection.

(b) If corrosion is detected, replace bonding strips and repair fuselage skin in accordance with the circular referenced in paragraph (a) or an approved equivalent alteration.

(c) The repetitive inspection required by this AD also applies to aircraft on which the beryllium copper bonding strips have been replaced by aluminum alloy in accordance with the circular referenced in paragraph (a) or an approved equivalent part.

(d) Equivalent inspections of parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(e) Upon request, with substantiating data submitted through an FAA maintenance inspector, the compliance time of this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

[FR Doc.77-2976 Filed 1-28-77;8:45 am]

[Airspace Docket No. 76-CE-20]

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

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Chesterfield, Missouri, control zone and transition area.

The Maryland Heights VORTAC, Chesterfield, Missouri, has been decommisioned and replaced with a new facility installed near Foristell, Missouri. The Chesterfield, Missouri, control zone and transition area designations must be changed to delete that airspace specified therein which are predicated on instrument approach procedures based on the Maryland Heights VORTAC. Accordingly, action is taken herein to affect these changes.

Since these changes reduce the amount of controlled airspace and impose no additional burden on any person, notice and public procedure hereon are unnecessary and the changes may be accomplished by Final Rule action.

(NOTE.—The FAA 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.)

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective April 21, 1977, 0901 G.m.t., as hereinafter set forth:

In § 71.171 (42 FR 355), the following control zone is amended to read:

Chesterfield (Spirit of St. Louis), Missouri. Within a 5 mile radius of Spirit of St. Louis Airport (latitude 38°39'35" N, longitude 90°38'45" W). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.181 (42 FR 440), the following transition area is amended to read:

CHESTERFIELD, MISSOURI

That airspace extending upward from 700 feet above the surface within a 9 mile radius of Spirit of St. Louis Airport (latitude 38°39'35" N, longitude 90°38'45" W); within 3 miles each side of the Foristell, Missouri, VORTAC 093° radial; extending from the 9 mile radius area to 9½ miles west of the Spirit of St. Louis Airport, excluding the portion which overlies the St. Louis, Missouri, 700 foot floor transition area.

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

Issued in Kansas City, Missouri on January 21, 1977.

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

[FR Doc.77-2972 Filed 1-28-77;8:45 am]

[Airspace Docket No. 76-SW-57]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Killeen, Tex., control zone.

On December 13, 1976, a notice of proposed rule making was published in the FEDERAL REGISTER (41 FR 54187) stating the Federal Aviation Administration proposed to alter the Killeen, Tex., control zone.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.M.T., April 21, 1977, as hereinafter set forth.

In § 71.171 (42 FR 355), the Killeen, Tex., control zone is amended as follows:

KILLEEN, TEX.

Within a 5-mile radius of Fort Hood AAF (latitude 31°08'15" N., longitude 94°42'50" W.); within a 4-mile radius of Killeen Municipal Airport (latitude 31°05'10" N., longitude 97°41'05" W.); within 3 miles each side of the Hood VOR 219° radial extending from the 4-mile-radius zone to 8 miles southwest of the VOR; within a 5-mile radius of Robert Gray AAF (latitude 31°04'20" N., longitude 97°49'45" W.); within 3.5 miles each side of the 341° bearing from the NDB (latitude 31°10'03" N., longitude 97°52'41" W.), extending from the 5-mile-radius zone to 8 miles north of the NDB.

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

Issued in Fort Worth, Tex., on January 21, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-2973 Filed 1-28-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket 8795]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Harbor Banana Distributors, Inc.

Codification under 16 CFR Part 13 appears in 38 FR 5160 issued February 26, 1973.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 2, 49 Stat. 1526; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 13, 18.)

In the Matter of Harbor Banana Distributors, Inc. a corporation.

Order modifying a previous order issued January 3, 1975, 40 FR 14304, 85 FTC 7 (which modified the original order dated January 12, 1973, 38 FR 5160, 82 FTC 53), by dismissing Counts I, II, and III of the complaint, eliminating the divestiture requirements regarding Charles C. McCann Company and Tradewinds Produce, Inc.

The modifying order is as follows:

ORDER REOPENING PROCEEDING AND MODIFYING CEASE AND DESIST ORDER

On January 3, 1975, the Federal Trade Commission, pursuant to the mandate of the United States Court of Appeals for the Fifth Circuit issued its modified Cease and Desist Order requiring in Paragraph II divestiture of all assets of Charles C. McCann and Tradewinds Produce, Inc. acquired by Harbor Banana Distributors, Inc.

Section 5(b) of the Federal Trade Commission Act provides that the Commission may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by it, whenever in the opinion of the Commission conditions of fact or of law have so changed as to require such action or if the public interest shall so require.

On September 21, 1976, the Commission issued its order to respondent to show cause why the Commission should not alter and modify the modified Cease and Desist Order issued on January 3, 1975 so as to eliminate the divestiture requirement thereof. On September 30, 1976, the Commission issued its Order Correcting Order To Show Cause. Service of both of these orders on the respondent was completed on October 4, 1976.

Respondent has not filed an answer to the Order To Show Cause during the thirty (30) day period after service thereof. In this connection, Section 3.72 (b)(1) of the Commission's Procedures and Rules of Practice provides that any person not responding to the Order To Show Cause within the time allowed may be deemed to have consented to the proposed changes.

Accordingly, *It is ordered*, That the matter be reopened, and that the modified Cease and Desist Order of January 3, 1975 be altered and modified to read as follows:

I

It is ordered, That Counts I, II and III of the complaint be dismissed.

II

It is further ordered, That respondent Harbor Banana Distributors, Inc. shall not, for a period of ten (10) years from January 28, 1975, acquire, directly or indirectly, through subsidiaries, joint ventures, or otherwise, without the prior approval of the Federal Trade Commission, the whole or any part of the stock, share capital or assets of any concern engaged in the processing, sale or distribution of bananas.

III

It is further ordered, That respondent Harbor Banana Distributors, Inc. shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in its corporate organization, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of this order.

IV

It is further ordered, That Harbor Banana Distributors, Inc. shall, each year, on the anniversary of the date of service of this Order, submit in writing to the Federal Trade Commission a report setting forth in detail the manner and form in which it is complying and/or has complied with Paragraph II of this Order.

The Modifying Order was issued by the Commission December 17, 1976.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-2997 Filed 1-28-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-438]

PART 275—LOW-RENT PUBLIC HOUSING

Deletion of Certain Material

On November 18, 1976, the Department of Housing and Urban Development published a proposed rule on the reactivation of the Traditional Public Housing program for comment at 41 FR 50946 under Docket No. R-76-426. That publication sought public comments on a proposed new Part 841 to Chapter VIII of 24 CFR and stated that it was proposed to delete most of the material in Part 275 of Chapter II, and the deleted material would be incorporated in the new Part 841. Only § 275.8 of that part would be retained.

The proposed rule on Traditional Public Housing is now being issued in final form. Inasmuch as the FEDERAL REGISTER requires that amendments to separate chapters of the Code of Federal Regulations be treated in separate rules documents, the instant amendment to Part 275 of Chapter II is being issued concurrently with the publication of the final Public Housing Program—Development Phase Regulations to delete superseded portions of Part 275.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 and HUD requirements with respect thereto has been made in conjunction with Docket R-76-426. Similarly a finding of inapplicability of inflation impact statement requirements has been

made in connection with Docket R–76–426. Both findings are applicable with respect to this rule and such findings are available for inspection in the office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C., during normal business hours.

Accordingly, Part 275 of Chapter II of Title 24 of the Code of Federal Regulations is hereby amended by deleting §§ 275.1 through 275.7 and the Appendix to Part 275.

This Amendment shall be effective February 7, 1977.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing - Federal Housing Commissioner.

[FR Doc.77-2549 Filed 1-28-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7461]

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Highway Vehicles

Correction

In FR Doc. 77–1174 appearing at page 2670 in the issue of Thursday, January 13, 1977 in the third column on page 2673, paragraph (d)(2)(iii) of § 48.4061(a)–1 should read as follows:

(iii) *Certain trailers and semi-trailers specially designed to perform non-transportation functions off the public highways.* A trailer or semi-trailer is not a highway vehicle if it is specially designed to serve no purpose other than providing an enclosed stationary shelter for the carrying on of a function which is directly connected with and necessary to, and at the off-highway site of, a construction, manufacturing, processing, mining, drilling, farming, timbering, or operation similar to any one of the foregoing enumerated operations such as a trailer specially designed to serve as an office for such an operation.

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7463]

PART 404—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE TAX REFORM ACT OF 1976

Disclosure of Returns and Return Information; Correction

On Tuesday, January 25, 1977, Treasury Decision 7463 was published in the FEDERAL REGISTER (42 FR 4438).

The following corrections are made:

(1) The fourteenth line of § 404.6103(h)(2)–1(a)(2) (column one, page 4439) should be amended to read as follows: "Justice, where necessary in connection".

(2) The eleventh line of § 404.6103(h)(2)–1(b)(1) (column two, page 4439) should be amended to read as follows: "this section, but only to the extent neces-".

(3) The seventeenth line of § 404.6103(h)(2)–1(b)(1) (column two, page 4439) should be amended to read as follows: "clude, but are not limited to, disclosures".

ROBERT A. BLEY,
Acting Director, Legislation and Regulations Division.

[FR Doc.77-3020 Filed 1-28-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 683–77]

PART 50—STATEMENTS OF POLICY

Limitation for Representation of Federal Employees

AGENCY: Department of Justice.

ACTION: Statement of policy.

EFFECTIVE DATE: January 31, 1977.

SUMMARY: The attached statement of policy describes the limits within which the Department may provide for representation of Federal employees with respect to employment-related matters in which they are involved in their individual capacity. Representation in these matters is limited to state criminal proceedings, and civil and Congressional proceedings.

SUPPLEMENTARY INFORMATION: It may be helpful to set forth briefly the manner in which the representation authority set forth in the statement of policy is currently being applied. Bearing in mind that extraordinary situations may justify going to the outer limits of the guidelines, the present practice of the Department is as follows:

1. The Department will represent an employee who is sued or subpoenaed in his individual capacity, if the acts which constitute the subject of the proceeding reasonably appear to have been performed within the scope of his employment and if he is not the target of a Federal criminal investigation with respect to such actions.

2. Where, although the employee reasonably appears to have acted within the scope of his employment, a pending investigation has disclosed some evidence of his specific participation in a crime, the Department will pay for representation by a private attorney.

3. The Department will likewise pay for representation by a private attorney when several employees, otherwise entitled to representation by the Department, have sufficiently conflicting interests which in the Department's view preclude representation of each of them by the Department.

4. The Department will not represent, or pay for the representation of, any employee, if, with respect to the acts that are the subject of the representation, an indictment or information has been filed against him by the United States or a pending investigation of the Department indicates that he committed a criminal offense.

5. The Department will not provide or pay for representation where the positions taken would oppose positions maintained by the United States itself.

By virtue of the authority invested in me by 28 U.S.C. 509, Part 50 of Chapter I of Title 28 of the Code of Federal Regulations is hereby amended by addition of the following §§ 50.15 and 50.16:

§ 50.15 Representation of Federal Employees by Department of Justice Attorneys or by Private Counsel Furnished by the Department in State Criminal Proceedings and in Civil Proceedings and Congressional Proceedings in Which Federal Employees Are Sued or Subpoenaed in Their Individual Capacities.

(a) Under the procedures set forth below, a federal employee (herein defined to include former employees) may be represented by Justice Department attorneys in state criminal proceedings and in civil and Congressional proceedings in which he is sued or subpoenaed in his individual capacities, not covered by § 15.1 of this chapter.

(1) When an employee believes he is entitled to representation by the Department of Justice in a proceeding, he must submit a request for that representation, together with all process and pleadings served upon him, to his immediate supervisor or whomever is designated by the head of his department or agency, forthwith. The employee's employing federal agency shall submit to the Civil Division in a timely manner a statement, with all supporting data, as to whether the employee was acting within the scope of his employment, together with its recommendation as to whether representation should be provided. The communication between the employee and any individual acting as an attorney at his employing agency, with regard to the request for representation, shall be treated as subject to the attorney-client privilege. In emergency situations the Civil Division may initiate conditional representation after communication by telephone with the employing agency. In such cases, appropriate written data must be subsequently provided.

(2) Upon receipt of the agency's notification of request for counsel, the Civil Division will determine whether the employee's actions reasonably appear to have been performed within the scope of his employment, and whether providing representation is in the interest of the United States. If a negative determination is made, Civil Division will inform the agency and/or the employee that no representation will be provided.

(3) Where there appears to exist the possibility of a federal criminal investigation or indictment relating to the same subject matter for which repersentation is sought, the Civil Division will contact a designated official in the Criminal Division for a determination whether the employee is either a target of a federal criminal investigation or a defendant in a federal crminal case. An employee is the target of an investigation if, in addition to being circumstantially implicated by having the appropriate responsibilities at the appropriate time, there is some

evidence of his specific participation in a crime. In appropriate instances, Civil Rights and Tax Divisions and any other prosecutive authority within the Department should be contacted for a similar determination.

(4) If the Criminal, Civil Rights or Tax Division or other prosecutive authority within the Department (hereinafter "prosecuting division") indicates that the employee is not the target of a criminal investigation concerning the act or acts for which he seeks representation, then representation may be provided. Similarly, if the prosecuting division indicates that there is an ongoing investigation, but into a matter other than that for which representation has been requested, then representation may be provided.

(5) If the prosecuting division indicates that the employee is the target of a criminal investigation concerning the act or acts for which he seeks representation, Civil Division will inform the employee that no representation by Justice Department attorneys will be provided. If the prosecuting division indicates that the employee is a target of an investigation concerning the act or acts for which he seeks representation, but no decision to seek an indictment or issue an information has been made, a private attorney may be provided to the employee at federal expense under the procedures of § 50.16.

(6) If conflicts exist between the legal or factual positions of various employees in the same case which make it inappropriate for a single attorney to represent them all, the employees may be separated into as many groups as is necessary to resolve the conflict problem and each group may be provided with separate representation. Some situations may make it advisable that private representation be provided to all conflicting groups and that Justice Department attorneys be withheld so as not to prejudice particular defendants. In such situations, the procedures of § 50.16 will apply.

(7) Once undertaken, representation under this subsection will continue until either all appropriate proceedings, including applicable appellate procedures, have ended, or until any of the foregoing bases for declining or withdrawing from representation is found to exist, including without limitation the basis that representation is not in the interest of the United States. In any of the latter events, the representing Department attorney on the case will seek to withdraw but will ensure to the maximum extent possible that the employee is not prejudiced thereby.

(8) Justice Department attorneys who represent employees under this section undertake a full and traditional attorney-client relationship with the employees with respect to the attorney-client privilege. If representation is discontinued for any reason, any incriminating information gained by the attorney in the course of representing the employee continues to be subject to the attorney-client privilege. All legal arguments appropriate to the employee's case will be made unless they conflict with governmental positions. Where adequate representation requires the making of a legal argument which conflicts with a governmental position, the Department attorney shall so advise the employee.

(b) Representation by Department of Justice attorneys is not available to a federal employee whenever:

(1) The representation requested is in connection with a federal criminal proceeding in which the employee is a defendant;

(2) The employee is a target of a federal criminal investigation on the same subject matter;

(3) The act or acts with regard to which the employee desires representation do not reasonably appear to have been performed within the scope of his employment with the federal government; or

(4) It is otherwise determined by the Department that it is not in the interest of the United States to represent the employee.

§ 50.16 Representation of Federal Employees by Private Counsel at Federal Expense.

(a) Representation by private counsel at federal expense may be provided to a federal employee only in the instances described in § 50.15 (a)(5) and (a)(6).

(b) Where private counsel is provided, the following procedures will apply:

(1) The Department of Justice must approve in advance any private counsel to be retained under this section. Where national security interests may be involved, the Department of Justice will consult with the employing agency.

(2) Federal payments to private counsel for an employee will cease if the Department of Justice (i) decides to seek an indictment of or to issue an information against that employee on a federal criminal charge relating to the act or acts concerning which representation was undertaken; (ii) determines that the employee's actions do not reasonably appear to have been performed within the scope of his employment; (iii) resolves the conflict described in § 50.15(a)(6) and tenders representation by Department of Justice attorneys; (iv) determines that representation is not in the interest of the United States; (v) terminates the retainer with the concurrence of the employee-client, for any reason.

(c) In any case in which the employee is not represented by a Department of Justice attorney, the Department of Justice may seek leave to intervene or appear as amicus curiae on behalf of the United States to assure adequate consideration of issues of governmental concern.

Dated: January 19, 1977.

EDWARD H. LEVI,
Attorney General.

[FR Doc.77-2915 Filed 1-28-77;8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

Subpart H—Appendices

SPECIFIC EXEMPTIONS

On December 23, 1976, there was published in the FEDERAL REGISTER on page 55885 (41 FR 55585), a proposal to amend § 806b.58 of Subpart H (40 FR 55592), by proposing as a rule under 5 U.S.C. 552a(k) to exempt an additional system of records within the Department of the Air Force from the specified subsections of 5 U.S.C. 552a. Interested persons were invited to participate in this proposed amendment to the regulation, not later than January 15, 1977, by submitting written data, views, or arguments. No comments were received relative to that proposal. Accordingly, the proposed amendment is hereby adopted without change as set forth below.

Effective date: January 28, 1977.

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

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

JANUARY 26, 1977.

A new paragraph (l) is added to § 806b.58 to read as follows:

§ 806b.58 Specific Exemptions.

* * * * *

(l) 16802 Child Advocacy Case Files.

(1) *Exemption.* Portions of this system of records are exempt from the following subsections of Title 5, *United States Code*, section 552a:(c)(3) and (d).

(2) *Authority.* 5 U.S.C. 552a(k)(2) and (5).

(3) *Reasons.* Exemptions are needed in order to encourage persons having knowledge of abusive or neglectful acts toward children to report such information and to protect such sources from embarrassment or recriminations as well as to protect their right to privacy. It is essential that the identities of all individuals who furnish information under an express promise of confidentiality be protected. Additionally, granting individuals access to information relating to criminal and civil law enforcement, as well as the release of certain disclosure accountings, could interfere with ongoing investigations and the orderly administration of justice in that it could result in the concealment, alteration, destruction or fabrication of information; could hamper the identification of offenders or alleged offenders and the disposition of charges; and could jeopardize the safety and well-being of parents and their children.

[FR Doc.77-2964 Filed 1-28-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 677-3]

PART 439—PHARMACEUTICAL MANUFACTURING POINT SOURCE CATEGORY

Extension of Comment Period and Notice of Availability

On November 17, 1976 the Environmental Protection Agency published a notice of interim final rulemaking (41 FR 50676) establishing effluent limitations and guidelines for the pharmaceutical manufacturing point source category, based upon use of best practicable control technology currently available. The due date for comments provided in the notice was January 17, 1977.

The Agency anticipated that the document entitled "Development Document for Interim Final Effluent Limitations Guidelines and Proposed New Source Performance Standards for the Pharmaceutical Manufacturing Point Source Category," which contains information on the analysis undertaken in support of the regulation would be available to the public throughout the comment period. Production difficulties delayed the availability of this document. Copies of the document are now available and have been forwarded to those persons having submitted written requests to the Environmental Protection Agency. A limited number of additional copies are available for distribution from the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH-552.

Accordingly, the date for submission of comments is hereby extended to March 15, 1977.

Dated: January 21, 1977.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.77-2899 Filed 1-28-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20659; RM-2502; FCC 77-63]

PART 73—RADIO BROADCAST SERVICES

Requirements for Captioning of Emergency Messages on Television; Memorandum Opinion and Order

Adopted: January 19, 1977.

Released: January 28, 1977.

In the matter of Amendment of Part 73 of the rules to establish requirements for captioning of emergency messages on television.

1. The Commission has before it a petition filed by CBS Inc. (CBS) requesting partial reconsideration of our Report and Order in Docket No. 20659, RM-2502 (FCC 76-852, 41 FR 40108) released September 15, 1976, wherein Part 73 of the Rules was amended to establish requirements for visual captioning of emergency messages broadcast over television stations, effective February 1, 1977.

2. In its petition for partial reconsideration, CBS reiterates its opposition to any requirement that licensees broadcast all special news bulletins aurally as well as visually. Specifically, CBS proposes that § 73.675(b) be further revised to eliminate the requirement that emergency announcements be broadcast both aurally and visually and instead permit announcements to be transmitted, at the discretion of the licensee, either aurally and visually or just visually. CBS contends "* * * that there are numerous instances where a visual message alone would achieve the desired objective of alerting viewers to a particular emergency situation, and that it now appears that the visual display of information of the types set forth in § 76.675(a) will trigger a requirement for an audio announcement interrupting programming." CBS further contends that "To force such a construction upon this section would further serve to discourage licensees from broadcasting emergency announcements, and would certainly discourage licensees from repeating or updating them." The Public Broadcasting Service (PBS) and the American Broadcasting Companies, Inc. (ABC) concur in the CBS petition. The National Association of the Deaf (NAD) wants the Report and Order to take effect unchanged, but offers no reasons in support of its position.

3. Our September 15 Report and Order did not require the simultaneous transmission of visual and aural emergency information, but it did require that emergency announcements be transmitted both visually and aurally.

4. It was not our intention to discourage the use of captioning by imposing an aural announcement requirement on the licensee in situations where, because of the nature of the programming or the manner of its presentation, such announcements would serve no useful purpose. Accordingly, with respect to the transmitting of "NON-EBS"[1] special news bulletins under § 73.675(b), we find that the public interest would best be served by leaving aural announcements to the discretion of the licensee. Since the activation of the Emergency Broadcast System (EBS) requires the interruption of normal aural programming by the transmission of a two-tone attention signal for 20 to 25 seconds, the aural and visual announcement requirement will be retained for EBS emergency announcements in Subpart G, Part 73 of the Rules.

5. We emphasize that the only emergency situation in which a licensee must transmit an emergency bulletin is upon activation of the EBS during a National-Level Emergency. At all other times, emergency bulletins are transmited at the sole discretion of the licensee. We also stress that because not all persons with impaired hearing understand sign language, the use of only sign language or symbols is not sufficient to fulfill the intent of the new requirements. A legible message conveying the essential information is required. Methods which may be used include, but are not necessarily limited to, electronic captioning, manual methods, (e.g., hand printing), slides, or mechanical printing processes. The use of sign language or symbols may be used to supplement, but not supplant, the other methods.

6. Finally, while we are specifically concerned in this proceeding with the deaf, we are not unmindful of the need for emergency information by the blind and visually handicapped. Although the latter do not place primary reliance on television reception as a means of receiving emergency information, there are critical weather and other community-wide emergencies in which a small but undetermined number of such persons would benefit from companion aural announcements. Examples of critical emergency situations are listed in § 73.675(a) of the rules. Comments of record in this proceeding indicate an awareness of the problems of the blind by the television industry and a willingness to carry companion aural announcements when captioning for critical emergencies. In live interruptions of normal programming, this will occur automatically because of the customary placement of cameras and microphones in the television studio. Where this is not the case (for example, where captioning is used in conjunction with weather warning slides unaccompanied by audio input), we will expect that the licensee make timely aural announcements for the benefit of persons with visual handicaps.

7. Accordingly, *It is ordered*, That the CBS petition for partial reconsideration is granted and, pursuant to the authority contained in sections 1, 4(i), 4(o), 303(g), 303(r), and 405 of the Communications Act of 1934, as amended, Part 73 of the Commission's rules is amended as set forth below. Since the amendment herein ordered relaxes previously ordered restrictions and should take effect to coincide with the effective date of the earlier Report and Order in this proceeding, it shall take effect February 1, 1977 (5 USC 553(d)).

(Secs. 1, 4, 303, 405, 48 Stat., as amended, 1064, 1066, 1082, 1095; 47 U.S.C. 151, 154, 303, 405.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 73 of Chapter I, Title 47 Code of the Federal Regulations, is amended as follows:

Section 73.675(b) is amended to read as follows:

[1] E.g. News bulletins warranting interruption of scheduled programming which are not preceded by activation of the Emergency Broadcast System (EBS) at the National, State, or Local Level.

§ 73.675 Operation during emergency.

* * * * *

(b) Any emergency information transmitted in accordance with this Section shall be transmitted both aurally and visually or only visually. Television broadcast stations may use any method of visual presentation which results in a legible message conveying the essential information. Methods which may be used include, but are not necessarily limited to, slides, electronic captioning, manual methods (e.g., hand printing) or mechanical printing processes. However, when emergency operation is being conducted under a National, State, or Local Level Emergency Broadcast System (EBS) Plan, emergency announcements shall be transmitted both aurally and visually.

* * * * *

[FR Doc.77-2979 Filed 1-28-77;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 240—REGULATED COMMERCIAL FISHERIES

Northwest Atlantic Fisheries Act Regulations

Recently it has come to the attention of the National Marine Fisheries Service (NMFS) that there is confusion concerning the continued efficacy of the regulations promulgated pursuant to the Northwest Atlantic Fisheries Act, 16 U.S.C. 986. In order to clarify the position of NMFS, I am hereby announcing that, in light of the fact that the Northwest Atlantic Fisheries Act continues to be a governing Federal statute, the implementing regulations contained in 50 CFR Part 240 remain in effect with respect to U.S. fishermen and vessels.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

JANUARY 27, 1977.

[FR Doc.77-3060 Filed 1-28-77;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.

FEDERAL RESERVE SYSTEM

[12 CFR Part 261b]

[Docket No. R.0077]

GOVERNMENT IN THE SUNSHINE

Proposed Implementation

Pursuant to its authority under the Government in the Sunshine Act ("the Act"), 5 U.S.C. 552b, the Board of Governors of the Federal Reserve System proposes to amend Title 12 of the Code of Federal Regulations by adding a new Part 261b, which is required by subsection (g) of the Act. The purpose of proposed Part 261b is to provide for the procedures under which the open meeting requirements of subsections (b) through (f) of the Act will be met.

The objective of the Act is to provide the public with the fullest practicable information regarding the decision making processes of defined agencies while at the same time protecting the rights of individuals and the ability of the Government to carry out its responsibilities (§ 261b.1). Under the Act and the proposed regulations, members of the Board may not, after March 12, 1977, jointly conduct or dispose of official agency business other than in accordance with the procedures specified in this Part (§ 261b.3). Generally, such procedures require that every portion of every Board meeting be open to public observation, except when a meeting or a portion of a meeting is closed because it relates to a matter exempt from such public observation under subsection (c) of the Act (§ 261b.4).

The Board has determined that it qualifies for the use of expedited procedures for closing meetings under subsection (d)(4) of the Act because a majority of its meetings may properly be closed pursuant to paragraphs (4), (8), (9)(A) or (10) of subsection (c) of the Act or any combination thereof. The Board has examined the records of its meetings from January 1, 1974 to December 31, 1976, and determined that of the 493 meetings held, a portion or portions of 465 (94 per cent) could have been properly closed pursuant to paragraphs (4), (8), (9)(A) or (10) of subsection (c) of the Act or any combination thereof.

As a result of this finding, the regulations provide for the closing of meetings under expedited procedures (§ 261b.7) as well as for the closing of meetings under regular procedures (§ 261b.8). The proposed regulations also provide for the public announcement of meetings open to public observation and meetings to be partially or completely closed under regular procedures (§ 261b.6), changes with respect to publicly announced meetings (§ 261b.9), and certification by the General Counsel with respect to closed meetings (§ 261b.10). In addition, rules are set forth for the maintenance of transcripts, recordings, and minutes (§ 261b.11), for inspection and copying of such transcripts and minutes (§ 261b.12) and for fees related thereto (§ 261b.13).

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant views, comments, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than March 2, 1977. All material submitted should include the docket number R.0077. Such material will be made available for inspection and copying upon request.

Notice is given that it is proposed to make Part 261b effective, following consultation with the office of the Chairman of the Administrative Conference of the United States and after consideration of comments received by the Board, on March 12, 1977, the effective date of the Act.

Part 261b would read as follows:

PART 261b—RULES REGARDING PUBLIC OBSERVATION OF MEETINGS

Sec.

261b.1 Basis and scope.
261b.2 Definitions.
261b.3 Conduct of agency business.
261b.4 Meetings open to public observation.
261b.5 Exemptions.
261b.6 Public announcements of meetings.
261b.7 Meetings closed to public observation under expedited procedures.
261b.8 Meetings closed to public observation under regular procedures.
261b.9 Changes with respect to publicly announced meeting.
261b.10 Certification of general counsel.
261b.11 Transcripts, recordings, and minutes.
261b.12 Procedures for inspection and obtaining copies of transcripts and minutes.
261b.13 Fees.

AUTHORITY: Sec. 552b of Title 5, United States Code.

§ 261b.1 Basis and scope.

This part is issued by the Board of Governors of the Federal Reserve System (the "Board") under section 552b of Title 5 of the United States Code, the Government in the Sunshine Act (the "Act"), to carry out the policy of the Act that the public is entitled to the fullest practicable information regarding the decision making processes of the Board while at the same time preserving the rights of individuals and the ability of the Board to carry out its responsibilities. These regulations fulfill the requirement of subsection (g) of the Act that each agency subject to the provisions of the Act shall promulgate regulations to implement the open meeting requirements of subsections (b) through (f) of the Act.

§ 261b.2 Definitions.

For purposes of this Part, the following definitions shall apply:

(a) The term "agency" means the Board and subdivisions thereof.

(b) The term "subdivision" means any group composed of two or more Board members that is authorized to act on behalf of the Board.

(c) The term "meeting" means the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of official Board business, but does not include (1) deliberations required or permitted by subsections (d) or (e) of the Act, or (2) the conduct or disposition of official agency business by circulating written material to individual members.

(d) The term "number of individual agency members required to take action on behalf of the agency" means in the case of the Board, a majority of its members except that (1) Board determination of the ratio of reserves against deposits under section 19(b) of the Federal Reserve Act requires the vote of four members, (2) Board action with respect to advances, discounts and rediscounts under sections 10(a), 11(b) and 13(3) of the Federal Reserve Act requires the vote of five members and (3) Board action with respect to the percentage of individual member bank capital and surplus which may be represented by loans secured by stock and bond collateral under section 11(m) of the Federal Reserve Act requires the vote of six members. In the case of subdivisions of the Board, the term means the number of members constituting a quorum of the designated subdivision.

(e) The term "member" means a member of the Board appointed under section 10 of the Federal Reserve Act. In the case of certain Board proceedings pursuant to 12 U.S.C. 1818(e), the Comptroller of the Currency is entitled to sit as a member of the Board and for these proceedings he shall be deemed a "member" for the purposes of this Part. In the case of any subdivision of the Board, the term "member" means a member of the Board designated to serve on that subdivision.

(f) The term "public observation" means that the public shall have the right to listen and observe but not to record any of the meetings by means of cameras or electronic or other recording devices unless approval in advance is obtained from the Public Affairs Office of

the Board and shall not have the right to participate in the meeting, unless participation is provided for in the Board's Rules of Procedure.

(g) The term "Federal agency" means an "agency" as defined in 5 U.S.C. 551(1).

§ 261b.3 Conduct of agency business.

Members shall not jointly conduct or dispose of official agency business other than in accordance with this Part.

§ 261b.4 Meetings open to public observation.

Except as provided in § 261b.5 of this Part, every portion of every meeting of the agency shall be open to public observation.

§ 261b.5 Exemptions.

(a) The agency may close a meeting or a portion or portions of a meeting under the procedures specified in §§ 261b.7 or 2161b.8 of this Part, and withhold information under the provisions of §§ 261b.6, 261b.7, 261b.8, or 261b.11 of this Part, where the agency properly determines that such meeting or portion or portions of its meeting or the disclosure of such information is likely to:

(1) Disclose matters that are (A) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy, and (B) in fact properly classified pursuant to such Executive order;

(2) Relate solely to internal personnel rules and practices;

(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of Title 5 of the United States Code), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) 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 a Federal agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of the Board or other Federal agency responsible for the regulation or supervision of financial institutions;

(9) disclose information the premature disclosure of which would—

(i) Be likely to (A) lead to significant speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or

(ii) Be likely to significantly frustrate implementation of a proposed action,

except that subparagraph (ii) shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action, or where the Board is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern the issuance of a subpoena, participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition of a particular case of formal agency adjudication pursuant to the procedures in section 554 of Title 5 of the United States Code or otherwise involving a determination on the record after opportunity for a hearing.

(b) A meeting or portion or portions of a meeting shall not be closed nor information withheld pursuant to paragraph (a) of this section if the agency finds that the public interest requires that the meeting or portion or portions of a meeting be open to public observation or that the information not be withheld.

§ 261b.6 Public announcements of meetings.

(a) Except as otherwise provided by the Act, public announcement of meetings open to public observation and meetings to be partially or completely closed to public observation pursuant to § 261b.8 of this part will be made at least one week in advance of the meeting. Except to the extent such information is determined to be exempt from disclosure under subsection (c) of the Act and § 261b.5 of this part, each such public announcement will state the time, place and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated to respond to requests for information about the meeting.

(b) If a majority of the members of the agency determines by a recorded vote that agency business requires that a meeting covered by paragraph (a) of this section be called at a date earlier than that specified in paragraph (a) of this section, the agency will make a public announcement of the information specified in paragraph (a) of this section at the earliest practicable time.

(c) Changes in the subject matter of a publicly announced meeting, or in the determination to open or close a publicly announced meeting or any portion of a publicly announced meeting to public observation, or in the time or place of a publicly announced meeting made in accordance with the procedures specified in § 261b.9 of this Part will be publicly announced at the earliest practicable time.

(d) Public announcements required by this section will be posted at the Board's Public Affairs Office and Freedom of Information Office and may be made available by other means or at other locations as may be desirable.

(e) Immediately following each public announcement required by this section, notice of the time, place and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding announcements, and the name and telephone number of the official designated by the Board to respond to requests about the meeting, shall also be submitted for publication in the FEDERAL REGISTER.

§ 261b.7 Meetings closed to public observation under expedited procedures.

(a) Since the Board qualifies for the use of expedited procedures under subsection (d)(4) of the Act, meetings or portions thereof exempt under paragraphs (4), (8), (9)(A) or (10) of subsection (c) of the Act and § 261b.5(a) of this Part, will be closed to public observation under the expedited procedures of this section. Following are examples of types of items that, absent compelling contrary circumstances, will qualify for these exemptions: matters relating to a specific bank or bank holding company, such as bank branches or mergers, bank holding company formations, or acquisition of an additional bank or acquisition or *de novo* undertaking of a permissible nonbanking activity; bank regulatory matters, such as applications for membership, issuance of capital notes and investment in bank premises; foreign banking matters; bank supervisory and enforcement matters, such as cease-and-desist and officer removal proceedings; monetary policy matters, such as discount rates, use of the discount window, changes in the limitations on payment of interest on time and savings accounts, and changes in reserve requirements or margin regulations.

(b) At the beginning of each meeting, a portion or portions of which is closed to public observation under expedited procedures pursuant to this section, a recorded vote of the members present will be taken to determine whether a majority of the members votes to close such meeting or portions of such meeting to public observation.

(c) A copy of the vote, reflecting the vote of each member, and except to the extent such information is determined to be exempt from disclosure under subsection (c) of the Act and § 261b.5 of this part, a public announcement of the time, place and subject matter of the meeting or each closed portion thereof, will be made available at the earliest

practicable time at the Board's Public Affairs Office and Freedom of Information Office.

§ 261b.8 Meetings closed to public observation under regular procedures.

(a) A meeting or a portion of a meeting will be closed to public observation under regular procedures, or information as to such meeting or portion of a meeting will be withheld, only by recorded vote of a majority of the members of the agency when it is determined that the meeting or the portion of the meeting or the withholding of information qualifies for exemption under subsection (c) of the Act and § 261b.5 of this Part. Votes by proxy are not allowed.

(b) Except as provided in paragraph (c) of this section, a separate vote of the members of the agency will be taken with respect to the closing or the withholding of information as to each meeting or portion thereof which is proposed to be closed to public observation or with respect to which information is proposed to be withheld pursuant to this section.

(c) A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to public observation or with respect to any information concerning such series of meetings proposed to be withheld, so long as each meeting or portion thereof in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series.

(d) Whenever any person's interests may be directly affected by a portion of a meeting for any of the reasons referred to in paragraphs (5), (6) or (7) of subsection (c) of the Act and § 261b.5(a) of this part, such person may request in writing to the Secretary of the Board that such portion of the meeting be closed to public observation. The Secretary, or in his absence the Acting Secretary of the Board, will transmit the request to the members and upon the request of any one of them a recorded vote will be taken whether to close such meeting to public observation.

(e) Within one day of any vote taken pursuant to paragraphs (a) through (d) of this section, the agency will make publicly available at the Board's Public Affairs Office and Freedom of Information Office a written copy of such vote reflecting the vote of each member on the question. If a meeting or a portion of a meeting is to be closed to public observation, the agency, within one day of the vote taken pursuant to paragraphs (a) through (d) of this section, will make publicy available at the Board's Public Affairs Office and Freedom of Information Office a full, written explanation of its action closing the meeting or portion of the meeting together with a list of all persons expected to attend the meeting and their affiliation, except to the extent such information is determined by the agency to be exempt from disclosure under subsection (c) of the Act and § 261b.5 of this Part.

§ 261b.9 Changes with respect to publicly announced meeting.

The subject matter of a meeting or the determination to open or close a meeting or a portion of a meeting to public observation may be changed following public announcement under § 261b.6 only if a majority of the members of the agency determines by a recorded vote that agency business so requires and that no earlier announcement of the change was possible. Public announcement of such change and the vote of each member upon such change will be made pursuant to § 261b.6(e). Changes in time, including postponements and cancellations of a publicly announced meeting or portion of a meeting or changes in the place of a publicly announced meeting will be publicly announced pursuant to § 261b.6 (c) by the Secretary of the Board or, in the Secretary's absence, the Acting Secretary of the Board.

§ 261b.10 Certification of general counsel.

For every meeting or portion of a meeting closed to public observation under §§ 261b.7 or 261b.8 of this Part, the General Counsel, or in the General Counsel's absence, the Acting General Counsel, shall publicly certify whether or not in his or her opinion the meeting may be closed to public observation and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons present, will be retained for the time prescribed in § 261b.11(d).

§ 261b.11 Transcripts, recordings, and minutes.

(a) The agency will maintain a complete transcript or electronic recording or transcription thereof adequate to record fully the proceedings of each meeting or portion of a meeting closed to public observation pursuant to exemptions (1), (2), (3), (4), (5), (6), (7) or (9)(B) of subsection (c) of the Act and § 261b.5(a) of this part. Transcriptions of recordings will disclose the identity of each speaker.

(b) The agency will maintain either such a transcript, recording or transcription thereof, or a set of minutes that will fully and clearly describe all matters discussed and provide a full and accurate summary of any actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each member on the question), for meetings or portions of meetings closed to public observation pursuant to exemptions (8), (9)(A) or (10) of subsection (c) of the Act and § 261b.5(a) of this part. The minutes will identify all documents considered in connection with any action taken.

(c) Transcripts, recordings or transcriptions thereof, or minutes will promptly be made available to the public in the Freedom of Information office except for such item or items of such discussion or testimony as may be determined to contain information that may be withheld under subsection (c) of the Act and § 261b.5 of this part.

(d) A complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording or verbatim copy of a transcription thereof of each meeting or portion of a meeting closed to public observation will be maintained for a period of at least two years or one year after the conclusion of any agency proceeding with respect to which the meeting or portion thereof was held, whichever occurs later.

§ 261b.12 Procedures for inspection and obtaining copies of transcriptions and minutes.

(a) Any person may inspect or copy a transcript, a recording or transcription of a recording, or minutes described in § 261b.11(c) of this Part.

(b) Requests for copies of transcripts, recordings or transcriptions of recordings, or minutes described in § 261b.11(c) of this Part shall specify the meeting or the portion of meeting desired and shall be submitted in writing to the Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Copies of documents identified in minutes may be made available to the public upon request under the provisions of 12 CFR 261 (Rules Regarding Availability of Information).

§ 261b.13 Fees.

(a) Copies of transcripts, recordings or transcriptions of recordings, or minutes requested pursuant to § 261b.12(b) of this part will be provided at a cost of 10¢ per standard page for photocopying or at a cost not to exceed the actual cost of printing, typing, or otherwise preparing such copies.

(b) Documents may be furnished without charge where total charges are less than $2.

By order of the Board of Governors, January 26,1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-3016 Filed 1-28-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 76-EA-65]

CANADAIR AIRCRAFT

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending § 38.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Canadair CL-215 type airplanes.

There has been a report of cracks in the MLG wheel well angles, P/N 215-32200-60 LH and -61 RH. Since this is a deficiency which can exist or develop in

aircraft of similar type design an airworthiness directive is proposed which will require a repetitive inspection and repair where necessary. While this is an air safety item, there are at present no U.S. registered CL-215 type airplanes, and all operable airplanes have been affected by a Canadian airworthiness directive. However, the airplane is U.S. type certificated and an airworthiness directive must be issued for possible future registrations. It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

Interested parties may submit such such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Engineering and Manufacturing Branch, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before March 2, 1977 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Engineering and Manufacturing Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

In consideration of the foregoing, it is proposed to issue a new airworthiness directive as hereinafter set forth:

CANADAIR: Applies to Canadair CL-215-1A10 airplanes, Serial Nos. 1001 to 1040 inclusive, not altered with Canadair Reinforcement Kit K215-30043 or an FAA-approved equivalent.

Compliance is required as indicated.

To assure the structural integrity of the main landing gear wheel well angles, P/N 215-32200-58, -59, -60, -61, accomplish the following:

(a) On aircraft with 1000 or more hours in service, compliance with paragraph (c) is required before the next flight. The inspection of paragraph (c) must be repeated at intervals not to exceed 150 hours in service.

(b) On aircraft with less than 1000 hours in service, compliance with paragraph (c) is required at or before 1000 hours in service. The inspections of paragraph (c) must be repeated at intervals not to exceed 150 hours in service.

(c) Inspect for cracks and modify in accordance with Canadair Service Information Circular No. 104-CL-215 dated September 5, 1975, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, Eastern Region.

(d) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the compliance time in this AD.

NOTE.—The Federal Aviation Agency 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.

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

Issued in Jamaica, New York, on January 21, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.77-2971 Filed 1-28-77;8:45 am]

[14 CFR Part 39]

[Docket No. 76-EA-66]

CANADAIR AIRCRAFT

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Canadair CL-215 type airplanes.

There have been reports of corrosion on the nose landing gear door closing rods P/N 215-85009 and sequencing redundancy mechanism and rod P/N 215-85026 which could affect the structural integrity of the rods.

Since this is a deficiency which can exist or develop in aircraft of similar type design, an airworthiness directive is proposed which will require an inspection and alteration of the rods. While this is an air safety item, there are at present no U.S. registered CL-215 type airplanes, and all operable airplanes have been affected by a Canadian airworthiness directive. However, the airplane is U.S. type certificated and an airworthiness directive must be issued to cover future registrations.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Engineering and Manufacturing Branch, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before March 2, 1977 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Engineering and Manufacturing Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

In consideration of the foregoing, it is proposed to issue a new airworthiness directive as hereinafter set forth:

CANADAIR: Applies to Canadair CL-215-1A10 airplanes, Serial Numbers 1001 to 1040 inclusive, in all categories.

Compliance is required as indicated unless already accomplished.

To assure the structural integrity of the nose landing gear door closing rods, P/N 215-85009, and the sequencing redundancy mechanism rod, P/N 215-85026, accomplish the following:

(a) On aircraft that have been in service for 12 months or more, compliance with paragraph (c) is required and flight operations are restricted to land operations until compliance is shown.

(b) On aircraft that have been in service less than 12 months, compliance with paragraph (c) is required before achieving 12 months in service.

(c) Inspect and rework in accordance with Canadair Service Information Circular No. 101-CL-215 dated May 6, 1975, or an equivalent method of compliance. A later revision and an equivalent method of compliance must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(d) Upon request, with substantiating data submitted through an FAA Maintenance Inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

NOTE.—The Federal Aviation Agency has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OBM Circular A-107.

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

Issued in Jamaica, New York, on January 18, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-2968 Filed 1-28-77;8:45 am]

[14 CFR Part 39]

[Docket No. 76-CE-31-AD]

COLLINS MODEL 51RV-1 VOR/ILS RECEIVER

Airworthiness Directives; Cancellation of Advance Notice of Proposed Rulemaking

On November 1, 1976, an Advanced Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (41 FR 47946, 47947), soliciting comments regarding Proposed Rulemaking Action to correct a problem of cross modulation interference with respect to the Collins Radio Group Model 51RV-1 Navigation Receiver and possibly the communications and navigational airborne receiving equipment of other manufacturers.

The Advance Notice stated consideration would be given to all comments received on or before January 1, 1977. Five (5) comments were received. One commentator simply provided information on equipment and locations where he experienced interference problems but did not object to the proposal or offer any corrective recommendations. The other four commentators objected to further rule making action and provided specific reasons for their objection.

One of the commentators who operates 51RV1 equipped airplanes at one of the locations where problems had occurred pointed out that they had experienced no unsatisfactory performance with their receivers. This commentator pointed out that avionic failures do not occur in a particular pattern, and therefore any required repetitive maintenance schedule with respect to the 51RV1 receiver would not ensure freedom from the problem and may create an unnecessary financial burden.

Another commentator discussed the two locations where interference problems had occurred and pointed out that in one case the environment exceeded those specified in the receiver requirements of FAR 37 and that the other case resulted from a complaint that was later identified as a faulty receiver. This commentator does not believe that the experiences at these two locations justifies AD action against the receiver.

Comments received from one of the operator groups provided a detailed discussion of the interference problem and identified other receivers that have experienced interference problems and locations where they occurred. This group believes that FAA should not issue an Airworthiness Directive against the 51RV1 VOR/ILS receiver.

The last of the comments was from a 51RV1 user who had not experienced problems with its receivers. While this commentator did not feel that it was necessary to issue an AD against the 51RV1 receiver, it did recommend that FAA take action to bring the possible interference problem to the attention of the aviation community and alert them of the alignment procedures provided by Collins Service Bulletin No. 36 or Revision 10 of the VOR/ILS Overhaul Manual.

Two of the above commentators also suggested that action should be taken to investigate the interference problem and to control the environment in which the airborne receivers operate. While these suggestions are beyond the scope of the proposed action, it should be noted that the FAA has initiated action to study interference sources and their effects on various communication and navigation receivers. Responses to this Advanced Notice that include information that could be of assistance to this research will be forwarded to the FAA responsible office for that study.

Subsequent to the receipt of the above comments, FAA has reviewed the information provided along with the service history of the 51RV1 receiver and agrees that rule making action on this receiver cannot be justified at this time and is not in the public interest. In addition, information received does not justify rule making action at this time against any other airborne receiving equipment.

The FAA believes that the comment recommending that the aviation community be alerted to this problem has merit, and therefore is taking action to publish a Maintenance Alert Bulletin on this subject. This bulletin will advise all FAA field inspectors of this problem and the improved alignment procedures for this model receiver who in turn can advise owners, operators and repair shops of this information.

Cancellation of this Advance Notice of Proposed Rule Making constitutes only such action, and does not preclude the agency from taking further rule making action regarding this matter, or commit the agency to any future course of action.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), the Advance Notice of Proposed Rulemaking published in the FEDERAL REGISTER on November 1, 1976 (41 FR 47946, 47947), is hereby cancelled.

Issued in Kansas City, Missouri, on January 21, 1977.

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

[FR Doc.77-2970 Filed 1-28-77;8:45 am]

[14 CFR Part 39]

[Doc. No. 77-GL-1]

AIRWORTHINESS DIRECTIVES

McCauley Model D2AF34C56 and D2AF34C61 Series Propellers

Amendment 39-589 (33 FR 6083), AD 68-8-4, as revised by Amendment 39-604 (33 FR 7751) requires initial and periodic inspection of McCauley Model D2AF34C56 and D2AF34C61 series propeller hubs for cracks and replacement as necessary. After issuing Amendment 39-604, due to service experience, the agency determined that hub cracking and failure continued to be a problem. Therefore, the agency is considering superseding Amendment 39-589, as amended, with a new AD that requires periodic inspection of the propeller hubs for fatigue cracking until replaced by McCauley oil-filled series hubs containing a dyed oil crack detection system.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before February 22, 1977 will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In accordance with Departmental Regulatory Reform dated March 23, 1976, we have determined that the expected impact of this proposed regulation is so minimal that it does not warrant an evaluation.

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulation by adding the following new airworthiness directive.

MCCAULEY PROPELLERS. Applies to the following two-bladed, constant speed and full feathering propeller models installed on but not limited to rear engine of Cessna Model 336 and 337 series aircraft:

D2AF34C56
D2AF34C56-A
D2AF34C56-B
D2AF34C56-C
D2AF34C56-E
D2AF34C56-P
D2AF34C56-AP
D2AF34C56-BP
D2AF34C56-CP
D2AF34C56-DP
D2AF34C56-EP
D2AF34C61 or -XM
D2AF34C61-A or -AM
D2AF34C61-E or -EM
D2AF34C61-J or -JM
D2AF34C61-K or -KM
D2AF34C61-L or -LM
D2AF34C61-M
D2AF34C61-N
D2AF34C61-NKM

Compliance required as indicated, unless already accomplished. To detect propeller hub cracks and prevent possible failure, accomplish the following:

(a) Models D2AF34C56 and D2AF34C61 series listed above.

(1) Propeller hubs with less than 500 hours time in service, inspect in accordance with paragraph (d)(2) within 525 hours total time in service and reinspect in accordance with paragraph (d)(2) every 100 hours time in service from last inspection.

(2) Propeller hubs with 500 or more but less than 1200 hours time in service, inspect in accordance with paragraph (d)(2) within the next 25 hours time in service after the effective date of this AD and reinspect in accordance with paragraph (d)(2) every 100 hours time in service from last inspection.

(b) Model D2AF34C56 series listed above. Propeller hubs with 1200 or more total hours in service, or whose total time in service is unknown, remove from service and replace in accordance with paragraph (d)(1) within the next 25 hours in service after the effective date of this AD.

(c) Model D2AF34C61 series listed above. Propeller hubs with 1200 or more total hours in service or whose total time in service is unknown, inspect in accordance with paragraph (d)(3) within the next 50 hours time in service after the effective date of this AD unless already accomplished within the last 300 hours time in service and reinspect in accordance with paragraph (d)(3) every 300 hours time in service from the last inspection.

(d) Action required.

(1) Remove propeller from the aircraft, disassemble, inspect components and replace hub with an oil-filled Model D2AF34C61-XMO, -AMO, -EMO, -JMO, -KMO, -MO, -NKMO, -NO or -O in accordance with McCauley Service Bulletin No. 123 dated February 15, 1977 and Service Manual 710930.

(2) Inspect all external surfaces of propeller hub for cracks by dye penetrant method. Replace before further flight any cracked hub with a Model D2AF34C61 series oil-filled hub as in paragraph (d)(1).

(3) Remove propeller from aircraft and disassemble. Inspect all external and internal hub surfaces including retention threads for cracks using dye penetrant method in accordance with McCauley Service Letter 1974-3 dated March 29, 1974. Replace before further flight any cracked hub with a Model D2AF34C61 series oil-filled hub as in paragraph (d)(1).

(e) The foregoing inspections may be discontinued after replacement of Model D2AF 34C56 or D2AF34C61 series hubs with McCauley oil-filled hubs as in paragraph (d)(1).

This supersedes Amendment 39-589 (33 FR 6083), AD 68-8-4, as amended by Amendment 39-604 (33 FR 7751).

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 522(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McCauley Accessory Division, Cessna Aircraft Company, Box 7, Roosevelt Station, Dayton, Ohio 45417. These documents may also be examined at the Great Lakes Regional Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. 20591. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C. and at the Great Lakes Region.

NOTE—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

The incorporation by reference provisions in this document were approved by the Director of the FEDERAL REGISTER on June 19, 1967.

Issued in Des Plaines, Illinois on January 21, 1977.

LEON C. DAUGHERTY,
Acting Director,
Great Lakes Region.

[FR Doc.77-3015 Filed 1-28-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 203]

[Docket No. R-77-439]

MUTUAL MORTGAGE INSURANCE AND HOME IMPROVEMENT LOANS

Proposed Rulemaking

Title 24 CFR 203.27(a) identifies various charges which an insured lender may collect from the borrower at the closing of a HUD-insured mortgage loan under the Mutual Mortgage Insurance Program. Although a lender is justified in charging the borrower interest on such loan proceeds as are disbursed for the benefit of the borrower, current program regulations are silent as to the date from which interest may be charged. As a result, lenders arbitrarily determine a date from which interest will accrue and charge borrowers interest from that date. The date chosen, in some instances, is not the date on which the funds are actually disbursed. In such instances the borrowers costs are increased unjustifiably.

In order to protect borrowers from being overcharged interest without penalizing lenders, HUD is proposing an amendment to the regulation. Thus, it is proposed that a new paragraph (a)(5) be added to explicitly state that interest may be collected for the period between the actual disbursement and the beginning of amortization of the loan. The proposed amendment is intended to clarify the allowable time period for which interest may be charged to a mortgagor by the mortgagee.

Interested persons are invited to participate in this rulemaking by submitting written data, views or arguments with respect to this proposal. Communications should be identified by the above docket number and title, and should be filed with the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. All comments received on or before February 26, 1977, will be considered before adoption of the final rule. Copies of all comments submitted will be available for public inspection during normal business hours at the above address.

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 public inspection at the above address during regular business hours. It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-107.

In consideration of the foregoing, it is proposed to amend Part 203 of Chapter II of Title 24 of the Code of Federal Regulations as follows:

Section 203.27 is amended by adding a new paragraph (a)(5) as follows:

§ 203.27 Maximum charges, fees or discounts.

(a) The mortgagee may collect from the mortgagor the following charges, fee or discounts:

* * * * *

(5) Interest from the date on which all mortgage proceeds have been disbursed, to the mortgagor or to his creditors for his account, to the date of the beginning of amortization.

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

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing — Federal Housing Commissioner.

[FR Doc.77-2948 Filed 1-28-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

POLITICAL ORGANIZATIONS

Public Hearing on Proposed Regulations

Proposed regulations under section 527 of the Internal Revenue Code of 1954, relating to political organizations, appear in the FEDERAL REGISTER for November 24, 1976 (41 FR 51840).

A public hearing on the provisions of such proposed regulations will be held on February 24, 1977, beginning at 10 a.m. in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

The rules of § 601.601(a)(3) of the "Statement of procedural Rules" (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-566-3935. Under such § 601.601(a)(3), persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who desire to present oral comments at the hearing on such proposed regulations, should submit an outline of the comments to be presented at the hearing and the time they wish to devote to such subject by February 17, 1977. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224. Under § 601.601(a)(3) (26 CFR Part 601) each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers thereto.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of this agenda will be available free of charge at the hearing, and information with respect to its contents may be obtained on February 23, 1977, by telephoning (Washington, D.C.) 202-566-3935.

ROBERT A. BLEY,
Acting Director, Legislation and Regulations Division.

[FR Doc. 77-3019 Filed 1-28-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 82]

[CGD 76-049]

BOUNDARY LINES OF INLAND WATERS

Proposed Demarcation Line Prince William Sound, Alaska

The Coast Guard is considering establishing three lines of demarcation for inland waters in the approaches to Prince William Sound, Alaska.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments concerning the proposal to Commandant (C-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Each person submitting comments should include his name and address and organization, if any, identify the notice number (CGD 76-049), and give reasons for any recommended change in the proposal. Copies of all written comments received will be available for examination in Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C.

All comments received on or before March 17, 1977, will be fully considered before final action is taken on this proposal.

This document proposes to establish three lines of demarcation for inland waters at the approaches to Prince William Sound, Alaska. Prince William Sound provides access to the port of Valdez, Alaska, which is being used in conjunction with the Trans-Alaska Pipeline System. Valdez will be a major oil port and will experience a significant increase in shipping.

The lines of demarcation will require that all vessels transiting Prince William Sound navigate under the Inland Rules of the Road. It will eliminate the need for vessels to estimate where the International or Inland rules would apply and therefore result in increased navigational safety for vessels.

In consideration of the foregoing, it is proposed that Part 82 of Chapter I of Title 33 of the Code of Federal Regulations be amended by adding § 82.280 to read as follows:

§ 82.280 Prince William Sound, Alaska.

(a) *Hawkins Island Cutoff:* A line drawn from Point Whitshed on the Alaska Mainland at position 60°26.7′ N, 145°-52.7′ W west-southwesterly to Point Bentick aero-beacon on Hinchinbrook Island.

(b) *Hinchinbrook Entrance:* A line drawn from Cape Hinchinbrook Light northwesterly to Schooner Rock Light.

(c) *Montague Strait:* A line drawn from a point on the western end of Montague Island at postion 59°50.2′N, 147°-54.5′W northwesterly to Point Elrington Light on Elrington Island thence due west to the Alaska Mainland at Cape Puget.

(Sec. 2, 28 Stat. 672, as amended (33 U.S.C. 151); sec. 6(b)(1), Pub. L. 89-670, 80 Stat. 937 (49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).))

The Coast Guard 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.

Dated: January 25, 1977.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.77-2991 Filed 1-28-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 39]

[FRL 676-7]

LOAN GUARANTEES FOR CONSTRUCTION OF TREATMENT WORKS

Open Meeting

Notice is hereby given that an open meeting will be held by the Environmental Protection Agency (EPA) to discuss draft regulations to implement Pub. L. 94-558. That law, signed by the President on October 19, 1976, amends Title II of the Federal Water Pollution Control Act by adding a new section 213, Loan Guarantees for Construction of Treatment Works.

An Advance Notice of Proposed Rulemaking regarding this legislation was published in the FEDERAL REGISTER on November 23, 1976 (41 FR 51619). Five letters of comment were received in response to the request for comments in that notice. All have been carefully considered in the development of the draft regulations to be discussed at the open meeting. The comments are on file at the Public Information Reference Unit, EPA Headquarters, Room 2922 Waterside Mall, 401 M Street, S.W., Washington, D.C., and may be inspected between 8:00 a.m. and 4:30 p.m. at that location.

The open meeting will be held on Monday, February 14, 1977, beginning at 9:00 a.m. in Room 2409 of the Waterside Mall (EPA Headquarters) at 401 M Street S.W., Washington, D.C. The draft to be discussed will be made available in advance of the meeting to all persons requesting it. Parties interested in attending the meeting or in obtaining a copy of the draft to be discussed are requested to telephone 202 755-0374 so that appropriate arrangements can be made.

Parties interested in submitting written comments on the draft, either instead of, or supplemental to, participation in the open meeting, may do so until February 14, 1977. All comments must be submitted in triplicate, either at the meeting or by mail to the Director, Grants Administration Division (PM-216), Attention: Loan Guarantee Regulations, Environmental Protection Agency, Washington, D.C. 20460. Comments will be retained on file at the Public Information Reference Unit, Room 2922, Waterside Mall, and may be inspected between 8:00 a.m. and 4:30 p.m. at that location.

No applications for assistance under this loan guarantee program will be accepted by the Agency until interim or final rules are promulgated.

Dated: January 27, 1977.

ALVIN L. ALM,
Assistant Administrator for Planning and Management.

[FR Doc.77-3070 Filed 1-28-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

[45 CFR Part 702]

GOVERNMENT IN THE SUNSHINE ACT

Notice of Proposed Rulemaking

AGENCY: U.S. Commission on Civil Rights.

ACTION: Proposed rules.

SUMMARY: These rules propose to establish procedures for the conduct of meetings of the Commissioners of the U.S. Commission on Civil Rights in accordance with the Government in the Sunshine Act, U.S.C. 552b, Pub. L. No. 94-409. Required by 5 U.S.C. 552b (g) of that Act, these rules are intended to open to public observation the decisionmaking processes of the Commission to the fullest extent practicable without sacrificing the rights of individuals, or the ability of the Commission to carry out its statutorily mandated responsibilities.

DATES: Comments on these proposed rules are invited and will be accepted until March 1, 1977. The final rules will be effective on March 12, 1977.

ADDRESSES: Comments may be addressed to the General Counsel, U.S. Commission on Civil Rights, 1121 Vermont Avenue, N.W., Washington, D.C. 20425.

FOR FURTHER INFORMATION CONTACT: Jack Hartog, Office of General Counsel, U.S. Commission on Civil Rights, 1121 Vermont Avenue, N.W., Washington, D.C. 20425, (202) 254-6690.

SUPPLEMENTARY INFORMATION: These proposed rules will govern all Commission meetings. After defining in § 702.51 the terms used, § 702.52 of these rules proposes that all Commission meetings be open to the public, except when they involve the few carefully defined situations outlined in § 702.53. Meetings concerning such information may be closed. Section 702.54 will relate the procedures the Commission must follow if it wishes to close all or part of a meeting or withhold information pertaining to a closed meeting. Section 702.55 will assure public knowledge of Commission meetings by requiring timely public announcements of the time, place and subject matter of Commission meetings, and whether they will be open or closed. Section 702.56 will list the records which the Commission will retain to indicate its conformity with the requirements of these rules. Section 702.57 will provide a means for persons questioning Commission compliance with these rules to have

their concerns answered promptly by the Commission.

These rules also propose to change the title of Part 702 to "Rules on Hearings, Reports and Meetings of the Commission." The rules presently contained in Part 702 will become "subpart A" and a new "subpart B" will contain the Government in the Sunshine rules described in this preamble.

ARTHUR S. FLEMMING,
Chairman.

JANUARY 26, 1977.

1. The heading of Part 702 of Title 45 is amended to read:

PART 702—RULES ON HEARINGS, REPORTS AND MEETINGS OF THE COMMISSION

2. Section 702.1–702.18 presently existing in Part 702 are designated "Subpart A—Hearings and Reports."

3. A new "Subpart B—Meetings" is added to Part 702 of Title 45, which is as follows:

Subpart B—Meetings

Sec.

702.50 Purpose and scope.
702.51 Definitions.
702.52 Open meeting requirements.
702.53 Closed meetings.
702.54 Closed meeting procedures.
702.55 Public announcement of meetings.
702.56 Records.
702.57 Administrative review.

Subpart B—Meetings

§ 702.50 Purpose and scope.

This section contains the regulations of the U.S. Commission on Civil Rights implementing sections (a)–(f) of 5 U.S.C. 552b, the "Government in the Sunshine Act." They are adopted to further the principle that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Commission. They open to public observation meetings of the Commissioners of the U.S. Commission on Civil Rights except where the rights of individuals are involved or the ability of the Commission to carry out its responsibilities requires confidentiality.

§ 702.51 Definitions.

(a) *Commission* means the U.S. Commission on Civil Rights and any Subcommittee of the Commission authorized under 42 U.S.C. 1975d(f).

(b) *Commissioner* means a member of the U.S. Commission on Civil Rights appointed by the President under 42 U.S.C. 1975(b).

(c) *General Counsel* means the General Counsel of the U.S. Commission on Civil Rights.

(d) *Meeting* means the deliberations of at least the number of Commissioners required to take action on behalf of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business.

(1) The number of Commissioners required to take action on behalf of the Commission is four, except that such number is two when the Commissioners are a Subcommittee of the Commission authorized under 42 U.S.C. 1975d(f).

(2) Deliberations among Commissioners regarding the setting of the time, place or subject matter of a meeting, whether the meeting is open or closed, whether to withhold information discussed at a closed meeting, and any other deliberations required or permitted by 5 U.S.C. § 552b (d) and (e) and § 702.54 and § 702.55 of this subpart, are not meetings for the purposes of this subpart.

(3) The consideration by Commissioners of Commission business which is not discussed through conference calls or a series of two party calls by the number of Commissioners required to take action on behalf of the Commission is not a meeting for the purposes of this subpart.

(e) *Public announcement* or *publicly announce* means the use of reasonable methods, such as the posting on Commission public notice bulletin boards and the issuing of press releases, to communicate information to the public regarding Commission meetings.

(f) *Staff Director* means the Staff Director of the U.S. Commission on Civil Rights.

§ 702.52 Open meeting requirements.

(a) Every portion of every Commission meeting shall be open to public observation, except as provided in § 702.53 of this subpart. Commissioners shall not jointly conduct or dispose of agency business other than in accordance with this subpart.

(b) This subpart gives the public the right to attend and observe Commission open meetings; it confers no right to participate in any way in such meetings.

(c) The Staff Director shall be responsible for making physical arrangements for Commission open meetings which provide ample space, sufficient visibility and adequate acoustics for public observation.

(d) The presiding Commissioner at an open meeting may exclude persons from a meeting and shall take all steps necessary to preserve order and decorum.

§ 702.53 Closed meetings.

(a) The Commission may close a portion or portions of a meeting and withhold information pertaining to such meeting when it determines that the public interest does not require otherwise and when such portion or portions of a meeting or the disclosure of such information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive Order;

(2) Disclose information relating solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided, that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record received by the Commission from a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information received by the Commission and contained in or related to examination, 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;

(9) Disclose information the premature disclosure of which would (i) In the case of information received by the Commission from an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (A) lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or (ii) be likely to significantly frustrate implementation of a proposed action, except that paragraph (ii) shall not apply in any instance where the Commission has already disclosed to the public the content or nature of its proposed action, or where the Commission is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern the Commission's issuance of a subpena, or the Commission's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration.

§ 702.54 Closed meeting procedures.

(a) A meeting or portion thereof will be closed, and information pertaining to a closed meeting will be withheld, only

after four Commissioners when no Commissioner's position is vacant, or three Commissioners when there is such a vacancy, or two Commissioners on a subcommittee authorized under 42 U.S.C. 1975d(f), vote to take such action.

(b) A separate vote shall be taken with respect to each meeting a portion or portions of which is proposed to be closed to the public under § 702.53, and with respect to any information to be withheld under § 702.53.

(1) A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as:

(i) Each meeting in such series involves the same particular matters, and

(ii) Is scheduled to be held no more than thirty (30) days after the initial meeting in such series.

(c) The Commission will vote on the question of closing a meeting or portion thereof and withholding information under paragraph 702.54(b) if one Commissioner calls for such a vote. The vote of each Commissioner participating in a vote to close a meeting shall be recorded and no proxies shall be allowed.

(1) If such vote is against closing a meeting and withholding information, the Staff Director, within one working day of such vote, shall make publicly available by putting in a place easily accessible to the public a written copy of such vote reflecting the vote of each Commissioner.

(2) If such vote is for closing a meeting and withholding information, the Staff Director, within one working day of such vote, shall make publicly available by putting in a place easily accessible to the public:

(i) A full written explanation of the decision to close the meeting or portions thereof (such explanation will be as detailed as possible without revealing the exempt information);

(ii) A list of all persons other than staff members expected to attend the meeting and their affiliation (the identity of persons expected to attend such meeting will be withheld only if revealing their identity would reveal the exempt information which is the subject of the closed meeting).

(d) Prior to any vote to close a meeting or portion thereof under § 702.54(c) the Commissioners shall obtain from the General Counsel his or her opinion as to whether the closing of a meeting or portions thereof is in accordance with paragraphs (1)–(10) of § 702.53(a).

(1) For every meeting closed in accordance with paragraphs (1)–(10) of § 702.53(a), the General Counsel shall publicly certify in writing that, in his or her opinion, the meeting may be closed to the public and shall cite each relevant exemptive provision.

(e) For all meetings closed to the public, the Commission shall maintain a complete verbatim transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting which sets forth the time and place of the meeting and the persons present.

(1) In the case of a meeting, a portion of a meeting, closed to the public pursuant to paragraphs (8), (9)(i)(A), or (10) of § 702.53(a), the Commission may retain a set of minutes;

(i) such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(f) Any person whose interests may be directly affected by a portion of a meeting may request that such portion be closed to the public under § 702.53 or that it be open to the public if the Commission has voted to close the meeting pursuant to § 702.53(a) (5) or (6). The Commission will vote on the request if one Commissioner asks that a vote be taken.

(1) Such requests shall be made to the Staff Director within a reasonable amount of time after the meeting or vote in question is publicly announced.

§ 702.55 Public announcement of meetings.

(a) *Agenda:* The Staff Director shall set as early as possible but in any event at least eight calendar days before a meeting, the time, place and subject matter for the meeting.

(1) Agenda items will be identified in detail adequate to inform the general public of the specific business to be discussed at the meeting.

(b) *Notice:* The Staff Director, as early as possible but in any event at least eight calendar days before a meeting, shall make public announcement of:

(1) The time of the meeting;

(2) Its place;

(3) Its subject matter;

(4) Whether it is open or closed to the public; and

(5) The name and phone number of a Commission staff member who will respond to requests for information about the meeting.

(c) *Changes:* (1) The time of day or place of a meeting may be changed following the public announcement required by § 702.55(b) of this subpart, if the Staff Director publicly announces such change at the earliest practicable time subsequent to the decision to change the time of day or place of the meeting.

(2) The date of a meeting may be advanced following the public announcement required by § 702.55(b), or a meeting may be scheduled less than eight calendar days in advance, if:

(i) Four Commissioners when no Commissioner's position is vacant, or three Commissioners when there is such a vacancy, or two Commissioners on a Subcommittee authorized under 42 U.S.C. 1975d(f), determine by recorded vote that Commission business requires such a meeting at an earlier date; and

(ii) The Staff Director, at the earliest practicable time following such vote, makes public announcement of the time, place and subject matter of such meeting, and whether it is open or closed to the public.

(3) The subject matter of a meeting or the determination to open or close a meeting or a portion of a meeting to the public, may be changed following the public announcement required by 702.55(b) of this subpart if:

(i) Four Commissioners when no Commissioner's position is vacant, or three Commissioners when there is such a vacancy, or two Commissioners on a Subcommittee authorized under 42 U.S.C. 1975d(f), determine by recorded vote that Commission business so requires; and

(ii) The Staff Director publicly announces such change and the vote of each Commissioner upon such change at the earliest practicable time subsequent to the decision to make such change.

(d) *Federal Register:* Immediately following all public announcements required by § 702.55(b) and (c) of this subpart, notice of the time, place and subject matter of a meeting, whether the meeting is open or closed to the public, any change in one of the preceding, and the name and phone number of the official designated by the Commission to respond to requests for information about meeting, shall be submitted for publication in the FEDERAL REGISTER.

(1) Notice of a meeting will be published in the FEDERAL REGISTER even after the meeting which is the subject of the notice has occurred in order to provide a public record of all Commission meetings.

§ 702.56 Records.

(a) The Commission shall promptly make available to the public in an easily accessible place at Commission headquarters the following materials:

(1) A copy of the certification by the General Counsel required by § 702.54(e)(1).

(2) A copy of all recorded votes required to be taken by these rules.

(3) A copy of all announcements published in the FEDERAL REGISTER pursuant to this subpart.

(4) Transcripts, electronic recordings and minutes of closed meetings determined not to contain items of discussion or information which may be withheld under § 702.53.

(i) Copies of such material will be furnished to any person at the actual cost of transcription or duplication.

(b) Requests to review or obtain copies of records compiled under this Act, other than transcripts, electronic recordings or minutes of a closed meeting, will be processed under the Freedom of Information Act and, where applicable, the Privacy Act regulations of the Commission (Parts 704 and 706, respectively, of this title). Nothing in this subpart expands or limits the present rights of any person under these rules with respect to such requests.

(1) Requests to review or obtain copies of transcripts, electronic recordings or minutes of meetings of a closed meeting

maintained under § 702.54(e) and not released under § 702.56(a)(4) shall be directed to the Staff Director who shall respond to such requests within ten (10) working days.

(c) The Commission shall maintain a complete verbatim copy of the transcript, a complete copy of minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of two years after such meeting, or until one year after the conclusion of any agency proceeding with respect to which the meeting or portion was held, whichever occurs later.

§ 702.57 Administrative review.

(a) Any person who believes a Commission action governed by this subpart to be contrary to the provisions of this subpart shall file in writing with the Staff Director an objection specifying the violation and suggesting corrective action. Whenever possible, the Staff Director shall respond within ten (10) working days of the receipt of such objections.

[FR Doc.77-2986 Filed 1-28-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 76]

[Docket No. 21002; RM-2695; 2723]

APPLICATIONS FOR CERTIFICATES OF COMPLIANCE AND FEDERAL-STATE/LOCAL REGULATORY RELATIONSHIPS

Order Extending Comment Period

Adopted: January 19, 1977.

Released: January 25, 1977.

In the matter of amendment of Subparts B and C of Part 76, of the Commission's rules pertaining to applications for certificates of compliance and Federal-State/Local Regulatory Relationships, Docket No. 21002, RM-2695, RM-2723.[1]

1. Comments in this proceeding are now due January 31, 1977, and reply comments on or before March 2, 1977. The League of California Cities has requested a 30 day extension of these filing dates. The additional time is said to be needed in order to complete a survey of California Cities which will better enable the League to determine its position and file comments in this matter.

2. The staff of the Cable Television Information Center also seeks an extension of the filing dates. They state that there has been some time delay in information concerning this proceeding reaching municipalities. The additional time is necessary in order to allow time for municipalities to prepare and submit comments.

3. Good cause therefore having been shown, the requested time extension will be granted.

Accordingly, it is ordered, That the dates for filing comments and reply comments in the captioned proceeding are extended to March 1, 1977 and April 1, 1977, respectively.

[1] See 41 FR 54506, December 14, 1976.

This action is taken by the Chief, Cable Television Bureau pursuant to authority delegated by § 0.288(a) of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
JAMES R. HOBSON,
Chief, Cable Television Bureau.

[FR Doc.77-2925 Filed 1-28-77;8:45 am]

[47 CFR Part 97]

[Docket No. 21033; RM-2664; 2780]

AMATEUR RADIO STATIONS

Inquiry and Licensing or Operation of Complex Systems and Modification of Repeater Sub-bands; Correction

Released: January 25, 1977.

In the matter of deregulation of Part 97 of the Commission's rules to simplify the licensing and operation of complex systems of amateur radio stations and modification of repeater sub-bands, Docket No. 21033, RM-2664, RM-2780.

In the Commission's Notice of Inquiry and notice of proposed rulemaking in Docket 21033, FCC 76-1198 (42 FR 2089 January 10, 1977), released January 6, 1977, the following paragraph, permitting portable and mobile operation of amateur stations in auxiliary operation, pursuant to paragraph 7 of the notice of proposed rulemaking, was inadvertently omitted:

22. Section 97.95(a)(1) is revised to read as follows:

§ 97.95 Operation away from the authorized fixed operation station location.

(a) * * *

(1) When there is no change in the authorized fixed operation station location, an amateur radio station, other than a military recreation or special event station, may be operated under its station license anywhere in the United States, its territories or possessions, as a portable or mobile operation, subject to § 97.61.

* * * * *

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-2980 Filed 1-28-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 173, 174, 178, 179]

[Docket No. HM-139; Notice No. 77-1]

CONVERSION OF INDIVIDUAL EXEMPTIONS TO REGULATION OF GENERAL APPLICABILITY

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: Proposed Rule.

SUMMARY: The Materials Transportation Bureau (proposes to amend) the regulations governing the transportation of hazardous materials to incorporate therein a number of changes based on existing exemptions which have been granted to individual applicants allowing them to perform particular functions in a manner that varies from that specified by the regulations. Adoption of these exemptions as rules of general applicability would provide wider access to the benefits of transportation innovations recognized as effective and safe.

DATES: Comments by: February 23, 1977.

ADDRESS TO: Docket Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to Docket No. HM-139; Notice No. 77-1, and be submitted in triplicate.

FOR FURTHER INFORMATION:

Complete copies of the exemptions and their related applications and supporting documentation are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building 2100 Second Street, S.W., Washington, D.C.

SUPPLEMENTARY INFORMATION:

Each of the proposed amendments described in the table below is founded upon either: (1) actual shipping experience gained under an exemption, or (2) the data and analysis supplied in the application. In each case the resulting level of safety being afforded the public is considered at least equal to the level of safety provided by the current regulations.

Analysis of these proposed amendments also indicates that the costs of regulatory enforcement will not be significantly affected, nor will additional costs be imposed on the private sector, consumers, or Federal, State or local governments, since these amendments, if adopted, will authorize the general use of shipping alternatives previously available to only a few users under exemptions. The safety record or analysis of shipments under the identified exemptions demonstrates that significant environmental impacts will not result from any of the amendments proposed herein.

Adoption of an amendment derived from an existing exemption will obviate the need for that exemption and effectively terminate it, in which event the affected exemption holder and parties to that exemption will be individually notified. Adoption of an amendment derived from an application for exemption should provide the relief sought, in which event, the exemption request will be denied and the applicant so notified. In the event the Bureau decides not to adopt any of those proposed amendments, that application will be evaluated and acted upon in accordance with the applicable provisions of the exemption procedures in 49 CFR Part 107, Subpart B. Consequently, persons commenting on proposed amendments may wish to address both the proposed amendment and the exemption application. Consideration of comments of the merits of including within an amendment modes of transportation other than those for

which the exemption application requested is anticipated.

Each mode of transportation for which a particular exemption is authorized or requested is indicated in the "Nature of Exemption or Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. The status of the exemption action is indicated in the column titled Identification Number where prefix "E" means an exemption has been issued and prefix "SP" means a special permit exists under previous authorities. The suffix "No" means no applications for exemptions are pending, but the Bureau is taking action by this proposal; the suffix "X" means a renewal application is pending; and the suffix "P" means one or more party status applications are pending; and the suffix "N" means a new application for exemption is pending.

Proposed Amendments of Hazardous Materials Regulations to Terminate Special Permits and Exemptions

Identification No.	Applicant or holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
E-2748-No	GAF Corp.	172.101, 173.304(a), 173.314(c).	Authorizes shipment of vinyl methyl ether uninhibited in packagings as prescribed in sec. 173.304(a)(2) and 173.314(c) for vinyl methyl ether inhibited (modes 1 and 2).	To delete the word inhibited where it appears after vinyl methyl ether in sec. 172.101, 173.304(a)(2) and 173.314(c).
E-3944-No	E. I. du Pont de Nemours & Co., Inc.	173.314(c)	Authorizes shipment of dimethylamine, anhydrous; monomethylamine, anhydrous; trimethylamine, anhydrous in DOT specification 112A340W and 112A400W tank cars (mode 2).	To add DOT-112A340, DOT-112A400W to the table in sec. 173.314(c).
E-3946-No	E. I. du Pont de Nemours & Co.,	173.314(c)	Authorizes shipment of monochlorodifluoromethane and monochlorotetrafluoroethane in DOT specification 112A400W tank cars equipped and filled in accordance with the requirements for single unit tank cars (mode 2).	To add DOT-112A400W tank cars to the Table in sec. 173.314(c).
E-4666-No SP 6705-No	Economics Laboratory Inc.; American Cyanamid Co.	178.205-7 (b)(4).	Authorizes closure of DOT specification 12B fiberboard box with pressure-sensitive tape in addition to that prescribed by sec. 178.205-7(b)(1)-(3).	To add paragraph (b)(4) to read as follows: (4) Pressure-sensitive tape must be not less than 2 in wide and have a plastics film backing of polyester, polypropylene, or equivalent material. Tape must have a minimum tensile strength of 45 lb/in of width in the machine direction and not less than 55 lb/in of width in the cross direction and may not be affected by temperature extremes. Boxes closed by means of this pressure-sensitive tape must be capable of passing performance tests prescribed in sec. 178.210-10.
SP 4897-X	Hercules Inc.	173.336(a) (3).	Authorizes shipment of nitrogen tetroxide, liquid in DOT specification 110A500W stainless steel tanks (modes 1, 2).	To revise paragraph (a)(3) to read: (3) Specification 106A500X or 110A 500W (secs. 179.300, 179.301 of this subchapter) tanks. Each tank must be equipped with gas tight valve protection caps which must be approved by the Bureau of Explosives. Tanks must not be equipped with safety devices of any type. Outage must be sufficient to prevent tanks from becoming liquid full at 130° F. (55° C.). (See secs. 174.200 and 177.834(m) of this subchapter for special requirements for rail and highway shipments). Specification 110A500W tanks must be stainless steel.
SP 5375-X	Union Carbide Corp.	173.289(a) (2)	Authorizes shipment of formic acid or formic acid solution, in DOT specification 111A100W-6 tank car tanks fabricated from type 304L or 316L stainless steel (mode 2).	To revise paragraph (a)(2) to read: Specification 103ALW, 103CW, 103EW, 111A60ALW or 111A100W6 (secs. 179.200, 179.201 of this subchapter). Tank cars. Specification 103EW tanks must be of type 316 stainless steel. Specification 111A100W6 tanks must be of type 304L or 316L stainless steel. Specification 103ALW tanks without bottom outlets, and specification 111A60ALW tanks are authorized only for concentrations of 97 pct or greater and must be equipped with top loading and unloading devices. Specification 111A100W6 tanks are authorized only for concentrations of 80 pct or greater, have bottom outlets effectively sealed, be equipped with safety vents, and must be equipped with top loading and unloading devices. Not authorized for transportation by water.
SP 5771-X	Hooker Chemicals & Plastic Corp.	173.163(a) (7).	Authorizes shipment of sodium chlorate in accordance with 173.163(a)(7) except that tank car tanks may have their internal operating valve removed provided the bottom outlet is securely capped (mode 2).	To revise paragraph (a)(7) to read: (7) Chlorate of soda, dry, is authorized for shipment in aluminum or steel tank car tanks, steel cargo tank vehicles, tight siftproof covered hopper cars, or tight siftproof covered hopper-type motor vehicles. Tank car tanks, cargo tank vehicles, hopper cars, and hopper-type motor vehicles must be thoroughly cleaned before loading. Tank car tanks may have their internal operating valve removed provided the bottom outlet is securely capped.
E-6488	Allied Chemical Corp.; MC/B Manufacturing.	173.370(a) (2).	Authorizes shipment of cyanide mixtures, solid and postassium cyanide, solid in DOT specification 12B fiberboard box with inside polyethylene container with a minimum thickness of 0.030 in, not over 5-lb epacity (modes 1 and 2).	To add paragraph (a)(2) to read as follows: (2) Specification 12B 40 sec. 178.205 of this subchapter). Fiberboard box with inside polyethylene bottles having a minimum thickness of 0.030 in and not over 5-lb capacity each. Maximum net weight of contents must not exceed 25 lb/box.
E-6516-No	Chemetron Corp.	173.288	Authorizes shipment of ethyl and meth l chloroformate in DOT specification 111A100W2, 111A100W4, 112A200W or 112A400F tank cars (mode 2).	To add paragraph (f) to read: (f) Specification 111A100W2, 111A100W4, 112A200W or 112A400F (secs. 179.100 179.101, 179.200, 179.201 of this subchapter). Tank cars. Authorized only for ethyl chloroformate or methyl chloroformate.
E-6621-No	Dow Chemical Co.	173.353(a) (2).	Authorizes shipment of methyl bromide and methyl bromide mixtures in inside metal cans not over 1¼ pounds. Cans must be overpacked in a DOT specifiention 12B fiberboard box with hot-melt glue used as a sealing material for flaps of the carton (modes 1, 2, and 3).	To amend paragraph (a)(2) to read: (2) Specification 15A, 15B, 15C, 16A, 19A or 12B (secs. 178.168, 178.169, 178.170, 178.185, 178.190, 178.205 of this subchapter). Wooden, wirebound wooden, or fiberboard boxes, with inside metal cans contalning not over 1 lb each or inside metal cans with a minimum wall thickness of 0.007 in containing not over 1¼ pounds each. The 1-lb can must be able to withstand an interior pressure of 130 pounds lb/in²g without leakage or permanent distortion and pressure of contents must not exceed 130 lb/in²g at 130° F. (55° C.). The 1¼ lb can must be able to withstand an interior pressure of 140 lb/in²g without leakage or permanent distortion and pressure of contents must not exceed 140 lb/in²g at 130° F. (55° C.). Outage shall be such that the cans will not become li quid full at 130° F. Cans must be of tin plate or lined with suitable material and must have concave or pressure ends.
		178.205-17 (a)(4).		To add paragraph (a)(4) to read as follows: (4) Outside DOT specification 12B fiberboard box may have all closing flaps firmly glued with a hot-melt adhesive of 100 pct solids content of thermoplastic material which will maintain bond at temperature ranging from 20° F. below zero to 165° F. above zero. Adhesive must be applied in not less than eight stripes (except as specified below) on each inner flap, each stripe having a minimum width of 3/16 in after compression. Stripes may not be more than 1½ in apart and not less than four stripes must be applied on each side of center seam on each inner flap for full length of flap overlap area with one stripe not more than ½ in from each side of center seam. If less than eight such stripes are applied on each inner flap, adhesive must cover and securely bond not less than 25 pct of flap contact area with bonded areas extending to within ½ in or less of center seam.

Identification No.	Applicant or holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
SP 6628-No SP 6868-No	E. I. du Pont de Nemours & Co., Inc.; Dow Chemical Co.	173.272(j) (22)	Authorizes shipment of 100 pct sulfuric acid in DOT specification 103CW and 111A100W6 tank cars constructed of type 304-L stainless steel and shipments of 77.5 to 99.5 pct sulfuric acid in DOT specification 105A300W tank cars (mode 2).	To amend paragraph (22) to read as follows: (22) Specification 103A,[1] 103AW, 103CW, 105A300W, 111A60W2, 111A100W6, or 111A100F2 (secs. 179.200, 179.201 of this subchapter). Tank cars. Authorized for sulfuric acid of concentrations 65.25 pct or greater concentrations, provided the corrosive effect in steel is not greater than that of 65.25 pct sulfuric acid, measured at 100° F. Tank cars used for sulfuric acid, mixed acid (nitric and sulfuric acids) (nitrating acid), and other fuming acids, may be equipped with safety vents incorporating frangible discs having a ¼-in breather hole in their center. The ¼-in breather hole is not permitted in frangible discs of safety vents on oleum tank cars. Specifications 103CW and 111A100W6 must have tanks constructed of type 304-L stainless steel.
E-6636-No	Pennwalt Corp.	173.264(a)	Authorizes shipment of hydrofluoric acid of 70 pct strength in DOT specification 111A100W2 (unlined) and 111A100W4 (rubber-lined) tank car tanks (mode 2).	To amend subparagraph (12) to read: (12) Specification 111A100W2 or 111A100W4 (secs. 179.200, 179.201 of this subchapter). Tank cars. Only Specification 111A100W2 tank cars may be unlined.
E-6641-No	Dow Chemical Co.	173.139(a) (4).	Authorizes shipment of ethylene imine, inhibited in DOT specification 105A 100W tank cars (mode 2).	To revise paragraph (4) to read: (4) Specification 104W, 105A100W, or 111A60W1 (secs. 179.100, 179.101, 179.200, 179.201 of this subchapter). Tank cars, for ethylene imine, inhibited only. Specification 111A60W1 tank cars must be insulated in accordance with sec. 179.200-4 of this subchapter.
SP 6701-X	E. I. du Pont de Nemours & Co., Inc.	172.101, 173.314.	Authorizes shipment of hexafluoropropylene oxide in DOT specification 110A500W tanks (modes 1, 2).	To amend sec. 172.101 to add hexafluoropropylene oxide to read as follows:

§ 172.101 *Hazardous materials table*

(1)	(2)	(3)	(4)	(5)		(6)		(7)		
				Packaging		Maximum net quantity in 1 package (in pounds)		Water shipments		
*/W/A	Hazardous materials descriptions and proper shipping names	Hazard class	Label(s) required (if not excepted)	(a)	(b)	(a)	(b)	(a)	(b)	(c)
				Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo vessel	Passenger vessel	Other requirements
	(Add) hexafluoropropylene oxide.	Nonflammable gas.	Nonflammable gas.	173.306	173.304 173.314	150	300	1	4	

Identification No.	Applicant or holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
				To amend the table in sec. 173.314(c) to add hexafluoropropylene oxide to read as follows:

Kind of gas	Maximum permitted filling density, note 1	Required tank car, see sec. 173.31(a) (2) and (3)
Hexafluoropropylene oxide	110	DOT 110A500W, note 7.

Identification No.	Applicant or holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
SP 6710-X	E. I. du Pont de Nemours & Co., Inc.	173.273(a) (4).	Authorizes shipment of sulfur trioxide, stabilized in DOT specification 103AW tank cars equipped with standpipe electrical heaters approved by the AAR Committee on Tank Cars (mode 2).	To add a sentence at the end of paragraph (4) to read: Specification 103AW tank cars may be equipped with standpipe electrical heaters approved by the AAR Committee on Tank Cars.
		179.202-13.		To revise sec. 179.202-13 to read: Sec. 179.202-13 sulfur trioxide, stabilized. Tank cars used to transport sulfur trioxide stabilized must be equipped with safety relief valves of approved design. Tanks equipped with interior heating coils not permitted. Specification 103AW tank cars may be equipped with standpipe electrical heaters approved by the AAR Committee on Tank Cars.
SP 6714-X	E. I. du Pont de Nemours & Co., Inc.	173.314(c)	Authorizes shipment of difluoroethane in DOT specification 112A400W tank cars with a maximum filling density of 79 pct (mode 2).	To amend the table in sec. 173.314(c) to add DOT specification 112A400W tank cars to read as follows:

Kind of gas	Maximum permitted filling density, note 1	Required tank car, see § 173.31(a) (2) and (3)
Difluoroethane	79	DOT-106A500X, 110A500W, Note 7.
	79	DOT-112A400W.
	84	DOT-105A300W.

Identification No.	Applicant or holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
SP 6715-X	FMC Corp.....	173.358(a) (11).	Authorizes shipment of ethion, and organic phosphate compound, liquid in DOT 105A200ALW or 105A300W tank cars (mode 2).	To revise paragraph (a)(11) to read: (11) Specification 105A200ALW or 105A300W (secs. 179.100, 179-101 of this subchapter). Tank cars. Authorized for parathion, methyl parathion and liquid organic phosphate only. The nominal water capacity of a tank car must not exceed 12,000 gal.
SP 6837-X	Department of Defense; FMC Corp.	173.245(a) (32).	Authorizes shipment of acetic anhydride in DOT specification 105A200ALW tank cars (mode 2).	To revise paragraph (32) to read: (32) Specification 103AW, 103A-AWL, 103ANW, 103BW, 103CW, 103EW, 105A200ALW, 111A100F2, 111A60ALW2, 111A60W2, 111A60W5 (secs. 179.100, 179.101, 179.200, 179.201 of this subchapter). Tank cars. Specification 105A200ALW tank cars authorized only for acetic anhydride.
SP 6850-X	Allied Chemical Corp.	173.346(a) (10).	Authorizes shipment of arsenic acid, liquid containing less than 0.05 pct nitric acid in DOT specification 103BW, rubber-lined tank cars (mode 2).	To revise paragraph (10) to read: (10) Specification 103[1], 103W, 103A[1], 103ALW, 103AW, 103BW, 104[1], 104W, 105A100[1], 105A100W, 111A60ALW1, 111A60F1, 111A60W1, 111A60W2, 111A100F7, 111A100W4, 115A60W6, or ARA-IV-A[1] (secs. 179.100, 179.101, 179.200, 179.201, 179.220, 179.221 of this subchapter). Tank cars. Specification 103BW tank cars must be rubber-lined and are authorized only for arsenic acid as prescribed in § 173.346.
E-7017-No	Phillips Petroleum Co.	173.346(a) (10).	Authorizes shipment of class B poisonous liquids in DOT specification 109A300ALW tank cars (mode 2).	To revise paragraph (a)(10) by adding specification 109A300ALW as an authorized tank car.
E-7026-X	Trojan-U.S. Powder..	173.63(c).....	Authorizes shipment of high explosives as specified in sec. 173.63(c) except inside packaging consist of two 3-mil polyethylene bags (one within the other) in lieu of the prescribed double-lining paper (mode 2).	To revise paragraph (c) to read: (c) High explosives (straight gelatin dynamites of 80 pct strength and over and blasting gelatin) must be packed in cartridges or in bulk in outside boxes. When packed in bulk in boxes either double-lining paper throughout or two 3-mil polyethylene bags (one within the other) must be used. Not more than one double bag may be packed in one outside specification 12H box. Containers must comply with the following specifications
E-7045-No	Eastman Kodak Co.; Department of Defense.	173.245(a) (18).	Authorizes shipment of certain corrosive liquids, not otherwise specified in accordance with 49 CFR 173.245(a)(18) except inside containers may be 5-qt capacity instead of 1-gal (modes 1, 2, and 3).	To revise paragraph (a)(18) to read as follows: (18) specification 12A (sec. 178.210 of this subchapter). Fiberboard boxes with inside glass, polyethylene, or other nonfragile plastic bottles not over 5 qt capacity each. Not more than 4 inside glass bottles exceeding 5 pt capacity each shall be packed in the outside container. Shipper must have established that the completed package meets test requirements prescribed by sec. 178.210-10 of this subchapter.
E-7047-No	Hooker Chemicals & Plastics Corp.	173.31(c)(2), note (d), to retest table I.	Authorizes retesting DOT specification 111A60W2 and 111A100W2 tank cars in accordance with note (d) of retest table I in sec. 173.31. This authorizes tank cars to be retested using commodities for which the tank is approved when the tank is less than 10 years old (mode 2).	To amend sec. 173.31, retest table 1, by adding the footnote "d" immediately before the required "retest interval years" in the first column for DOT Specifications 111A60W2 and 111A100W2.
E-7213-No	Union Carbide Corp..	173.245b (a)(8).	Authorizes shipment of a corrsive solid, not otherwise specified in metal portable tanks containing 750 gal of product (mode 2).	To revise paragraph (8) to read: (8) Metal portable tank or closed bin not over 7,000 lbs gross weight.
E-7262-No	Hercules Inc.....	173.268(c) (2).	Authorizes shipment of 98 pct nitric acid in DOT specification 111A60-ALW2 tank cars with a safety relief valve setting of 45 lb/in² (mode 2).	To amend paragraph (c)(2) to read as follows: (2) specification 103A-ALW or 111A60ALW2 (secs. 179.200, 179.201 of this subchapter). Tank cars. Specification 111A60ALW2 may have a safety relief valve start-to-discharge pressure setting of 45 lb/in².
E-7419-No	Department of Defense.	174.104(b) (10).	Authorizes shipment of high explosives in COFC/TOFC service as prescribed in sec. 174.104(b)(10) except cars may be equipped with high phosphorous cast iron brakeshoes (mode 2).	To revise paragraph (10) to read: (10) The car must be equipped with high-friction composition brakeshoes (except metal deck flat cars used for COFC/TOFC service may be equipped with high phosphorus cast iron brakeshoes when MILVANS are used) and brake rigging designed for this type of brakeshoe. Each brakeshoe on the car must be at least ¾ in thick, and in safe and suitable condition for service.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a)(4) of App. A to Part 102).

Issued in Washington, D.C., on January 21, 1977.

C. H. THOMPSON,
Acting Director, Office of Hazardous Materials Operations.

[FR Doc.77-2659 Filed 1-28-77;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 570]

[Docket 73-9; Notice 12]

VEHICLE IN USE INSPECTION STANDARDS

Proposed Rulemaking; Response to Petition

This notice proposes amending the Vehicle In Use Inspection Standards (49 CFR Part 570) as they relate to air brake systems and air-over-hydraulic brake systems for vehicles with gross vehicle weight ratings (GVWR) of more than 10,000 pounds (49 CFR 570.57).

On June 8, 1976, General Motors Corporation (GM) petitioned the National Highway Traffic Safety Administration (NHTSA) to amend 49 CFR 570.57(a)(2) and 570.57(c)(1), along with their associated inspection procedures, to clarify the meaning of these requirements. The sections in question provide that the ability of a brake system to restore its air pressure after one brake application is to be measured "with the compressor governor in the cut-off position." GM requested that this phrase be deleted from 49 CFR 570.57(a)(2) and 570.57(c)(1) to improve clarity. Since the compressor governor functions automatically to cycle the compressor "on" or "off" depending on system air pressure, the phrase in question can be deleted without affecting the test requirement. The NHTSA proposes to amend 49 CFR 570.-57(a)(2) and 570.57(c)(1) accordingly.

GM further petitioned to change the baseline from which the pressure build-up time is to be measured under the inspection procedures accompanying 49 CFR 570.57(a) and 570.57(c). The inspection procedure currently specifies measuring the time necessary to raise the air pressure from 85 p.s.i. to 100 p.s.i. However, GM has pointed out that the air pressure in many newer brake systems would normally never fall as low as 85 p.s.i. during a single brake application, and that the use of the 85–100 p.s.i. criterion is not appropriate for these systems. The test procedure recommended by GM would overcome the problem associated with this variance in braking systems by establishing the pressure attained after one brake application as a baseline and by measuring the time to increase pressure from that baseline pressure to normal operating pressure. The NHTSA concurs with this recommendation, and proposes to amend the inspection procedures accordingly.

In addition, 49 CFR 570.57(a)(2) and 570.57(c)(1) would be amended by deleting the distinction for vehicles manufactured before March 1, 1975. This distinction was initially constructed to differentiate between vehicles which were manufactured before and after the effective date of Federal Motor Vehicle Safety Standard No. 121 (49 CFR 571.121). At the time this distinction was made, it was the view of the NHTSA that Standard No. 121 would necessitate larger reservoirs and consequently longer pressure build-up times. This has not proven to be the case, however, and it is proposed that the distinction be deleted.

The requirements for air-over-hydraulic brake subsystems found in 49 CFR 570.5(c)(1) would also be amended to clarify the requirement that this subsystem must permit one full service brake application, after the engine is stopped and with the system fully charged, without lowering reservoir pressure more than 20 percent below the initial reading. Currently, § 570.57(c)(1) only incorporates by reference this test procedural as prescribed in § 570.57(a)(1).

In consideration of the foregoing, it is proposed that 49 CFR, Part 570, Subpart B, *Vehicle In Use Inspection Standards for Vehicles With GVWR of More Than 10,000 Pounds*, be amended as follows:

1. Paragraph 570.57(a)(2) is amended as follows:

§ 570.57 Air brake system and air-over-hydraulic brake subsystem.

* * * * *

(a) *Air brake system integrity.* * * *

(2) The air brake system compressor shall increase the air pressure in the reservoir(s) from the level developed after the test prescribed in § 570.57(a)(1) to the initial pressure noted before the full brake application, with the engine running at the manufacturer's maximum recommended number of revolutions per minute, in not more than 30 seconds.

* * * * *

2. The closing text of § 570.57(a) is amended to read:

Inspection procedure. With the air system charged, open the drain cocks in the service and supply reservoir on the truck or truck-tractor. Note the pressure at which the visual or audible warning device connected to the low-pressure indicator is activated. With all drain cocks closed and with the trailer(s) uncoupled, read the air pressure gauge when the system is fully charged. Make one full service brake application, and again read the air pressure gauge. Deplete the air pressure in the system to at least 10 p.s.i. below the compressor cut-in pressure. Increase the air pressure at the manufacturer's maximum recommended revolutions per minute and determine the time required to increase the air pressure from the level achieved after one brake application to the level of the fully charged system. Continue running the engine until the governor cuts out and note the pressure. Reduce engine speed to idle, couple the trailer(s), if applicable, and make a series of brake applications. Note the pressure at which the governor cuts in. Increase engine speed to fast idle and charge the system to its governed pressure. Stop the engine and record the pressure drop in p.s.i. per minute with brakes released and with brakes fully applied.

3. Paragraph 570.57(c)(1) is amended to read:

(c) *Air-over-hydraulic brake subsystem integrity.* * * *

(1) With the vehicle in a stationary position, compressed air reserve shall be sufficient to permit one full service brake application, after the engine is stopped and with the system fully charged, without lowering reservoir pressure more than 20 percent below the initial reading. From the level developed after this brake application, the air compressor shall increase the air pressure in the reservoir(s) to the initial pressure noted before the full brake application, with the engine running at the recommended maximum number of revolutions per minute, in not more than 30 seconds.

* * * * *

4. The closing text of § 570.57(c) is amended to read:

Inspection procedure. With the air system charged, open the drain cocks in the service and supply reservoir on the truck or truck-tractor. Note the pressure at which the visual or audible warning device connected to the low-pressure indicator is activated. With all drain cocks closed and with the trailer(s) uncoupled, read the air pressure gauge when the system is fully charged. Make one full service brake application, and again read the air pressure gauge. Deplete the air pressure in the system to at least 10 p.s.i. below the compressor cut-in pressure. Increase the air pressure at the manufacturer's maximum recommended revolutions per minute and determine the time required to increase the air pressure from the level achieved after one brake application to the level of the fully charged system. Continue running the engine until the governor cuts out and note the pressure. Reduce engine speed to idle, couple the trailer(s), if applicable, and make a series of brake applications. Note the pressure at which the governor cuts in. Increase engine speed to fast idle and charge the system to its governed pressure. Stop the engine and record the pressure drop in p.s.i. per minute with brakes released and with brakes fully applied.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date. March 25, 1977.

(Sec. 103, 108, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1407); delegation of authority at 49 CFR 150(b) and 501.8(d)).

Issued on January 24, 1977.

FRED W. VETTER, Jr.,
Associate Administrator,
Traffic Safety Programs.

[FR Doc.77-2961 Filed 1-28-77;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.

FEDERAL ENERGY ADMINISTRATION

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of November 15 through November 19, 1976

Notice is hereby given that during the week of Novemver 15 through November 19, 1976, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Navajo Refining Company; Artesia, N. Mex.; FEA-0905; Crude Oil.

On July 19, 1976, the Navajo Refining Company (Navajo) filed an Appeal from a Decision and Order which the Federal Energy Administration had issued to it on June 21, 1976. *Navajo Ref. Co.*, 3 FEA Par. 83,242 (June 21, 1976). In the June 21 determination the FEA granted Navajo an exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) and thereby partially relieved the firm of its entitlement purchase obligations during the period June 1 through November 30, 1976. The exception relief approved in that Order was based on the historical financial data submitted by Navajo for its refining and marketing operations for the fiscal years 1970 through 1974 and the first six months of the firm's 1975 fiscal year. In its Appeal, Navajo contended that the historical financial data that the FEA utilized in the June 21 Order does not accurately reflect the firm's historical level of profitability because Navajo restated its financial operating results for fiscal years 1973 and 1974 and the first six months of its 1975 fiscal year. The Appeal, if granted, would have resulted in the recalculation of Navajo's historic profitability on the basis of the restated historical financial data and the approval of additional exception relief from Navajo's purchase obligations under the Entitlements Program. In considering Navajo's Appeal, the FEA determined that during the firm's 1975 fiscal year it changed the method by which it accounted for certain transactions relating to the resale or exchange of foreign crude oil and associated import tickets. In approving this change in accounting treatment, Navajo's independent accountants required the firm to restate its financial operating results for fiscal years 1973 and 1974. The FEA noted that Navajo had submitted the restated financial material sufficiently in advance of the issuance of the June 21, 1976 exception Decision to have permitted it to be taken into account in connection with that proceeding. The FEA determined that the restatement of the financial data materially distorted Navajo's historical level of profitability which had been used to calculate the amount of exception relief approved in the June 21 Decision, and concluded that the level of exception relief previously provided should be increased to reflect the restated financial data. The FEA therefore granted Navajo's Appeal.

Sun Co., Inc.; Washington, D.C.; FEA-0998; Freedom of Information

Sun Company, Inc. appealed from a partial denial by the FEA Information Access Officer of a Request for Information which the firm had submitted under the Freedom of Information Act (the Act). In its initial request, Sun requested 27 categories of information which relate to the FEA's crude oil transfer pricing requirements, including the supporting data used by the FEA in calculating representative prices for various types of crude oil. In the Order which he issued the FEA Information Access Officer released certain documents and withheld other material on the grounds that it was exempt from mandatory disclosure under either Exemption 4 or 5 of the Act. In analyzing the Sun Appeal, the FEA determined that certain documents which Sun sought had already been denied in a prior Decision which had been issued with respect to another Appeal under the Act which Sun had filed. The FEA also determined that of the remaining documents, two complete documents and portions of five others which were withheld should have been released to Sun. The FEA determined that the two documents which should have been released contained purely factual material and were not exempt from mandatory public disclosure under the Act. The portions of the five documents which were released were deemed by the FEA to contain reasonably segregable factual material or discussions which describe or implement final agency policy decisions which should have been released under the act. The FEA also reserved a decision concerning the releasability of one additional document since a determination with respect to its releasability was not possible at this time.

Utopia Oil Industries, Inc.; Richland, Wash.; FEA-0857; Motor Gasoline

Utopia Oil Industries, Inc. (Utopia) appealed from a Decision and Order which the FEA issued to it on March 31, 1976. *Utopia Oil Industries, Inc.*, 3 FEA Par. 83,156 (March 31, 1976). In that Decision, the FEA denied Utopia's request that it be assigned a new, lower-priced supplier of motor gasoline for the entire base period use of motor gasoline of the firm's Sunnyside, Washington retail outlet. The Appeal, if granted, would reverse the March 31, 1976 Decision and Order and grant Utopia the exception relief which it originally requested. In considering Utopia's Appeal, the FEA determined that contrary to the firm's assertions, the FEA did not err by taking into account the petroleum related operations of the entire firm in considering Utopia's claim that the FEA regulatory requirements resulted in a serious financial hardship. On the basis of the analysis conducted the FEA also concluded that no showing had been made that the denial of the exception application adversely affected the public interest in a substantial manner. The firm's Appeal was therefore denied.

REQUESTS FOR EXCEPTION

Atlantic Richfield Co.; Dallas, Tex.; FEE-3260 through FEE-3273; Natural Gas Liquids and Products

Atlantic Richfield Company (Arco) filed Applications for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit Arco to increase the prices it charges to reflect non-product cost increases which the firm has incurred in producing natural gas liquid products and natural gas liquids at certain of its natural gas processing plants. In considering the applications, the FEA noted that as a general rule exception relief will be granted to any natural gas processor which can demonstrate that the non-product costs which it has experienced since May 1973 have increased substantially in excess of the $.005 per gallon passthrough for natural gas liquid products and the $.00375 per gallon passthrough for natural gas liquids permitted under Section 212.165. The FEA found that Arco had made such a showing with respect to 14 of its plants and therefore granted the firm appropriate exception relief for those plants.

Boston Gas Co.; Washington, D.C.; FEE-3213; Propane

The Boston Gas Company (Boston Gas) submitted an application for an extension of exception relief in which it requested that an exception granted to the firm by FEA Region I on March 8, 1974, be extended until at least April 15, 1977. The firm asserted that an extension would permit Boston Gas to retain and utilize its current allocation for propane for SNG feedstock for the remainder of the current heating season. In considering Boston Gas' request, the FEA found that Boston Gas failed to make a timely submission of the additional information which the FEA requested with respect to an Application for Assignment submitted pursuant to the provisions of 10 CFR 211.29. In view of the firm's failure to diligently pursue its remedies in that Assignment proceeding the FEA concluded that it would not extend exception relief in the manner which the firm requested. The FEA noted however, that a final determination of that Application for Assignment was not expected to be issued to Boston Gas until after January 1, 1976. Consequently, since the previous exception would expire on December 31, 1976, some extension of time was waranted in order to assure Boston Gas of an adequate supply of SNG feedstock pending a determination. Accordingly, the exception relief provided in the previous Decision was extended until May 16, 1977.

Clark Equipment Co., Buchanan, Mich.; FEE-2553; Propane.

Clark Equipment Company (Clark) filed an Application for Exception from the provisions of 10 CFR 211.12, which, if granted, would result in the issuance of Orders by the FEA increasing the annual base period use of propane at Clark's Gwinner, North

Dakota plant from 241,842 to 1,079,318 gallons. Clark claimed that during the base period the Gwinner plant was substantially expanded and the space heating equipment of the plant was modernized. According to the Clark submission the additional usage of propane which resulted from that expansion and modernization was not reflected in the firm's base period use of propane. In considering the exception request, the FEA found that Clark's propane requirements at the Gwinner facility had increased substantially when the expanded manufacturing facilities became operational subsequent to the base period. The FEA also found that if Clark were unable to obtain an increase in its adjusted base period use of propane at the Gwinner location, the objectives specified in Section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, as amended, would be significantly frustrated. The FEA also found that the base period use of propane at the Gwinner plant was significantly less than its current requirements, and that a gross disparity existed between the quantity of propane which the firm is actually using and its base period use. Moreover, the FEA determined that the allocation to Clark of the additional volumes of propane which it requires for its Gwinner facility would not seriously affect the market for the product or adversely affect in a significant manner any other wholesale purchaser-consumer in the applicable marketing area. The FEA therefore concluded that Clark qualified for exception relief under the criteria established in Climax Molybdenum Co., 2 FEA Par. 83,157 (May 20, 1975). However, the FEA also held that a portion of the additional quantity of propane requested by Clark was intended as fuel for space heating equipment which was installed in late 1975. Exception relief was denied with respect to that usage because it was found to contravene the national policy to encourage alternate fuel sources instead of propane when installing new equipment subsequent to the promulgation of the FEA regulatory program. On the basis of these findings, exception relief was approved increasing the base period use of propane at the Gwinner, North Dakota plant to 717,000 gallons per year.

Estate of George H. Coates; Dallas, Tex.; FEE-3199; Natural Gas Liquids.

The Estate of George H. Coates (Coates) filed an Application for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit Coates to increase the selling price of natural gas liquids produced at its Jay Simmons gas plant to reflect the nonproduct cost increases which the applicant has incurred in producing natural gas liquids at that plant. In considering the application, the FEA noted that as a general rule exception relief will be granted to any natural gas processor which can demonstrate that the non-product costs which it has experienced since May 1973 have increased substantially in excess of the $.00375 per gallon passthrough for natural gas liquids permitted under Section 212.165. The FEA found that Coates had made such a showing with respect to its Jay Simmons gas plant and therefore granted the Estate of George H. Coates appropriate exception relief.

Gasco Gasoline, Inc.; Oxnard, Calif.; FEE-2686; Motor Gasoline.

Gasco Gasoline, Inc. filed an Application for Exception from the provisions of 10 CFR 212.9 which, if granted, would have resulted in the issuance of orders assigning Gasco a new, lower-priced supplier for a portion of the firm's base period use of motor gasoline to replace the Fletcher Oil and Refining Company (Fletcher). In considering the application the FEA determined that contrary to Gasco's allegations, the price which Gasco pays Fletcher for motor gasoline is only marginally higher than the average of the prices which the firm's competitors are required to pay their suppliers. The FEA also found that Gasco is able to offset the marginally higher price of the gasoline received from Fletcher with purchases of lower-priced motor gasoline from other suppliers. As a result, the weighted average price which Gasco pays for its motor gasoline supplies is not significantly different from the prices which the firm's competitors pay to their suppliers for motor gasoline. With respect to a further claim by Gasco that Fletcher has been frequently unable to supply the firm with adequate volumes of motor gasoline, Gasco acknowledged that it has consistently attempted to minimize its purchases of motor gasoline from Fletcher. Since Gasco had provided no material which indicates that its operations had experienced a substantial adverse impact as a result of the alleged supply difficulty, the FEA concluded that Gasco had failed to establish that the maintenance of its base period supplier/purchaser relationship with Fletcher resulted in a serious hardship or gross inequity to Gasco and the firm's exception application was denied.

William C. Kirkwood; Casper, Wyo.; FEE-3208; Crude Oil.

William C. Kirkwood (Kirkwood) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would relieve Kirkwood of the obligation to refund any revenues which the firm may have realized as a result of improperly charging exempt prices for crude oil from certain properties located in Wyoming and Colorado. Kirkwood requested that the exception relief be granted retroactively for the period September 1, 1973 through April 30, 1976. In considering Kirkwood's Application, the FEA determined that Kirkwood's assertions that it might be adversely affected as a result of possible compliance action by the FEA are purely speculative, and that an argument based on speculative future hardship does not form a proper basis for the approval of exception relief. The FEA therefore denied Kirkwood's request.

W. C. Montgomery; Midland, Tex.; FEE-2384; Crude Oil.

W. C. Montgomery filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Montgomery to sell the crude oil produced from a well which he proposes to drill at upper tier ceiling prices. Montgomery's request was based on the assumption that the "property" on which he proposed to drill the well was an entire 320 acre lease owned by the Marathon Oil Company (Marathon) in Lea County, New Mexico from which crude oil was already being produced. In considering the Application, the FEA determined that although the 40 acre tract on which the proposed Montgomery well would be drilled (the McAlester tract) had originally been part of the larger 320 acre lease owned by Marathon, the right to produce crude oil on the 40 acre tract was assigned by Marathon to the McAlester Fuel Company in 1949. Consequently, McAlester held a separate right to produce crude oil on the tract during 1972. In accordance with FEA Ruling 1975-15, the McAlester tract was determined to be a separate property. The FEA therefore concluded that since no crude oil was yet being produced from the property, all of the crude oil which would be produced from the proposed Montgomery well could be sold as new crude oil at upper tier ceiling prices. In view of the determination that the McAlester tract was a separate property, the FEA concluded that exception relief was not necessary and Montgomery's Application was dismissed without prejudice.

Phillips Petroleum Co.; Bartlesville, Okla.; FEE-2791; Crude Oil.

Phillips Petroleum Company (Phillips) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which if granted, would permit Phillips to sell crude oil produced from the Alene Lease (the Lease) at upper tier ceiling prices. In considering Phillips exception request, the FEA determined that the costs of producing crude oil from the Lease have increased significantly since 1974 and as a result of these increased costs, Phillips' production costs now exceed the price which the firm is permitted to charge for the crude oil which it sells. Consequently, the FEA concluded that Phillips does not have an economic incentive to continue to operate the Lease. The FEA also found that there would be little possibility that the recoverable crude oil on the Lease would be produced by any firm in the absence of the type of exception relief requested by Phillips. The nation would therefore be deprived of that amount of recoverable crude oil if exception relief is not approved and the wells on the Lease were abandoned. On the basis of previous precedents involving similar factual situations, the FEA concluded that the application of the lower tier ceiling price rule in this case resulted in a gross inequity. Accordingly, Phillips was granted exception relief which permits the firm to sell at upper tier ceiling prices 44.02 percent of the crude oil produced and sold from the Lease.

Ruthven, Inc. (Ruthven) filed an Application for Exception from the provisions of 10 CFR., Part 212, Subpart D. The request, if granted, would result in a determination that the firm's Ben Rein lease was a stripper well property during the period December 1, 1973 through December 31, 1975, and thereby relieve Ruthven of any obligation to refund revenues which it may have realized as a result of charging unlawful prices for crude oil produced and sold from the lease during the period. In its exception application, Ruthven contended that the Ben Rein lease would have been classified as a stripper well property during the period of the alleged overcharges if the lease's Well No. 5, which produces crude oil from two separate reservoirs, were regarded as two separate wells. In considering Ruthven's exception request, the FEA noted that pursuant to Ruling 1975-12, a well may be regarded as two wells for the purpose of calculating average daily production pursuant to the stripper well lease exemption only if the well consists of two or more tubing strings and the production capabilities of each formation are unaffected by any change in the production level of any other formation producing crude oil through the same well. The FEA determined that Ruthven's Ben Rein lease Well No. 5 produces crude oil from two reservoirs through the same tubing string and that the production capabilities of each reservoir are not independent of each other. The FEA therefore concluded that Well No. 5 did not qualify as a multiple completion well under Ruling 1975-12. The FEA further noted that the type of specialized treatment for multiple completion wells discussed in Ruling 1975-12 was intended to compensate crude oil producers who invested a significant amount of capital in excess of that generally required to complete a single well. Since Ruthven had not demonstrated that the cost of completing and operating Well No. 5 substantially exceeds the investment required to complete and operate a well which produces crude

oil from only one formation, the FEA denied Ruthven's request for exception relief without prejudice to a refiling after the FEA formally concludes its investigation of the alleged overcharges.

SAS Co.; Los Angeles, Calif.; FEES–2843; Crude Oil.

SAS Company (SAS) filed an Application for exception from the provisions of 10 CFR, Part 212, Subpart D,, which, if granted, would permit SAS to sell crude oil produced from Fault Block Units 4 and 5 located in the Wilmington Field, Long Beach, California, at prices which exceed the lower tier ceiling prices. In considering SAS' exception request, the FEA determined that since SAS is not the operator of the Units involved and owns only a small working interest in each of them, the Units would not be abandoned in the event that SAS terminated its interest in them. Moreover, the FEA noted that it had recently declined to grant exception relief requested by the City of Long Beach, owner of a majority share of the working interests in Units 4 and 5 and operator of a large segment of each of these units, which would have permitted Long Beach and all other working interest owners in the Units to sell their crude oil at prices which exceed the maximum permissible levels specified in the FEA Price Regulations. City of Long Beach, 4 FEA Par. 83,040 (August 10, 1976). The FEA determined that the Long Beach Decision, which indicates that Units 4 and 5 are presently operating at a profit, supports the conclusion that these Units would not be abandoned in the event SAS' exception request is denied. Finally, the FEA found that prior to the promulgation of the FEA Price Regulations, SAS incurred a loss with respect to the property concerned whereas in 1974, when the Price Regulations were in effect, the property generated a cash income. The FEA therefore concluded that SAS had not established that the application of the FEA Price Regulations had produced the financial difficulties which the firm is currently experiencing. Consequently, the FEA concluded that SAS had not demonstrated that the application to the firm of the provisions of 10 CFR, Part 212, Subpart D, constituted a serious hardship or gross inequity and the firm's exception request was denied.

Texaco, Inc.; Houston, Tex.; FEE–3243 through FEE–3257; FEE–3290 through FEE–3292; Natural Gas Liquid Products.

Texaco, Inc. (Texaco) filed Applications for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit Texaco to increase the prices it charges to reflect non-product cost increases which the firm has incurred in producing natural gas liquid products at certain of its natural gas processing plants. In considering the applications, the FEA noted that as a general rule exception relief will be granted to any natural gas processor which can demonstrate that the non-product costs which it has experienced since May 1973 have increased substantially in excess of the $.005 per gallon passthrough for natural gas liquid products permitted under Section 212.165. The FEA found that Texaco had made such a showing with respect to 18 of its plants and therefore granted the firm appropriate exception relief for those plants.

United Refining Co.; Warren, Penn.; FEE–2404; FEE–2735; Crude Oil.

United Refining Company (United) filed an Application for Exception from the provisions of 10 CFR 214.31 (the Mandatory Canadian Crude Oil Allocation Program). If United's request were granted, the base period runs to stills of Canadian crude oil at its West Branch, Michigan refinery would be increased. On Juy 13, 1976 United filed a second Application which, if granted, would result in the designation of West Branch as a first priority refinery. In considering United's request for classification of West Branch as a first priority facility, the FEA noted that the Deputy Assistant Administrator for Regulatory Programs had originally classified West Branch as a first priority refinery for the second quarter of 1976 but had indicated that he would reclassify the facility as second priority for the allocation period beginning July 1, 1976 unless United demonstrated that it could not acquire additional supplies of non-Canadian crude oil by means of exchanges. The Deputy Assistant Administrator subsequently determined that a crude oil exchange with Mobil Oil Corporation (Mobil) was available to United and therefore redesignated West Branch as a second priority facility. In considering United's exception request, the FEA determined that United had not shown that the proposed exchange with Mobil was unworkable. The FEA further stated that even if United could make such a showing, in order to qualify as a first priority refinery under the Canadian Allocation Regulations a refinery must establish that it cannot obtain sufficient crude oil to operate its refinery at 75 percent of its base period runs to stills. The FEA concluded that even without the proposed exchange United currently processes a volume of crude oil which exceeds 100 percent of its base period runs to stills and therefore the firm does not meet one of the regulatory criteria which it must satisfy in order to qualify as a first priority refinery.

In its April 21, 1976 exception request United contended that due to an extraordinary series of operating problems which occurred at West Branch during the base period, the quantity of crude oil which it processed during that period was substantially less than historic levels and that the base period is therefore unrepresentative of its historic performance. After considering United's contentions, the FEA determined that the condemnation of the West Branch refinery's preflash tower and the consequent reduction in crude oil runs to stills which occurred over eight months of the base period was an anomalous event which affected the firm in a significant manner. Since this event resulted in a distortion in the intended use of the base period to reflect a relatively normal and customary period of business activity, the FEA adjusted the refinery's base period runs to stills of Canadian crude oil in order to compensate for that distortion. The FEA declined however to adjust United's base period volume to compensate for various other operating problems which allegedly occurred during the base period. The FEA concluded in this respect that in view of significant discrepancies between various submissions which United had filed, no conclusive findings could be made as to these alleged difficulties. Finally, the FEA determined that United had not shown that in the absence of exception relief restoring West Branch to first priority status, the refinery would incur a serious hardship. The FEA concluded that portions of the loss which United projected for West Branch in 1976 were attributable to events which were unrelated to the FEA regulations. The FEA further indicated that certain of United's computations were erroneous and furthermore that the firm's entitlements revenues for the month of July 1976 alone exceeded the total loss projected for West Branch for the entire year. Based on the foregoing considerations, the FEA denied United's request that West Branch be designated as a first priority refinery and granted a portion of the adjustment which United had requested be made in its base period volume of Canadian crude oil runs to stills.

PETITION FOR SPECIAL REDRESS RELIEF

Jarrell Oil Co., Inc.; Doswell, Va.; FSG–0025; Motor Gasoline.

The Jarrell Oil Company, Inc. filed a Petition for Special Redress Relief which, if granted, would result in the issuance of FEA orders (1) assigning a base period use of motor gasoline to a new retail sales facility which Jarrell constructed; and (ii) assigning Exxon Company, U.S.A. as the base period supplier of the new facility. Jarrell, a wholesale purchaser-reseller of motor gasoline and diesel fuel, markets those products under the Texaco brand. In early 1975, Jarrell began the construction of a new Exxon-branded retail gasoline sales facility on the property adjacent to the firm's existing truck plaza in order to accommodate increased traffic associated with the opening of a large adjacent amusement park called Kings Dominion. However, the firm's Application for Assignment of a base period use of gasoline for the proposed facility was dismissed by FEA Region III on the grounds that the new facility was an extension of the existing Jarrell's Truck Plaza, rather than a new "retail sales outlet" as defined in Section 211.51. Jarrell's Appeal of that determination was denied. In considering Jarrell's Petition for Special Redress, the FEA determined that Jarrell's new facility does not technically meet the definition of a new "retail sales outlet" because Jarrell maintains an on-going business activity in which it sells gasoline to end-users from its existing truck plaza. Nevertheless the FEA found that Jarrell's new station is distinguishable from a retail sales outlet which has merely expanded its existing facility since the new station was constructed to provide services to a different market from the existing outlet and has separate facilities for service and maintenance. Moreover, while the increased demand for gasoline in the area is currently being satisfied with surplus gasoline supplied by Exxon, the FEA determined it was never intended that new retail stations should be supplied on a permanent basis with surplus product. The FEA also determined that if Exxon were unable to supply the new facility with surplus product, Jarrell would be forced either to discontinue the new operation resulting in the loss of its investment or to convert the station to a Texaco outlet at a substantial cost, and because of the lack of other retail outlets at the interchange, Jarrell's inability to obtain a base period use of gasoline for the new facility would result in substantial economic inefficiency and a gross inequity to both Jarrell and the users of the Kings Dominion amusement park. The FEA concluded that since this result would significantly frustrate the national objectives of economic efficiency and equitable distribution of refined products, special redress relief was warranted. The FEA therefore directed the Regional Administrator for Region III to assign a base period use of gasoline to Jarrell's new facility as if it were a new retail sales outlet, and to assign Exxon as the facility's base period supplier.

REQUEST FOR MODIFICATION OR RECISSION

Algonquin SNG, Inc.; Washington, D.C.; FMR–0056; Naphtha

Algonquin SNG, Inc. (Algonquin SNG) filed an Application for Rescission of a Decision and Order issued to the Petrochemical Energy Group (PEG) on June 28, 1976. *Petrochemical Energy Group,* 3 FEA Par. 80,661 (June 28, 1976). In that Decision, the FEA remanded a previous Assignment Order issued to Algonquin Gas Transmission Company (Algonquin) on August 29, 1975 to the Assistant Administrator for Regulatory Programs for further consideration of several issues relating to the allocation of naphtha to Algonquin for use as feedstock in the

firm's Freetown, Massachusetts synthetic natural gas (SNG) plant. In its present Application, Algonquin SNG requested that the June 28 Decision and Order be rescinded on the ground that the circumstances upon which the June 28 Decision was predicated have "changed significantly" since the date of its issuance. Algonquin SNG contended that although the June 28 Order was partially based on findings regarding the existence of a shortage of naphtha, this assumption has been repudiated by subesequent FEA findings which were prepared in connection with a proposal to exempt most naphthas from the scope of the Mandatory Petroleum Allocation and Price Regulations. 41 Fed. Reg. 30096 (July 22, 1976). In considering Algonquin SNG's Application, the FEA determined that the findings contained in the July 22 proposal to decontrol naphthas did not constitute "changed circumstances" as that term is defined in 10 CFR 205.135 since they did not pertain to the allocation of naphtha for use as a SNG feedstock. Moreover, the FEA found that the June 28 Order was based on FEA policies regarding the desirability of encouraging conversion from natural gas and SNG to other fuels in view of the existing shortage of natural gas and the inefficiency of SNG production. Accordingly, the FEA determined that Algonquin SNG was not correct in contending that the June 28 Order was based on assumptions as to the availability of naphtha. The Algonquin SNG Application for Recession of the June 28 Order was therefore denied.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Al Jones Oil Corp.; Jamaica, N.Y., FEE–2822
Fuller Oil Co.; Fayetteville, N.C., FEE–3341
Superior Oil Co.; Houston, Tex., FEA–0898

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Connecticut Refining Co.; New York, N.Y., FEA–0970

The following submission was dismissed on the grounds that the applicant failed to show any basis for the FEA to eliminate or alter the requirement that the firm establish an escrow account as a condition of a stay:

Varibus Corp.; Beaumont, Tex., FMR–0069

TEMPORARY STAY

The following Application for Temporary Stay was granted on the grounds that the applicant had made a compelling showing that temporary stay relief was necessary to prevent an irreparable injury;

Quincy Oil, Inc.; Quincy, Mass.; FST–0054

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: January 24, 1977.

DAVID G. WILSON,
Acting General Counsel.

[FR Doc.77-2758 Filed 1-25-77;9:43 am]

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of December 31, 1976 through January 7, 1977

Notice is hereby given that during the week of December 31, 1976 through January 7, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

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

Dated: January 24, 1977.

DAVID G. WILSON,
Acting General Counsel.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of Dec. 31 through Jan. 7, 1977*

Date	Name and location of applicant	Case No.	Type of submission
Jan. 3, 1977	Melton's Auto Service, Petersburg, Va. (If granted: The FEA's Sept. 20, 1976, decision and order would be modified, and Melton's Auto Service would be assigned a base period use of 783,964 gal/yr of motor gasoline.)	FEX-0110	Supplemental order.
Do	Tenneco Oil Co., Washington, D.C. (If granted: The FEA's Nov. 30, 1976, information request denial would be rescinded and the Tenneco Oil Co. would receive access to portions of documents compiled in connection with the FEA compliance case No. N00A00304 involving the Tenneco Oil Co.)	FEA-1110	Appeal of FEA's information request denial.
Jan. 4, 1977	Allied Chemical Corp., Houston, Tex. (If granted: Allied Chemical Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the following natural gas plants: Benedum, Glendive, Perkins, Sligo, and Walnut Bend.)	FEE-3550—FEE-3554	Price exception (sec. 212.165).
Do	Arkansas Louisiana Gas Co., Shreveport, La. (If granted: Arkansas Louisiana Gas Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at its Bistineau, Hamilton, Sligo, and Waskom natural gas plants.)	FEE-3557—FEE-3560	Do.
Do	City of Long Beach, Calif. (If granted: Crude oil produced from the Fault Block III Unit, Wilmington Oil Field, Los Angeles County, Calif., would be sold at upper tier ceiling prices.)	FEE-3540	Do.
Do	Duke Oil Co., Inc., Mineral, Va. (If granted: The FEA's Dec. 23, 1976, remedial order would be rescinded and Duke Oil Co., Inc., would be permitted to sell motor gasoline at prices which exceed the maximum level permitted under the mandatory petroleum price regulations.)	FRA-1111	Appeal of FEA's remedial order dated Dec. 23, 1976.
Do	O'Meara, Robert W., New Orleans, La. (If granted: Robert W. O'Meara would be permitted to sell crude oil produced from the Louisiana Fruit No. 2 well located in the Tiger Pass Field of Plaquemines Parish, La., at a price which exceeds the lower tier ceiling price specified in the FEA mandatory petroleum price regulations on the basis that he is continuing to experience a serious hardship.)	FXE-3555	Extension of relief granted in Robert W. O'Meara, 4 FEA par. 83,029 (July 30, 1976).
Do	Wallace & Wallace Fuel Co., Washington, D.C. (If granted: Wallace & Wallace Fuel Co. would be granted retroactive relief which would permit it to have sold No. 2 heating oil above the maximum level permitted under the mandatory petroleum price regulations.)	FEE-3556	Price exception (Sec. 212.93(a)).
Do	Wise, Watson W., Tyler, Tex. (If granted: The FEA's July 22, 1976, decision and order would be rescinded and Wise and other working interest owners of the Stone Johnson lease would be permitted to sell the crude oil which they produce at prices which exceed the maximum levels specified in the FEA mandatory petroleum price regulations.)	FXA-1106	Appeal of decision and order in Watson W. Wise, 4 FEA par. 83,018 (July 22, 1976).
Jan. 5, 1977	Doric Petroleum, Inc. (Enid), Houston, Tex. (If granted: Doric Petroleum, Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Enid Gas Processing Plant.)	FEE-3516	Price exception (sec. 212.165).
Do	Doss, Inc., Eupora, Miss. (If granted: The Greenville, Miss. facilities and the Hattiesburg, Miss., salt dome storage facilities would be considered as separate inventories, retroactive to May 15, 1973.)	FEE-3562	Exception.
Do	Edco Research Associates, Newcastle, Wyo. (If granted: Edco Research Associates' crude oil supplier/purchaser relationship with National Cooperative Refinery Association would be terminated and Edco would be permitted to enter into a supplier/purchaser relationship with Tesoro Crude Oil Co.)	FEE-3561	Allocation exception (sec. 211.63).
Do	Harris Enterprises, Inc., Washington, D.C. (If granted: The FEA's Dec. 3, 1976, decision and order would be rescinded and Harris Enterprises, Inc., would be assigned new, lower priced suppliers of motor gasoline to replace its base period suppliers, Amicoil Oil Co., Lion Oil Co., Powerine Oil Co., and Mercury Oil Do.)	FXA-1113	Appeal of decision and order in Harris Enterprises, Inc., 4 FEA par. ——— (Dec. 3, 1976).
Do	Seabrook, H. S., Pine Bluff, Ark. (If granted: The FEA's Oct. 8, 1976, decision and order would be rescinded and crude oil produced from the Central Hilight Unit located in the Powder River Basin of eastern Wyoming would be sold at upper tier ceiling prices for the benefit of both the working interest owners and the royalty interests.)	FXA-1114	Appeal of FEA's decision and order in Central Hilight Unit, 4 FEA par. 83,138 (Oct. 8, 1976).

Date	Name and location of applicant	Case No.	Type of submission
Do.....	Zenith Oil Co., Inc., Minneapolis, Minn. (If granted: The FEA's Dec. 8, 1976, decision and order would be rescinded and Zenith Oil Co., Inc., would not be required to make refunds for overcharges in its sales of No. 2 heating oil.)	FEX-0111	Supplemental order.
Jan. 6, 1977	Hudson Oil Co., Inc., Washington, D.C. (If granted: The FEA's Dec. 20, 1976, decision and order would be modified and Hudson Oil Co., Inc., would receive additional administrative relief in order to facilitate the acquisition by Hudson of a refinery which Midland Cooperatives owns in Cushing, Okla.)	FEX-0112	Modification of FEA's decision and order in Hudson Oil Co., Inc., 4 FEA par. ..... (Dec. 20, 1976).
Do.....	Varibus Corp., Beaumont, Tex. (If granted: Varibus Corp. would receive a stay of the requirements of the FEA's Sept. 20, 1976, remedial order and would not be required to make refunds to Thomas P. Reidy and Riffe Petroleum for overcharges in sales of No. 2 heating fuel oil pending a judicial review of such remedial order.)	FES-0052	Stay request, remedial order dated Sept. 20, 1976.

[FR Doc.77-2757 Filed 1-25-77;9:43 am]

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of January 7 through January 14, 1977

Notice is hereby given that during the week of January 7 through January 14, 1977 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

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

Dated: January 24, 1977.

DAVID G. WILSON,
Acting General Counsel.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of Jan. 7 through Jan. 14, 1977*

Date	Name and location of applicant	Case No.	Type of submission
Jan. 7, 1977	Getty Oil Co., Los Angeles, Calif. (If granted: The FEA's Dec. 3, 1976, decision and order would be rescinded and the FEA would grant Getty Oil Co. exception relief based on a comparison of the firm's operations at various natural gas processing plants during the fiscal quarter ended June 30, 1973, and the fiscal quarter ending June 30, 1976.)	FXA-1116–FXA-1141	Appeal of decision and order in Getty Oil Co., 4 FEA par..... (Dec. 3, 1976)
Do.....	Marathon Oil Co., Mid-Continent, Inc. Hamilton Oil Co., Ingram Corp., Publix Oil Co., Inc., Washington, D.C. (If granted: The Marathon Oil Co. would be assigned as the base period supplier of motor gasoline to Mid-Continent, Inc., Hamilton Oil Co. Ingram Corp., and Publix Oil Co., Inc., in the quantities for which they have contracted.)	FEE-3563–FEE-3567	Allocation exception.
Do.....	Tenneco Oil Co., Houston, Tex. (If granted: The Tenneco Oil Co. would receive a stay of the requirements of the FEA's Dec. 21, 1976 decison and order pending a judicial review of that order.)	FES-0058	Stay request.
Do.....	Texas American Oil Corp., Midland, Tex. (If granted: The Texas American Oil Corp. would receive a stay of the requirements of the FEA's Dec. 16, 1976, decision and order which may prevent TAO from participating in the old oil entitlements program with regard to crude oil runs at the Osceola refinery beginning Sept. 1, 1976, pending an appeal of that order which it intends to file.)	FES-1115	Do.
Jan. 10, 1977	Hanover Management Co., Dallas, Tex. (If granted: Crude oil produced from the Fruin "A" No. 1 Well, Coyle Field, Payne County, Okla., would be sold at upper tier ceiling prices.)	FEE-3568	Price exception (sec. 212.73).
Do.....	Mockabee's, Marlboro, Md. (If granted: FEA's Dec. 22, 1976, remedial order would be rescinded and Mockabee's would not be required to refund overcharges in its kerosene and fuel oil sales.)	FRA-1145	Appeal of FEA's Dec. 22, 1976, remedial order.
Do.....	Omega Oil Co., Washington, D.C. (If granted: FEA's Nov. 9, 1976, decision and order would be rescinded and Omega Oil Co. would receive an increase in the base period use of motor gasoline for retail outlets Omega purchased from the Standard Oil Co. of Ohio.)	FXA-1144	Appeal of FEA's decision and order in Omega Oil Co., 4 FEA par. ..... (Nov. 9, 1976).
Do.....	Standard Oil Co. of Ohio, Cleveland, Ohio. (If granted: FEA's Dec. 3, 1976, decision and order ould be rescinded and Standard Oil Co. of Ohio would be permitted to calculate its maximum permissible selling prices for the covered products which it refines on the basis of an adjusted May 1973 crude oil cost rather than the firm's actual May 1973 crude oil cost.)	FXA-1142	Appeal of FEA's decision and order in Standard Oil Co. of Ohio, 4 FEA par. ..... (Dec. 3, 1976).

Date	Name and location of applicant	Case No.	Type of submission
Do.	Tipperary Corp., Midland, Tex. (If granted: The FEA's Dec. 7, 1976, decision and order would be modified so that Tipperary's crude oil allocation would be sufficient to enable the refinery to operate at the national supply-to-capacity ratio.)	FEA-1143	Appeal of FEA's Dec. 7, 1976, decision and order.
Jan. 11, 1977	Berry Holding Co., Taft, Calif. (If granted: The FEA's Oct. 26, 1976, decision and order would be rescinded and Berry Holding Co. would be permitted to retain revenues which it apparently realized during 1975 as a result of charging prices which were in excess of the maximum levels permitted under the provisions of part 212 of the mandatory petroleum price regulations).	FXA-1149	Appeal of FEA's decision and order in Berry Holding Co., 4 FEA par. 83,167 (Oct. 26, 1976).
Do.	Boston Gas Co., Boston, Mass. (If granted: Boston Gas Co. would receive an extension of the relief, as it pertains to 10 CFR 211.29, granted in FEA's Nov. 16, 1976, decision and order.)	FXE-3577	Extension of relief granted in Boston Gas Company, 4 FEA par. ..... (Nov. 16, 1976).
Do.	Champlin Petroleum Co., Fort Worth, Tex. (If granted: Crude oil produced from Fault Blocks II, III, and IV, Units of the Wilmington Field would be sold at upper tier ceiling prices to benefit the working interest owners.)	FEE-3574	Price exception (sec. 212.74).
Do.	Columbia LNG Corp. (If granted: The Cincinnati Gas & Electric Co. would be permitted to process in its peak shaving facilities the propane which Columbia is currently permitted to process in its Green Springs SNG plant. The temporary stay is based upon the fact that a recent explosion of Columbia's SNG plant has substantially reduced the supply of natural gas available to Columbia customers.)	FST-0026	Temporary stay.
Do.	Columbia LNG Corp. (If granted: The Cincinnati Gas & Electric Co. would be permitted to process in its peak shaving facilities the propane which Columbia is currently permitted to process in its Green Springs SNG plant. The exception is based upon the fact that a recent explosion at Columbia's SNG plant has substantially reduced the supply of natural gas available to Columbia customers.)	FEE-3576	Allocation exception.
Do.	Commonwealth Oil Refining Co., Inc., Washington, D.C. (If granted: Commonwealth Oil Refining Co., Inc., would be assigned additional entitlements on the basis that it is experiencing a serious hardship and gross inequity.)	FEE-3575	Exception to the old oil entitlements program.
Do.	Domind Petroleum Corp., Inc., Hopewell Junction, N.Y. (If granted: The FEA's Nov. 29, 1976, remedial order would be rescinded and Domind Petroleum Corp. would not be required to refund overcharges in its fuel oil sales during the period Nov. 15, 1973, through Dec. 31, 1974.)	FRA-1148 FRS-1148	Appeal of FEA's Nov. 29, 1976, remedial order stay request.
Do.	Farmland Industries, Inc., Kansas City, Mo. (If granted: Farmland Industries, Inc., would receive an extension of the exception relief granted in FEA's Nov. 23, 1976, decision and order which would permit the firm to increase prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products at its Lamont and Mertzon processing plants.)	FXE-3571 FXE-3572	Extension of exception relief granted in Farmland Industries, Inc., 4 FEA par. ..... (Nov. 23, 1976).
Do.	Genie Car Wash, San Diego, Calif. (If granted: Genie Car Wash would be supplied motor gasoline by Standard Oil Co. of California rather than Mobil Oil Corp.)	FEE-3560	Exception to change suppliers.
Do.	Gulf Oil Corp., Houston, Tex. (If granted: FEA's Jan. 6, 1977, decision and order would be rescinded and Gulf would be relieved of its supplier/purchaser relationships for motor gasoline in Northern California, Northern Nevada, Oregon, and Washington.)	FMR-0079	Rescission of FEA's Jan. 6, 1977, decision and order in Mobil Oil Corp., et al., 4 FEA Par. ..... (Jan. 6, 1977).
Do.	Gulf Oil Corp., Tulsa, Okla. (If granted: FEA region VI's Dec. 10, 1976, decision and order would be rescinded and Gulf Oil Corp. would not be required to supply Bay-Tex Terminal, Ltd with motor gasoline.)	FMR-0080	Rescission of region VI's Dec. 10, 1976, decision and order.
Do.	MacKellar, Inc., Oklahoma City, Okla. (If granted: FEA's December 30, 1976 Remedial Order would be rescinded and MacKellar, Inc., would not be required to refund overcharges in its crude oil sales.)	FRA-1147 FRS-1147	Appeal of FEA's Dec. 30, 1976, remedial order stay request.
Do.	Searsdale Fuel Oil Company, Inc., Searsdale, New York (If granted: Searsdale Fuel Oil Co., Inc., would not be required to file FEA report forms.)	FEE-3570	Exception to reporting requirements.
Do.	Tenneco Oil Co., Houston, Tex. (If granted: FEA's Dec. 8, 1976, decision and order would be rescinded and the first 6,019 bbl of crude oil produced from the Kopp replacement well would be sold at upper tier ceiling prices for the benefit of the working interest owners.)	FXA-1146	Appeal of FEA's Dec. 8, 1976, decision and order Tenneco Oil Co., 4 FEA par. ..... (Dec. 8, 1976).
Do.	U.S.A. Gas, Inc., and Rossi Oil Co., Pennsauken, N.J. (If granted: Rossi Oil Co. would be assigned a new, lower priced supplier of motor gasoline on the basis that it is experiencing a serious hardship.)	FEE-3573	Exception to change suppliers.
Jan. 12, 1977	Columbia LNG Corp. (If granted: Consumers Power Co., and Columbia Gas Transmission Corp., would be permitted to process the propane which Columbia is currently permitted to process in Columbia LNG Corp.'s Green Springs SNG plant in order to alleviate shortages produced by a recent explosion at the Green Springs plant, which has reduced the supply of natural gas available to Columbia customers.)	FST-0027	Temporary stay.
Do.	Columbia LNG Corp. (If granted: Consumers Power Co. and Columbia Gas Transmission would be permitted to process the propane which Columbia is currently permitted to process in its Green Springs SNG plant in order to alleviate shortages which may arise as a result of a recent explosion at Columbia's SNG plant, which has substantially reduced the supply of natural gas available to Columbia customers.)	FEE-3578	Allocation exception.

Date	Name and location of applicant	Case No.	Type of submission
Do.....	Kershaw Properties, Muskogee, Okla. (If granted: The FEA's Dec. 8, 1976, decision and order would be rescinded and crude oil produced from the Kopp No. 1 Unit would be sold at upper tier ceiling prices for the benefit of both the working interest owners and the royalty interest owners.)	FXA-1150 FES-1150	Appeal of FEA's decision and order in Tenneco Oil Company, 4 FEA par.....(Dec. 8, 1976) stay request.
Do.....	Navajo Refining Co., Washington, D.C. (If granted: The FEA would review the entitlements exception relief granted to Navajo Refining Co. during its 1976 fiscal year in order to determine whether the level of exception relief approved was appropriate.)	FEX-0113	Review of entitlements exception relief (supplemental order).
Do.....	Readygas Propane Service, Inc., Eldon, Mo. (If granted: FEA's Dec. 20, 1976, decision and order would be rescinded and Readygas Propane Service, Inc., would be assigned a new, lower priced supplier of propane on the basis that it is experiencing a serious hardship.)	FXA-1151	Appeal of FEA's decision and order in Readygas Propane Service, 4 FEA par.....(Dec. 20, 1976).
Jan. 13, 1977	Commonwealth Natural Gas Corp., Lynchburg, Va. (If granted: Commonwealth Natural Gas Corp. would receive a temporary stay of the requirements of 10 CFR 211.83(c)(2)(v) and 211.10(g)(8) in order to permit it to purchase surplus propane for processing in Washington Gas & Light Co.'s propane-air facility.)	FST-0028	Temporary stay.
Do.....	Hudson Oil Co., Washington, D.C. (If granted: The FEA's Jan. 12, 1977, decision and order would be modified and Hudson Oil Co. would receive additional administrative relief in order to facilitate the acquisition by Hudson of a refinery which Midland Cooperatives owns in Cushing, Okla.)	FEX-0114	Supplemental order in Hudson Oil Co., 4 FEA par.....(Jan. 12, 1977).
Do.....	Marine Contractors & Supply, Inc., Houston, Tex. (If granted: Crude oil produced from the S. J. Simoneaux Lease would be sold at upper tier ceiling prices.)	FEE-3579	Price exception (sec. 212.74).
Do.....	Phillips Petroleum Co., Bartlesville, Okla. (If granted: Phillips Petroleum Co. would receive a stary of the requirements of an FEA special report order dated Dec. 3, 1976, with respect to the firm's exchanges involving refined petroleum products.)	FES-0039	Stay of FEA's special report order.
Do.....	Piedmont Natural Gas Co., Inc., Charlotte, N.C. (If granted: Piedmont Natmal Gas Co., Inc., would receive an emergency allocation of propane on the basis that the severe winter has increased demand and the firm has been unable to obtain additional supplies of natural gas to maintain service to its customers.)	FST-0029	Temporary stay.
Do.....	Riddle Oil Co., San Antonio, Tex. (If granted: Riddle Oil Co. would receive an exception to the 60-day rule and would be permitted to retroactively increase prices for crude oil produced from the Bass lease in Victoria County, Tex. to upper tier levels.)	FEE-3580	Price exception (sec. 212.74).

[FR Doc.77-2752 Filed 1-25-77;9:43 am]

FEDERAL HOME LOAN BANK BOARD

ALTERNATIVE MORTGAGE INSTRUMENTS RESEARCH STUDY ADVISORY COMMITTEE

Meeting

JANUARY 27, 1977.

Pursuant to Section 10(a) of Pub. L. 92-463, entitled the Federal Advisory Committee Act, notice is here given by the Federal Home Loan Bank Board of the meeting of its Alternative Mortgage Instruments Research Study Advisory Committee on Wednesday, February 16 at the Mayflower Hotel, 1127 Connecticut Avenue, N.W., Washington, D.C.

The meeting of the Alternative Mortgage Instruments Research Study Advisory Committee is open to the public.

GRADY PERRY, Jr.,
Board Member.

AGENDA

Wednesday, February 16, 1977, 9 a.m. to 3:30 p.m., East Room, Mayflower Hotel, 1127 Connecticut Avenue, N.W., Washington, D.C.

I. INTRODUCTORY REMARKS (9 A.M.)

New Committee Members: Eli Shapiro.

II. REVIEW OF PROGRESS REPORT

Comments on Report of December 29, New Legislative Developments, Don Kaplan.

III. INDIVIDUAL PROJECT STATUS REPORTS (9:15 A.M. TO 12 M.)

(9:15) Demographic Study of Potential Demand for Alternative Mortgage Instruments (AMI's), Prof. James Smith, Yale University.

(9:45) National Survey of Borrower's Housing Characteristics, Attitudes and Preferences, Profs. Art Solomon and Kent Colton, MIT-Harvard Joint Center for Urban Studies.

(10) Coffee break.

(10:30) Economic Framework for Analyzing AMI's, Henry Cassidy and Al Field, OER, FHLBB.

(11) Analysis of Consumer Safeguards for AMI's, Prof. Maurice Weinrobe, Clark University.

(11:30) Accounting and Tax Policy Implications of AMI's; Origination and Servicing Cost Implications of AMI's, Frank Orschlager, Peat, Marwick, Mitchell & Co.

12 m.-1:15 p.m., Luncheon—Chinese Room, Mayflower Hotel.

(1:30) HUD Section 245 Experimental Finance Program—Graduate Payment Mortgages, Chet Foster, HUD.

(1:45) Reverse Annuity Mortgage Proposal, Prof. Jack Guttentag, Wharton School.

(2) California VRM Status Report, Dr. Mark Riedy, FHLB—San Francisco.

(2:15) Canadian Style Roll-Over Mortgage.

(2:30) Secondary Mortgage Market Analysis of AMI's, Ken Plant, FHLMC.

(2:45) VRM Consumer Survey in California, Jerry Albaum, Center for Capital Market Research, University of Oregon.

IV. CLOSING REMARKS (3 to 3:30 p.m.)

Other projects not discussed: National Survey of Current AMI Actiivty, Default and Foreclosure Analysis of AMI's, National Survey of Lender's Attitudes and Preferences on AMI's, Impact of AMI's on Housing Construction Activity, Analysis of AMI Price Relationships, Impact of AMI's on Conduct and Effect of Monetary Policy, Legal Analysis of AMI's.

Distribution and responses: Advisory Committee Meeting Transcript, Individual Project Study Drafts; Plans for Third Advisory Committee Meeting, Eli Shapiro and Don Kaplan.

3:30 p.m., adjourn.

[FR Doc.77-3088 Filed 1-28-77;8:45 am]

FEDERAL RESERVE SYSTEM

TRUST COMPANY OF GEORGIA

Acquisition of Bank

Trust Company of Georgia, Atlanta, Georgia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent (less directors' qualifying shares) of the voting shares of the successor by merger to The First National Bank of Albany, Albany, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 18, 1977.

Board of Governors of the Federal Reserve System, January 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-2940 Filed 1-28-77;8:45 am]

TRUST COMPANY OF GEORGIA

Acquisition of Bank

Trust Company of Georgia, Atlanta, Georgia, has applied for the Board's approval under section 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, less directors' qualifying shares, of the successor by merger to The First National Bank of Brunswick, Brunswick, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 23, 1977.

Board of Governors of the Federal Reserve System, January 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-2941 Filed 1-28-77;8:45 am]

OFFICE OF THE FEDERAL REGISTER

FREEDOM OF INFORMATION INDEX REQUIREMENTS

Guide to Agency Material; January to December 1976

5 U.S.C. 552 (commonly called the Freedom of Information Act) requires agencies to maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required to be made available or published (5 U.S.C. 552(a)(2)). Certain amendments (Public Law 93-502, Nov. 21, 1974, 88 Stat. 1561) require the publication (with some exceptions) and distribution of these indexes at least quarterly. This guide has been compiled by the Office of the Federal Register from information submitted by agencies for the calendar year 1976 in order to notify the public of the availability of these indexes for sale and/or public inspection.

Agency and subagency name	Index title; period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Agriculture, Agricultural Stabilization and Conservation Service.	ASCS handbooks: Current listing of all administrative staff manuals.	Director, Data Systems Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013. No charge.	Director, Data Systems Division, ASCS USDA, P.O. Box 2415, Washington, D.C. 20013.
Do	Marketing quota. Review committee determinations; 1970 to date; listing by crop-year of all decisions made on marketing quota appeals.	do	Do.
Do	Board of contract appeals decisions; 1970 to date; listing of all decisions on appeals affecting ASCS and or CCC.	do	Do.
Do	CCC Board dockets; 1969 to date; listing of all Commodity Credit Corporation dockets approved by the Secretary of Agriculture.	do	Do.
Do	ASCS program appeals; 1970 to date; chronological listing of all appeals handled by ASCS program appeals staff.	do	Do.
Department of Agriculture, Rural Electrification Administration.	Index of current REA publications: Electric Program, as of Apr. 6, 1976, with supplement thereto updating the index to Dec. 31, 1976. An alphabetic and numerical index of REA electric program bulletins, staff instructions, contract forms, and specifications.	Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043 South, Washington, D.C. 20250. No charge.	Director, Information Service Divisdon, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043 South, Washington, D.C. 20250.
Do	Index of current REA publications: Telephone as of Mar. 5, 1976, with supplement thereto updating the index to Dec. 31, 1976. An alphabetic and numerical index of REA telephone program bulletins, staff instructions, contract forms, specifications, sections of the Telephone Engineering and Construction and Telephone Operations manuals, and the rules and regulations of the Rural Telephone Bank.	do	Do.
Department of Defense, Department of the Air Force.	Numerical index of departmental forms (AFR 0-9). Aug. 6, 1976. Lists forms numerically within each category, including accountable forms, forms requiring storage safeguards, and obsolete forms.	DADF at nearest Air Force installation. Shelf stock, $2.76 per copy; reproduced copies, $5.50 per copy; shelf stock will be used while it lasts. Checks payable to: AFO (name of base furnishing copies).	DADF at nearest Air Force installation.
Do	Guide to indexes, catalogs, and lists of departmental publications (AFR 0-1). Sept. 1, 1974. Describes the indexes, catalogs, and lists of departmental publications; explains their use, tells how often they are revised, shows their distribution and gives the office of primary responsibility.	DADF at nearest Air Force installation. Shelf stock, $2.05 per copy; reproduced copies $2 per copy; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Numerical index of standard publications and recurring periodicals (AFR 0-2). Oct. 1, 1976. Lists regulations, manuals, and pamphlets together under each subject series; lists visual aids and recurring periodicals separately.	DADF at nearest Air Force Installation. Shelf stock. $2.78 per copy; reproduced copies $5.90; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Miscellaneous Air Force and other Government agency publications (AFR 0-16). Sept. 10, 1976. Lists a wide range of subjects of interest to the Air Force.	DADF at nearest Air Force installation. Shelf stock, $2.08 per copy; reproduced copies, $2.10 per copy; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Publications Numbering Systems (AFR 5-4). February 15, 1974. Contains subject series and description guide and alphabetical list of subjects.	DADF at nearest Air Force installation. Shelf stock $2.15 per copy, reproduced copies $2.45 per copy; shelf stock will be used while it lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do	Disposition of Air Force documentation (AFM 12-50). Oct. 1, 1969. Pt. 2 consists of decision logic tables which provide for disposition of documentation created or accumulated by all Air Force activities. Attachment 3 is an index to the tables, arranged alphabetically by title of the record.	DADF at nearest Air Force installation. Shelf stock will not be used. Pt. 2 is voluminous, therefore, only tables pertaining to requested records will be reproduced. $2. for 1st 6 pages, plus $0.05 for each additional page. Checks payable to: AFO (name of base furnishing copies).	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from: price; make checks payable to—	For inspection, copying, or additional information contact
Department of Defense, Department of the Army, TAGCEN, Army Publications Directorate.	DA pamphlet 310-1: Index of administrative publications (regulations, circulars, pamphlets, posters, general orders, joint chiefs of staff publications.) Basic dated May 1975, with/change 1, Aug. 25, 1975.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $4.30. Payable to: Treasurer of United States.	Director, Army Publications Directo Forrestal Bldg., Washington, D.C. 20314.
Do	DA pamphlet 310-2: Index of blank forms, May 1974, with/change 1, December 1974.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $3.50. Payable to: Treasurer of United States.	Do.
Do	DA pamphlet 310-3: Index of doctrinal, training, and organizational publications (field manuals, reserve officer's training corps manuals, training circulars, Army training programs, Army subject schedules, Army training tests, firing tables and tra'ectory charts, tables of distribution and allowances). Basic dated May 1975.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $3.55. Payable to: Treasurer of United States.	Do.
Do	DA pamphlet 310-4: Index of technical manuals, technical bulletins, supply manuals (types 7, 8, and 9), supply bulletins, and lubrication orders. Basic dated November 1974, with change 3, October 1975.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $8.50. Payable to: Treasurer of United States.	Do.
Do	DA pamphlet 310-6: Index of supply catalogs and supply manuals. Basic dated July 1976.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $3.50. Payable to: Treasurer of United States.	Do.
Do	DA pamphlet 310-7: Index of Equipment Modification Work Orders, February 1976.	Director, Army Publications Directorate, Forrestal Bldg., Washington, D.C. 20314. Price: $3.50. Payable to: Treasurer of United States.	Do.
Defense Civil Preparedness Agency.	Publications catalog, MP-20: A listing of publications and other printed matter on the U.S. Civil Defense program available to the public. Contains a brief resume of each one and provides information on where to obtain.	U.S. Army Publications Center, Civil Preparedness Branch, 2800 Eastern Blvd. (Middle River), Baltimore, Md. 21220. No charge.	DCPA Headquarters, Room 1D511, Pentagon Bldg., Washington, D.C. 20301 or DCPA regional offices as shown at app. C, pt. 1813, ch. XVIII, title 32, CFR.
Do	DCPA manual 5450.2: Index of DCPA instructions and manuals, a listing, both numerical and subjective, of the Agency instructions announcing policy, outlining programs, and prescribing internal operating procedures.	do	Do.
Defense Communications Agency.	1. DCA circulars and notices: Enclosure 1 consists of 2 sections. Section A contains the index of current DCA circulars and notices. Those circulars, notices, and changes published during the period Jan. 1-June 30, 1976, are highlighted by a number sign (#) in the left margin. Section B contains a listing of those publications which have been canceled or replaced since Jan. 1, 1976, by a publication of a different number. Publications superseded by a revised issue bearing the same number are not included. Enclosure 2 is an alphabetical listing of current DCA circulars. Enclosure 3 is an alphabetical listing of current DCA Notices. 2. DCA instructions: Enclosure 1 consists of 2 sections. Section A contains the index of current DCA instructions. Those instructions and changes published during the period Apr. 1 to Sept. 30, 1976, are highlighted by a number sign (#) in the left margin. Section B contains a listing of those instructions which have been canceled or replaced by an instruction of a different number since Apr. 1, 1976. Enclosure 2 is an alphabetical listing of current DCA instructions.	Defense Communications Agency, Washington, D.C. 20305. No charge.	Defense Communications Agency, 8th St. and South Courthouse Rd., Arlington, Va. 22204.
Defense Nuclear Agency	Index to administrative publications, May 10, 1976, with changes. Description: Administrative instructions covering manpower, personnel, international programs, planning and readiness, R. & D., logistics, maintenance, transportation, general administration, organization and function, security, administrative services, public information, legal and legislative policies, comptrollership, budgeting, appropriations accounting and control, auditing, and reports control.	Defense Nuclear Agency, Attention: PAO, Washington, D.C. 20305. $1 by xeroxing, $0.35 by printing run. Payable to: Treasurer of the United States.	
Do	Government reports index: Biweekly, annual cumulation. Description: Indexes DNA and other Government-sponsored research and development reports prepared by Federal agencies or their contractors.	National Technical Information Service, Springfield, Va. 22161. $125 annual subscription rate. Payable to National Technical Information Service.	Director, Defense Nuclear Agency, Technical Library, Washington, D.C. 20305.
Defense Nuclear Agency, Armed Forces Radiobiology Research Institute.	Index of Armed Forces Radiobiology Research Institute (AFRRI) instructions, Nov. 10, 1975, with changes. Description: Listing of all AFRRI instructions in force.	Director, Armed Forces Radiobiology Research Institute, Attention: Administrative Officer, Defense Nuclear Agency, National Naval Medical Center, Bethesda, Md. 20014. 9 pages at $0.05 per page ($0.45). Checks payable to Treasurer of the United States.	
Defense Nuclear Agency, field command.	FCDNA instruction 5025.8J, Apr. 30, 1976 with changes. Description: Current index to field command instructions.	Field Command, Defense Nuclear Agency, Attention: Security Specialist, Support Directorate, Kirtland AFB, N. Mex. 87115. No charge.	
Defense Nuclear Agency, field command (FCDNA).	FCDNA instruction 5030.1D; Oct. 31, 1976. Description: Current index to FCDNA agreements, memoranda of understanding, and interservice agreements.	do	
Defense Nuclear Agency, field command, Johnston Atoll (FCJ).	FCJ instruction 5025.8A; Jan. 22, 1975 with changes. Description: Current index to FCJ instructions.	do	

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Defense Supply Agency	DSAH 5025.1, pt. I: Defense Supply Agency index of publications, July 1976, provides an alphabetical and numerical listing of DSA and DOD publications applicable to the Defense Supply Agency.	HQ DSA (DSAH-XMD), Bldg. 6, Door 26, Cameron Station, Alexandria, Va. 22314. Price: $2 minimum fee per order, plus $0.01 per printed page. Payable to: Defense Supply Agency.	HQ DSA, Attention: DSAH-XA, Room 5A119, Cameron Station, Alexandria, Va. 22314.
Do	DSAH 5025.1, pt. II: Quarterly listing of numbered letters, October 1976, provides a listing of interim issuances and numbered letters for the period ending Sept. 30, 1976.	do	Do.
Do	DSAH 5025.1, pt. III: Index of Federal catalog system publications, July 1976, provides a numerical listing of cataloging handbooks, Federal item identification guides, identification lists, master cross-reference lists, and related publications.	Defense Logistics Services Center, Attention: DLSC-AP, Federal Center, Battle Creek, Mich. 49016. Price: $2 minimum fee per order, plus $0.01 per printed page. Payable to: U.S. Treasury Department.	Defense Logistics Services Center, Attention: DLSC-TD, Room 1-9-7, Federal Center, Battle Creek, Mich. 49016.
Do	DSAH 5025.6: Index of forms, July 1976, is a listing of DSA and DD forms used by DSA.	HQ DSA (DSAH-XMD), Bldg. 6, Door 26, Cameron Station, Alexandria, Va. 22314. Price: $2 minimum fee per order, plus $0.01 per printed page. Payable to: Defense Supply Agency.	HQ DSA, Attention: DSAH-XA, Room 5A119, Cameron Station, Alexandria, Va. 22314.
Defense Supply Agency, Defense General Supply Center.	Index of publications: Current listing of policy statements, regulations, handbook, manuals, directives, letters, supplements, procedures, and clause manual.	Commander, Defense General Supply Center, attention of DGSC-B, Richmond, Va. Reproduced copies $2. Treasurer of the United States.	Public Affairs Officer, Defense General Supply Center, Richmond, Va. 23297.
Department of Health, Education, and Welfare, Food and Drug Administration (HEW/FDA).	Administrative Guidelines Manual. Jan. 1, 1973. Provides guidance to personnel responsible for regulatory decisions. Contains regulatory tolerances and guidance, and authorization for direct action by the field in areas of seizure, citation, and prosecution.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Supervisor, Public Records and Documents Center (HFC-18), Room 4-62, FDA, 5600 Fishers Lane, Rockville, Md. 20852.
Do	Bureau of Foods Staff Manual Guide. Primarily concerned with the preparation of and review of documents within the Bureau of Foods.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $10. Checks payable to Food and Drug Administration.	Do.
Do	Bureau of Drugs staff manual guide. Primarily concerned with the preparation of and review of documents within the Bureau of Drugs.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $21.50. Checks payable to Food and Drug Administration.	Do.
Do	Compliance Policy Guides. Provides a system for the issuing, filing, and retrieval of all official statements of FDA compliance policy.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	Compliance Program Guidance Manual. Provides general guidance to the field as to how certain industries will be inspected, sampled, etc., during a fiscal year. Programs within this manual assign the number of inspections or samples to be done within a specific industry. Over 3,000 pages.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. 10 cents per page. (Suggest before ordering, to request transmittal checklist to ascertain programs needed.) Checks payable to Food and Drug Administration.	Do.
Do	Drug autoanalysis manual. Provides content uniformity test specifications in USP XVII and NFX II. Provides assurance of homogeneity within a single lot for a safe and effective drug supply. Specifications are for all tablet monographs where the active ingredient is present in low quantities (usually 50 mg or less).	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	ERDO data code manual. Lists computer code information for programs management system project (PMS) which is used for reporting project information into the program oriented data system (PODS).	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $15. Checks payable to Food and Drug Administration.	Do.
Do	Field management directives. Used by the field staff to transmit FDA field policy in the areas of operations management, planning and budget guidance, program management, and State program management which gives policy information.	do	Do.
Do	Food additives analytical manual. Presents a compilation of analytical methodology for additives authorized for use. Compilation consists of methods for additives which can be used only as permitted in foods for human consumption and in feeds and drinking water of animals or treatment of food-producing animals.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	Hazard Analysis and Critical Control Point—A System for Inspection of Food Processors. Explains the hazard analysis and critical control point procedure. Used for overseeing industry's processing practices in order to provide the consumer with the best assurances possible of quality control in processing foods.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $131.95. Checks payable to Food and Drug Administration.	Do.
Do	Inspector Operations Manual. Provides FDA personnel with standard operating inspectional and investigational procedures. Contains instructions needed by operating inspectors and investigators. Contains authorities, objectives, responsibilities, policies, and guides.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $25. Checks payable to Food and Drug Administration.	Do.
Do	Inspector Training Manual. Basic training manual for food and drug inspectors and inspection technicians to provide the field with uniform approach to the administration of basic training.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $15. Checks payable to Food and Drug Administration.	Do.
Do	Inspector's Manual for State Food and Drug Officials. Divided into 2 parts (1) Operations manual with information applicable to sample collection, inspections, and investigations in all fields of food and drug work; (2) commodities manual divided into specific types of food commodities. Manual for official use of State and local food and drug enforcement officers only.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $65. Checks payable to Food and Drug Administration.	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Health, Education, and Welfare, Food and Drug Administration (HEW/FDA).	**Inspector's Technical Guide.** To provide a medium for making all FDA inspectors aware of selected technical information not previously available on a broad scale.	Supervisor, Public Records and Documents Center (HFC-18) 5600 Fishers Lane, Rockville, Md. 20852. $5.20. Payable to Food and Drug Administration.	Supervisor, Public Records and Documents Center (HFC-18) Room 4-62, FDA, 5600 Fishers Lane, Rockville, Md. 20852.
Do	Laboratory Operations Manual. Provides day-to-day guide for laboratory directors and supervisors. Reflects the science advisor program and district laboratory relationships with BDAC field offices and disposition of consumer complaint samples.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $17.50. Checks payable to Food and Drug Administration.	Do.
Do	Pesticide Analytical Manual. Brings together the procedures and methods used in the FDA laboratories for surveillance of the extent and significance of contamination of man and his environment by pesticides and their metabolites.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do	Quantity of contents compendium. Used to measure acceptable levels of shrinkage in food containers. Manual divided into 2 parts: (1) Contains procedures for measuring fill-of-container, statistical evaluation acceptable common or usual declaration of quantity of contents; (2) contains information on sampling where special techniques are required.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $25. Checks payable to Food and Drug Administration.	Do.
Do	Regulatory Procedures Manual. Provides guidance on regulatory policy and supporting processing procedures.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $85. Checks payable to Food and Drug Administration.	Do.
Do	Staff Manual Guides—Organization and Delegations. Contains directives issued by the Food and Drug Administration to establish policy, organization, procedures or responsibilities in the administrative area. Used to issue continuing instructions or information and remains in effect until rescinded or superseded.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. Vol. I, $60; Vol. II, $60; Vol. III, $30. Checks payable to Food and Drug Administration.	Do.
Do	Supervisory Inspectors Guide. Designed to furnish supervisory inspectors with guidelines to assist them in performing their duties.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $28.50. Checks payable to Food and Drug Administration.	Do.
Do	Index to Administrative Staff Manuals. Current listing of all staff manuals with indexes and/or table of contents and costs.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $20. Checks payable to Food and Drug Administration.	Do.
Do	Statements of policy and interpretations adopted by FDA and not published in the FEDERAL REGISTER.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. $5.90. Payable to Food and Drug Administration.	Do.
Department of Health, Education, and Welfare, National Institutes of Health (NIH).	NIH Freedom of Information Act index; from July 4, 1967–Mar. 31, 1976, includes items in the following categories: (1) administrative manuals and memorandum, (2) animal resources and programs, (3) audio-visuals policy and criteria, (4) clinical center operations, (5) contracts policy and guides, (6) employee and committee member handbooks and manuals, (7) grants policy and guides, (8) library resources and guidelines, (9) minority programs, (10) patient policy, (11) research centers guides, (12) safety guides and permits, and (13) site visit formats.	In addition to copies of the NIH EOIA index maintained by HEW, NIH will make photocopies available if requests are forwarded to: Associate Director for Communications, NIH, Building 1, Room 309, 9000 Rockville Pike, Bethesda, Md. 20014. Fees, as prescribed in 45 CFR 5.61, are 10 cents per page with the charge being made if the total amount exceeds $5. Checks payable to: DHEW—National Institutes of Health.	Associate Director for Communications, NIH, Building 1, Room 309, 9000 Rockville Pike, Bethesda, Md. 20014. (301)496-4461.
Department of Health, Education, and Welfare, Public Health Service, Alcohol, Drug Abuse, and Mental Health Administration.	The ADAMHA Freedom of Information Act Index is comprised of various ADAMHA component program guidelines, handbook listings, policy supplements, instructions, and manual materials. The index is divided to reflect the various ADAMHA components, namely the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, the National Institute of Mental Health, including Saint Elizabeths Hospital, and the Office of the Administrator.	Copies of the ADAMHA Freedom of Information Act index are maintained by the HEW, FOI Officer, Room 5360, HEW North Bldg., 330 Independence Ave., SW., Washington, D.C. 20201. ADAMHA will also make copies available if requests are forwarded to: Director, OCPA, ADAMHA, Parklawn Bldg., Room 16-95, 5600 Fishers Lane, Rockville, Md. 20852. Fees are 10¢ per page with the charge being made if the total amount exceeds $5 and are payable to Treasurer of the United States.	Director, Office of Communications and Public Affairs, Parklawn Bldg., Room 16-95, 5600 Fishers Lane, Rockville, Md. 20852.
Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).	A written description of the general preventive medicine residency program, dated Apr. 29, 1976. Residency assignments, qualifications, appointments, and supervision, as outlined in this document.	Center for Disease Control, Attention: Assistant Director for Operations, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Assistant Director for Operations, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Memorandum dated July 7, 1975. Subject: Medical care, resource personnel. This is the written procedure for handling telephone calls regarding the medical care of certain individuals.	Center for Disease Control, Attention: Director, Office of Biosafety, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Office of Biosafety, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Memorandum dated Apr. 27, 1976. Subject: Hot line, 633-5313. This is the written procedure for handling reports of damage to packages of infectious materials.	....do	Do.
Do	Staff publications booklet: An annual bibliographical listing of contributions made by the CDC staff to medical and scientific literature during the previous year.	Center for Disease Control, Attention: Director, Office of Information, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Office of Information, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Minutes of meetings and annual reports of following public advisory committees: 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.	Center for Disease Control, Attention: Director, Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Morbidity and mortality weekly reports. In addition to providing informational morbidity and mortality data on diseases, these reports prescribe policies and interpret policies relative to prevention of diseases as well as health requirements that are covered by regulations.	Center for Disease Control, Attention: Director, Bureau of Epidemiology, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Epidemiology, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).	Annual report to Congress regarding smoking and health.	Center for Disease Control, Attention: Director, Bureau of Health Education, Atlanta, Ga., 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Health Education, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	"Current Items". This publication from the Bureau of Laboratories is directed generally to heads of State or local laboratories. The publication includes technical procedures and informational data.	Center for Disease Control, Attention: Director, Bureau of Laboratories, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Laboratories, 1600 Clifton Rd. NE. Atlanta, Ga. 30333.
Do	National Institute for Occupational Safety and Health (NIOSH) policy memorandum, dated Sept. 11, 1974, on trade secret information.	Director, National Institute for Occupational Safety and Health, Park Bldg., Room 3-30, 5600 Fishers Lane, Rockville, Md. 20852. No charge for 1 copy.	Director, National Institute for Occupational Safety and Health, Park Bldg., Room 3-30, 5600 Fishers Lane, Rockville, Md. 20852.
Do	"NIOSH Policy Letter", dated Nov. 5, 1973, regarding reimbursement to an employer for financial loss (production time; pay) incurred as a result of a NIOSH research project.	do	Do.
Do	The President's report on occupational safety and health, annual report for 1974. This report covers programs of the Department of Labor; Department of Health, Education, and Welfare; and the Occupational Safety and Health Review Commission for calendar year 1974. It contains results of the 1st full year of occupational injury and illness survey.	do	Do.
Do	The Federal coal mine health program in 1973. This is a report of health activities under the Federal Coal Mine Health and Safety Act of 1969.	do	Do.
Do	The Division of Training, National Institute for Occupational Safety and Health, Center for Disease Control, announcement of courses that are available to the public. HEW publication No. (NIOSH) 75-170.	do	Do.
Do	The National Institute for Occupational Safety and Health current intelligence bulletin. This current bulletin alerts members of the occupational health community, government, labor, and industry to new information on potential occupational health hazards.	do	Do.
Do	Proposed interim program guidelines for venereal disease control, dated March 1975.	Center for Disease Control, Attention: Director, Bureau of State Services, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of State Services, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Venereal disease review criteria, dated Dec. 10, 1971.	do	Do.
Do	Recommended treatment schedules for syphilis, dated 1976.	do	Do.
Do	Gonorrhea, CDC recommended treatment schedules, dated 1974.	do	Do.
Do	Commentary on national strategies to control gonorrhea, dated July 1975.	Center for Disease Control, Attention: Director, Bureau of State Services, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of State Services, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Program guidelines for the influenza immunization project grants, dated Apr. 14, 1976.	do	Do.
Do	Community-wide influenza campaign, achieving public response.	do	Do.
Do	Influenza immunization operations workbook, dated May 1976.	do	Do.
Do	Supplemental guidelines on informed consent for influenza immunization project grants, dated June 21, 1976.	do	Do.
Do	Guidelines for assessing immunity levels, dated November 1973.	do	Do.
Do	Immunization Against Disease, 1972 handbook.	do	Do.
Do	Directions for use of PHS PPD products for use in tuberculosis control programs, dated January 1971.	do	Do.
Do	Preventive therapy of tuberculosis infection, dated February 1975.	do	Do.
Do	Memorandum dated Nov. 7, 1975, regarding duration of preventive therapy with isoniazid.	do	Do.
Do	Summary of the report of the Ad Hoc Advisory Committee on Isoniazid and Liver Disease, dated Mar. 19, 1971.	do	Do.
Do	Memorandum dated Nov. 15, 1971, regarding tuberculin PPD-T distributed by CDC.	do	Do.
Do	Statement on preventive treatment of tuberculosis, dated June 25, 1971.	do	Do.
Do	Concepts and evaluation measures recommended by an ad hoc committee on evaluation of tuberculosis, dated September 1971.	do	Do.
Do	Memorandum dated Jan. 13, 1972, regarding PPD-tuberculin and PPD-Battey distributed by CDC.	do	Do.
Do	Memorandum dated Nov. 21, 1972, Subject: Liver disease among recipients of isoniazid chemoprophylaxis under special surveillance—preliminary report.	do	Do.
Do	Memorandum dated Dec. 15, 1972, Subject: Liver disease among recipients of isoniazid chemoprophylaxis under special surveillance—followup report.	do	Do.
Do	Memorandum dated Jan. 23, 1973, Subject: Liver disease among recipients of isoniazid chemoprophylaxis under special surveillance—followup report.	do	Do.
Do	Memorandum dated Jan. 29, 1973, regarding PPD-tuberculin and atypical mycobacterial PPD antigens.	do	Do.

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Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).	Guidelines for prevention of TB transmission in hospitals, dated September 1974.	Center for Disease Control, Attention: Director, Bureau of State Services, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of State Services, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Suggested tuberculosis nurse functions in a nurse directed clinic, dated April 1974.	do	Do.
Do	Recommendations for health department supervision of tuberculosis patients—MMWR, dated Feb. 23, 1974.	do	Do.
Do	Equipment and procedures for erythrocyte protoporphyrin (EP) analysis as a screening method for pediatric lead poisoning, dated Feb. 3, 1975.	do	Do.
Do	Urban rat survey—guidelines for classroom use and field training of inspectors who serve in community rodent control programs, dated March 1974.	do	Do.
Do	Urban rat control project grants program guidelines for applicants, dated 1975.	do	Do.
Do	Guidelines for grant applications. Childhood lead poisoning control, dated Mar. 14, 1974.	do	Do.
Do	Policy statement—laboratories performing blood lead determination for community programs receiving lead-based paint poisoning grant funds, dated 1972.	do	Do.
Do	Increased lead absorption and lead poisoning in young children. A statement by the Center for Disease Control, dated March 1975.	do	Do.
Do	Policy and procedures for shipping and lending federally owned XRF analyzers, Mar. 26, 1973.	do	Do.
Do	The "Training Bulletin," which is published every 18 mo. This document lists each of the headquarters, field, or home-study courses that are available through the auspices of CDC during that time period. Specific information is presented that identifies prerequisites for attendance and describes the nature of each course.	Center for Disease Control Attention: Director, Bureau of Training, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Training, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Final denials, revocations, suspensions and limitations of licenses, and letters of exemptions to laboratories subject to the Clinical Laboratories Improvement Act of 1967.	Center for Disease Control, Attention: Bureau of Laboratories, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Laboratories, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Administrative issuance. Facilities Engineering and Construction Manual, ch. CDC: 3-335, dated May 1, 1972. This issuance provides rules and regulations covering CDC buildings and grounds. It applies to CDC employees and also to visitors, solicitors, etc.	Center for Disease Control, Attention: Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-57, dated Nov. 13, 1970. This issuance provides policy and procedures to CDC employees for claims including those against CDC or against CDC employees as a result of their official duties.	do	Do.
Do	Administrative issuance. Manual Guide—General Administration No. CDC-1, dated Sept. 30, 1970. This issuance provides policy and procedures for conferences including those cosponsored by CDC and an organization other than a Federal agency.	do	Do.
Do	Administrative issuance. Manual Guide—ADP Systems No. CDC-1, dated Apr. 22, 1971. This issuance specifies the type of information for CDC organizations to furnish CDC computer systems office for determination as to whether a contract should be entered into with an outside source to perform the ADP services or whether the work can be performed within the Center.	do	Do.
Do	Administrative issuance. CDC General Memorandum No. 74-9, dated June 20, 1974. This issuance specifies rates for the Center to pay for blood.	do	Do.
Do	Administrative issuance. Procurement Manual Subpart CDC: 3-75.3, dated May 13, 1972. This issuance specifies CDC delegations of authority for publication of advertisements, notices, or proposals.	do	Do.
Do	Administrative issuance. Manual Guide—Printing Management No. CDC-6, dated Nov. 5, 1969. This issuance provides CDC policies and procedures for procurement of CDC authored articles which are to be published in private journals and briefly mentions publishers' services, e.g., setting of type, sending proofs, etc.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health Administrative Issuance No. 406, dated Sept. 3, 1974. This issuance describes contents and documentation needed for research and technical services contract requests for NIOSH.	do	Do.
Do	Administrative issuance. Procurement Manual Subpart CDC: 3-3.6, dated Sept. 21, 1970. This issuance prescribes CDC policies and procedures for small purchases particularly through use of imprest funds, and briefly mentions vendors' role.	do	Do.

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Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).	Administrative issuance. CDC General Memorandum No. 76-8, dated Sept. 22, 1976. This issuance provides instructions to CDC employees for obtaining typewriter repair service and lists individual companies under contract to make repairs.	Center for Disease Control, Attention: Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do.	Administrative issuance. CDC General Memorandum No. 74-1, dated Jan. 16, 1974. This issuance specifies CDC policies and procedures on unauthorized commitments and for obtaining approval for such commitments.	do.	Do.
Do.	Administrative issuance. Manual Guide—General Administration No. CDC-52, dated Mar. 12, 1973. This issuance provides policies and procedures for handling public inquiries to CDC during nonwork hours.	do.	Do.
Do.	Administrative issuance. Manual Guide—General Administration No. CDC-18, dated Mar. 6, 1969. This issuance provides CDC policies and procedures for obtaining clearance of CDC authored manuscripts, publications, etc., and includes policy on responding to requests from the press, etc.	do.	Do.
Do.	Administrative issuance. CDC General Memorandum No. 72-3, dated Feb. 9, 1972. This issuance provides policies and general guidelines to CDC employees on giving assurances of confidentiality in obtaining information from the public.	do.	Do.
Do.	Administrative issuance. Manual Guide—Personal Property Management No. CDC-2, dated Apr. 17, 1969. This issuance provides CDC policies and procedures for producing, maintaining, shipping, and storing exhibits and includes procedures for production o exhibits by commercial contractors.	do.	Do.
Do.	Administrative issuance. Manual Guide—Safety Management No. CDC-19, dated Mar. 18, 1974. This issuance provides policy to CDC employees for distribution of cultures of microbial agents and of vectors to non-CDC persons.	do.	Do.
Do.	Administrative issuance. Manual Guide—Safety Management No. CDC-2, dated Dec. 15, 1975. This issuance provides policy on the need for and use of hazard warning signs that applies to CDC employees and also to visitors.	do.	Do.
Do.	Administrative issuance. Manual Guide—Safety Management No. CDC-3, dated June 18, 1973. This issuance provides policies on and procedures for handling compressed gases in cylinders. It applies to CDC employees and also certain policies and procedures apply to vendors.	do.	Do.
Do.	Administrative issuance. Personnel Guides for Supervisors, chapter IV, CDC Guide 7-2, dated Mar. 12, 1963, but still current. This issuance provides CDC policies and procedures for handling complaints on employee indebtedness.	do.	Do.
Do.	Administrative issuances. Manual Guide—General Administration No. CDC-5, dated Apr. 8, 1971 and National Institute for Occupational Safety and Health Administrative Issuance No. 2, dated Mar. 4, 1974. These issuances provide policies and procedures for making CDC and NIOSH facilities available to guest researchers.	do.	Do.
Do.	Administrative issuance. Manual Guide—General Administration No. CDC-61, dated Apr. 26, 1973. This issuance provides CDC policies and procedures for providing to students work experiences which relate to the CDC mission and to the educational objectives of the students.	do.	Do.
Do.	Administrative issuance. National Institute for Occupational Safety and Health unnumbered memorandum, dated Mar. 4, 1974. This issuance provides NIOSH policy on loan of property to non-Federal persons or institutions.	do.	Do.
Do.	Administrative issuances. Manual Guide—General Administration No. CDC-11, dated June 8, 1973 and National Institute for Occupational Safety and Health policy memorandum, dated June 25, 1973. These issuances provide policies and procedures for the protection of the individuals who are participating or involved in research investigations of the Center and of NIOSH, respectively.	do.	Do.
Do.	Administrative issuance. Manual Guide—Travel CDC-10, dated Dec. 26, 1972. This issuance provides CDC policy and procedures for employees renting automobiles for official travel and mentions services provided by the car rental contractors and the conditions of the contracts.	do.	Do.
Do.	Administrative issuances. Manual Guide—Travel No. CDC-2 dated Jan. 14, 1974 and Correspondence Manual Chapter 10-40, dated Oct. 1, 1974. These issuances provide instructions to CDC employees for making reservations on common carriers and for picking up the tickets. They list the airlines and their telephone numbers.	do.	Do.

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Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).	Administrative issuance. Manual Guide—General Administration No. CDC-63, Privacy Act, dated Nov. 23, 1976. This issuance provides to CDC employees guidance on carrying out requirements of the act.	Center for Disease Control, Attention: Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do	Administrative issuance. CDC general memorandum No. 75-10, Freedom of Information Act, dated July 25, 1975. This issuance provides general information to CDC employees on major provisions of the act, procedures for responding to requests for information under the act, and brief data to the CDC employees on the Privacy Act.	do	Do.
Do	Administrative issuance. CDC general memorandum No. 75-2, civil defense, dated April 2, 1975. This issuance provides information on the civil defense capacity and equipment of the CDC facilities in the Atlanta area that are officially designated to be used as public shelter areas under the national fallout shelter program.	do	Do.
Do	Administrative issuance. CDC unnumbered memorandums, parking at Clifton Rd. facilities, dated July 14, 1975 and Jan. 20, 1976. These issuances provide policy for CDC employees and visitors parking at the Clifton Rd. facilities, Center for Disease Control.	do	Do.
Do	Administrative issuance. CDC unnumbered memorandum, directory of licensed day-care facilities in the Metropolitan Atlanta area, dated Mar. 15, 1976. This issuance provides a listing of these facilities.	do	Do.
Do	Administrative issuance. CDC unnumbered memorandum, injury compensation, dated Sept. 15, 1975. This issuance provides procedures for CDC employees to follow to document on-the-job traumatic injuries, including submission of reports from attending physicians.	do	Do.
Do	Administrative issuance. Manual guide—general administration No. CDC-8, soliciting, vending, and displaying or distributing commercial advertising within CDC, dated Apr. 23, 1975. This issuance provides policy for soliciting, vending, and commercially advertising on property occupied by CDC.	do	Do.
Do	Administrative issuance. Personnel guide for supervisors, ch. III, CDC guide 1-2, commercial employment offices, dated Jan. 7, 1976. This issuance provides policy on using commercial employment offices for recruiting personnel.	do	Do.
Do	Administrative issuance. Personnel guide for supervisors, ch. III, CDC guide 1-9, dated Feb. 26, 1976. This issuance provides policies, responsibilities, and procedures for the selective placement program for handicapped employees and disabled veterans.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health Administration, issuance No. 6, dated Apr. 15, 1976. This issuance provides policies and procedures for keeping interested governmental, labor, and management groups informed on the initiation and progress of NIOSH field studies.	do	Do.
Do	Administrative issuance. National Institute for Occupational Safety and Health Administration issuance No. 8, dated Oct. 30, 1975. This issuance provides procedures for maintenance of minutes of NIOSH meetings with representatives of nongovernmental groups.	do	Do.
Do	Recommendations of the Public Health Service Advisory Committee on Immunization Practices, such as: BCG vaccines, cholera vaccine, diphtheria and tetanus toxoids and pertussis vaccine, immune serum globulin for protection against viral hepatitis, perspectives on the control of viral hepatitis, type B, influenza vaccine, measles vaccine, meningococcal polysaccharide vaccines, mumps vaccine, plague vaccine, poliomyelitis vaccines, rabies, Rh immune globulin, Rocky Mountain spotted fever vaccine, rubella vaccine, smallpox vaccine, typhoid vaccine, typhus vaccine, yellow fever vaccine.	Center for Disease Control, Attention: Director, General Services Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, General Services Office 1600 Clifton Rd., NE., Atlanta, Ga. 30333.
Department of Health, Education, and Welfare, Public Health Service, Health Resources Administration (HEW/PHS/HRA).	Health Resources Administration index of policy documents as required by Public Law 90-23 (Freedom of Information). July 1, 1973, to Oct. 1, 1976. The HRA FOIA index is a listing of the following HRA documents: HRA policy, information, and instruction memoranda; supplements and circulars to the Federal personnel and HEW staff manuals; Federal regulations; delegations of authority; organization and functions statements; programmatic circulars, memoranda, instructions, notices, guides, guidelines, and operating manuals used by HRA components.	Associate Administrator, Office of Communications, Health Resources Administration, Room 10A-31, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857. Fees, as prescribed in 45 CFR 5.61, are 10¢ per page with the charge being made if the total amount exceeds $5. Check payable to DHEW-Health Resources Administration.	Associate Administrator, Office of Communications, Health Resources Administration Room 10A-31, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1620

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Department of Health, Education, and Welfare, Public Health Service, Health Services Administration (HEW/PHS/HSA).	HSA Freedom of Information Act (FOIA) Index: March 1975 to December 1976. The HSA, FOIA index is a compilation of supplements to the departmental manual system, program level operations manuals, circulars, memoranda, notices and guides used by the components of HSA. All information included in this index is current as of Dec. 31, 1976. The respective bureau level indexes are listed as follows: OA—OFFICE OF THE ADMINISTRATOR OCPA—Public Affairs Management System Manual; OPEL—HSA forward plan, fiscal year 1977-81; OM/OCG—HSA procurement operating instructions; OM/OMP—HSA transmittal notices for supplements to DHEW manuals; OM/OFS—policy decisions and opinion. BMS—BUREAU OF MEDICAL SERVICES Division of Hospitals and Clinics Operations Manual; BMS supplements to DHEW manuals; Manual of Operations for PHS Health Unit, DFEH, BMS; CHAMPUS circulars; Contract Physician's Guide; Division of Hospitals and Clinics circular memoranda. IHS—INDIAN HEALTH SERVICES IHS circulars; IHS supplements to DHEW manuals; IHS Operations Manual; General Counsel opinions. BCHS—BUREAU OF COMMUNITY HEALTH SERVICES BCHS administrative guide system; BCHS Operations Manual. BQA—BUREAU OF QUALITY ASSURANCE BQA transmittal system; BQA Procedures Manual; PSRO Program Manual; PSRO Financial Management and Accounting Systems Manual; PSRO Contracts Management Manual; PSRO Management Information System (PMIS) Federal Reports Manual (FRM) medical care evaluation studies; PMIS—FRM—cost reporting; PMIS—FRM—concurrent review reporting; PSRO Hospital Discharge Data Set (PHDDS) Training Manual.	Office of Communications and Public Affairs, DHEW/PHS/HSA, Room 14A-55, 5600 Fishers Lane, Rockville, Md. 20852. Checks payable to DHEW/Public Health Service. Mail to HSA Collection Officer, DHEW/PHS/HSA, Room 16-36, 5600 Fishers Lane, Rockville, Md. 20852. Fees charged for research and reproduction of information is based upon the current departmental fee schedule for information under the FOI regulations (45 CFR part 5 subpart E).	Office of Communications and Public Affairs DHEW/PHS/HSA, Room 14A-55, 5600 Fishers Lane, Rockville, Md.
HEW/PHS/Office of Administrative Management.	Index to the PHS Manual for financial evaluation of Public Health Service awards, continuous from July 1, 1974.	Photocopies available if requests are forwarded to: Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20852. Fees as prescribed in 45 CFR 5.61 are 10¢ per page, with the charge being made if the total amount exceeds $5. Checks payable to DHEW, Public Health Service.	Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20852.
Do	A guide to institutional cost sharing agreements for research grants and contracts, supported by the Department of Health, Education, and Welfare, continuous from July 1974.	Copies may be obtained from Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. No charge.	Division of Grants and Contracts, 5600 Fishers Lane, Rockville, Md. 20852.
Do	PHS procurement regulations; policies and procedures which implement and supplement the DHEW procurement regulations and the Federal procurement regulations, continuous from May 1974.	Photocopies available if requests are forwarded to: Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20852. Fees as prescribed in 45 CFR 5.61 are 10¢ per page with the charge being made if the total amount exceeds $5. Checks payable to DHEW, Public Health Service.	Copies available: ASC Forms and Publications Service Center, OAM, 12109 Parklawn Dr., Rockville, Md. 20852 Additional information: Division of Grants and Contracts ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20852.
Do	PHS grants policy statement; comprehensive policy document for use by PHS grantees, continuous from July 1974.	GPO, 90 cents, Superintendent of Documents (Stock No. 1720-00055).	Superintendent of Documents, GPO, Washington, D.C. 20402.
Do	Index to PHS supplements to HEW Grants Administration Staff Manual; supplementation and implementations to HEW manual; continuous from January 1974.	Photocopies available if requests are forwarded to: Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20852. Fees are prescribed in 45 CFR 5.61, as 10¢ per page with the charge being made if the total amount exceeds $5. Checks payable to DHEW, PHS.	Division of Grants and Contracts ORM, OAMs PHS, 5600 Fishers Lane, Rockville, Md. 20852.
Do	Tables of contents to PHS supplementation of HEW staff manuals containing authorities, policies, and procedures in the following areas: Emergency, forms management, general administration, grants administration, organization, public affairs, systems management, records management, safety management, security, facilities engineering and construction, procurement, and reports management.	Chief, Management Support Branch, Division of Management Policy and Analysis, OASH. Room 17-75 Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20852. Fees as described in 45 CFR 5.61, are 10¢ per page with the charge being made if the total amount exceeds $5. Checks payable to DHEW, Public Health Service, Office of the Assistant Secretary for Health.	Chief, Management Support Branch, Division of Management Policy and Analysis, Room 17-75, Parklawn Bldg., 5600 Fishers Lane Rockville, Md. 20852.
Do	Table of contents to PHS Commissioned Corps Personnel Manual containing authorities, policies, and procedures in that subject area.	do	Do
Do	Table of contents to PHS supplementation of the Federal Personnel Manual containing authorities, policies, and procedures in that subject area.	do	Do
Do	Table of contents to Parklawn guidelines: a series of internal operating guides providing operating instructions and procedures of a continuing nature for occupants of the Parklawn Bldg., Rockville, Md., with regard to operations of the Administrative Services Center, Office of Administrative Management. Guidelines include such subjects as procedures for operation and use of official conference rooms; apportionment and assignment of parking spaces; official hours; and conservation of paper in copying, duplicating, and printing, Parklawn Bldg.	Executive Officer, Administrative Services Center, Office of Administrative Management, OASH, Room 5-77, Parklawn Bldg. 5600 Fishers Lane, Rockville, Md. 20852. Fees, as prescribed in 45 CFR 5.61, are 10¢ per page with the charge being made if the total amount exceeds $5. Checks payable to Department of Health, Education, and Welfare, Public Health Service, Office of the Assistant Secretary for Health.	Do.

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HEW/PHS/Office of Assistant Secretary for Health/OEEO.	Guidelines for the precomplaint counseling system in the Public Health Service regional offices.	No charge. Director, OEEO/OASH, Room 17-66, 5600 Fishers Lane, Rockville, Md. 20852.	Director, OEEO/OASH, Room 17-66, 5600 Fishers Lane, Rockville, Md. 20852.
HEW/PHS/Office of Long-Term Care.	Long-term care facility improvement study; introductory report, July 1975.	U.S. Government Printing Office, Washington, D.C. 20402. Price $2.15.	Ms. Florence Gareau
Do.	ONHA policy circulars or memoranda (numbered).	ONHA will provide single copies of 1 memorandum without charge. Complete sets of policy memoranda published by Commerce Clearing House, Inc.; 4025 W. Peterson Ave., Chicago, Ill. 60646. (annual subscription charge).	Do.
Department of the Interior, Bonneville Power Administration.	BPA Manual Index dated 11-5-75; 33 pp. Policy, procedural, and directives material indexed by subject and BPA Manual chapter number.	The public may review the index, obtain a copy of the index without charge, or secure further information concerning the contents of the records listed by contacting Bonneville Power Administration's Public Information Office, 1002 N.E. Holladay St., Portland, Oreg. 97232, or the Washington, D.C., office, 5600 Interior Bldg., Washington, D.C. 20240.	Bonneville Power Administration offices listed in previous column or BPA area and district offices at the following: 919 N.E. 19th Ave., Portland Oreg. 97208; 415 1st Ave. North, Seattle, Wash. 98109; U.S. Courthouse, Spokane, Wash. 99201; West 101 Poplar St., Walla Walla, Wash. 99362; U.S. Federal Bldg., 211 East 7th St., Eugene, Oreg. 97401; Highway 2 E., Box 758, Kalispell, Mont. 59901; U.S. Federal Bldg., 301 Yakima St., Wenatchee, Wash. 98801; and 531 Lomax St., Idaho Falls, Idaho 83401.
Department of the Interior, Bureau of Indian Affairs.	Bureau of Indian Affairs Manual Index (BIAM); Oct. 6, 1975. Internal instructions and procedures for Bureau employees on Indian programs (such as realty, forestry, social services, education, etc.) and on administrative areas (such as personnel, safety, finance, etc.) Accounting Procedures Handbook Index: Procedures for handling individual Indian money accounts and investment procedures for Indian money. Guaranteed and Insured Loans Guidelines: Instructions and procedures for processing loans. United States Direct Loans and Loans by Tribes and Relending Organization Guidelines: Contains terms, conditions, and processing procedures for such loans. Financing by Customary Financial Institutions Handbook Index: Internal instructions to assist Indians and Indian organizations to obtain justified financing to promote their economic development. Real Estate Appraisal Handbook Index: General policy and standards for real estate appraisals and applies to all real estate transactions affecting real property under, or to be taken under, the Bureau's jurisdiction. General Grazing Regulations Handbook: Internal administrative instructions on implementing the regulations. Investigations and Planning Handbook: General guidelines on conducting inventories of Indian resources. Construction Handbook: Contains policy and requirements for construction projects. Operation and Maintenance Handbook: Policy and procedure for operating and maintaining irrigation and power projects. Road Construction Handbook: General guidelines for conducting public hearing and construction requirements.	Not a sales publication.	1. Central office. Chief, Division of Management Research and Evaluation, Bureau of Indian Affairs, 1951 Constitution Ave. NW., Washington, D.C. 20245, telephone 202-343-4144. 2. Field offices. See U.S. Organization Manual for addresses.
Department of the Interior, Bureau of Land Management.	Subject Function Classification Chart—Release No. 1—1027—Feb. 5, 1976. This classification chart contains the complete index of the entire manual system. Manuals have not as yet been issued on all subjects.	Bureau of Land Management, Denver Federal Center Building 50, Denver, Colo. 80225, price $4.10, make checks payable to: Bureau of Land Management.	Bureau of Land Management, Division of Records Systems, Department of the Interior, 18th and C Sts. NW., Washington, D.C. 20240. Phone 202-343-5739.
Department of the Interior, Bureau of Mines.	Basic Bureau of Mines Manual, General Table of Contents and Checklist—July 6, 1976. Numeric and subject listing of internal policies and procedures by series, part, chapter, paragraph, and subordinate paragraph.	In accordance with fee schedule in 43 CFR 2, app. A. Bureau of Mines.	Chief, Organization and Management Staff, Columbia Plaza Office Bldg., 2401 E St. NW., Washington, D.C. 20241.
Department of the Interior, Bureau of Reclamation.	Reclamation Instructions Index—Apr. 1, 1974: Subject listing of current instructions pertaining to Bureau of Reclamation organization and delegations of authority, policy and procedures, and detailed instructions on limited technical subjects.	Division of Management Support, E. & R. Center, Bureau of Reclamation, P.O. Box 25007, Denver, Colo. 80225. No charge.	Division of Management Support, E. & R. Center, Bureau of Reclamation, P.O. Box 25007, Denver, Colo. 80225. Phone: 303-234-2081.
	Guidelines—Task Force Report on Water Marketing Index.	Bureau of Reclamation, Division of Personnel, Branch of Management Systems, Interior Department, Washington, D.C. 20240. No charge.	Bureau of Reclamation, Division of Personnel, Branch of Management Systems, Interior Department, Washington, D.C. 20240.
Department of the Interior, Fish and Wildlife Service.	Administrative Manual. Index related to administrative policies, procedures and standards of the Fish and Wildlife Service as contained in the Administrative Manual.	Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Price: In accordance with the uniform fee schedule contained in 43 CFR 2, app. A: Checks payable to: Fish and Wildlife Service.	Arthur J. Ferguson, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, phone: 202-343-5627.
Department of the Interior, Geological Survey.	Index to the USGS Manual	U.S. Geological Survey, Branch of Management Analysis, Mail Stop 206, Reston, Va. 22092. Standard FOIA fees.	Gertrude M. Winkle, Branch of Management Analysis, phone: (703) 860-7211.

Agency and subagency name	Index title; period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of the Interior, Mining Enforcement and Safety Administration.	MESA Management Manual Index June 24, 1974 to present. MESA publishes a Management Manual which describes policies, standards, and procedures, which are directives upon all MESA personnel. The manual is organized to be compatible with that of the Department, both in numbering and arrangement. Thus, the Departmental Manual's index and the MESA Management Manual's index are one in the same. Procurement Handbook Index: Provides instructions regarding the use of the open market purchasing procedures within MESA to personnel involved in the procurement functions. Health and Safety Manual for Orders, Notices and Report Writing Index: Handbook gives guidelines for issuance of notices, orders and other reports by MESA coal mine health and safety inspectors. Coal Mine Health and SafetyInspection Manual for Surface Coal Mines and Surface Work Areas of Underground Coal Mines Index: Manual outlines the inspection procedures used for surface coal mine inspections performed by MESA inspectors. Coal Mine Health and Safety Inspection Manual for Underground Mines Index: Manual outlines the inspection procedures used for underground coal mine inspections performed by MESA inspectors. Metal and Nonmetal Mine Health and Safety Inspection and Investigation Manual Index: Manual outlines the inspection procedures used for all inspections of metal and nonmetal mines by MESA inspectors. Mine Rescue and Recovery and Accident Investigation Procedures Index: Manual outlines procedures to be followed in the event of a mine accident for both rescue and recovery work and the accident investigation. Coal Mine Safety Electrical Inspection Manual for Underground Coal Mines, Surface Coal Mines, and Surface Work Areas of Underground Coal Mines Index: Manual outlines the duties of an inspector inspecting underground and surface coal mines for electrical hazards. Property Handbook Index: Handbook provides information and instructions to MESA property management personnel regarding MESA's automated capitalized property system.	Not a sales publication.	MESA Headquarters Office Ballston Tower No. 3, 4015 Wilson Blvd., Arlington, Va. 22203.
Department of the Interior, National Park Service.	National Park Service Directives System. Consisting of: (Numbered) NPS Guidelines; NPS Special Directives; NPS Staff Directives. Guidelines document procedures or techniques required by the operational elements to accomplish specific jobs in their day-to-day activities. Special Directives issued by the Director or his deputy, of major importance and of special concern to the Director and the Service, instructions which are affecting the Service in part or as a whole. Staff Directives instructions issued by an Associate Director. Directive in nature pertaining only to a certain segment of the Service.	Department of the Interior, National Park Service, 18th and C Sts. NW., Washington, D.C. 20240. Attention: Assistant to the Director for Public Affairs. Index price: No charge.	Department of the Interior, National Park Service, 18th and C Sts. NW., Washington, D.C. 20240. Attention: Assistant to the Director for Public Affairs, telephone (202) 343-6843, room 3041.
Department of the Interior, Office of the Secretary.	Departmental Manual Table of Contents and Checklist, November 1975; policy, procedural, and directives material indexed by part and chapter.	Not a sales publication.	Department of the Interior, Office of the Secretary, Division of Directives and Reports Management, Washington, D.C. 20240.
Department of the Interior, Office of the Secretary, Office of Personnel Management.	Checklist of DM additions to the FPM, issued July 19, 1974. This index identifies the departmental manual chapters which contain policies and/or programs which supplement the Federal personnel manual.		Office of Personnel Management, Division of Program Planning and Evaluation.
Department of Labor/ILAB.	Trade adjustment assistance decision, Apr. 1 to June 30, 1976.	Bureau of International Labor Affairs, 10¢ per page, Department of Labor.	ILAB, New Department of Labor Bldg., 200 Constitution Ave. NW., Washington, D.C. 20210 or DOL publication-information offices in major cities in the United States.
DOL/OSHA	Program directives, Jan. 1 to June 30, 1976.		
DOL/OWCP/FECA	Bulletins: compensation, Federal employees, longshoremen, black lung, Jan. 1 to June 30, 1976.	Office of Workers Compensation Programs, 10¢ per page, Department of Labor.	Office of Workers Compensation, New Department of Labor Bldg., 200 Constitution Ave. NW., Washington, D.C. 20210 or DOL publication-information offices in major cities in the United States.
DOL/OWCP/LHWCA			
DOL/OWCP/BLBP			
DOL/ESA/W-H	Wage hour, field operations handbook.	Wage and hour, 10¢ per page, Department of Labor.	Wage and Hour Division, New Department of Labor Bldg., 200 Constitution Ave. NW. Washington, D.C. 20210.
DOL/ESA/OFCC	Office of Contract Compliance, program memoranda.	Office of Contract Compliance, 10¢ per page, Department of Labor	Office of Contract Compliance.

Department of Transportation, Federal Highway Administration.	Opinions and final orders of the Federal Highway Administration in regard to the regulation of toll bridges- 1968-76; 1 page listing of opinions and final orders regarding regulation of toll bridges; issued by the Federal Highway Administrator, which identifies the case and the date issued.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590. No charge.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590.
Do	Cease and desist and driver disqualification final orders by the Federal Highway Administrator; 1960-75; 6-page listing of cease and desist and driver disqualification final orders of the Federal Highway Administrator; items listed are identified by case docket nnmber, name of carrier, and date notice of investigation was mailed.	do	Do.
Do	Cross reference index of current Federal Highway Administration directives as of Sept. 20, 1976. The index is alphabetical by subject. Within each subject applicable Federal Highway Administration orders, notices, and manuals are identified (in some cases manuals may be also identified by the applicable volume or other subordinate breakdown). The index is computerized and updated quarterly.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590. Shelf stock, $10.80 per copy; reproduced copies, $9.20 per copy; shelf stock will be used while it lasts. Checks payable to: Ohe Treasury of the United States.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590; Federal Highway Administration Regional Offices. (For location see 49 CFR pt. 7); Federal Highway Administration Division Offices. (For location see 49 CFR pt. 7.)
Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms.	The Director, Bureau of Alcohol, Tobacco, and Firearms (ATF), has determined that publication in the FEDERAL REGISTER of the ATF index of materials required by the Freedom of Information Act is unnecessary and impracticable for the reason that the index is changing continually and that items listed are of interest to relatively few potential users. Copies of the index may, however, be obtained upon request to the Office of Assistant to the Director (Disclosure), Bureau of Alcohol, Tobacco, and Firearms, Washington, D.C. 20226, at a cost of $2. The index is entitled, "Index of Materials Required by the Freedom of Information Act, ATF P 1200.3". The Index covers the period of July 1967 through March 1976 and consists of final opinions and orders made in the adjudication of cases, statements of policy and bureau directives, and the latest listing of ATF publications.	Office of Assistant to the Director (Disclosure), Bureau of Alcohol, Tobacco, and Firearms, Washington, D.C. 20226. Price: $2. Make check payable to Bureau of Alcohol, Tobacco, and Firearms.	Freedom of Information Act Reading Room 1315, Bureau of Alcohol, Tobacco, and Firearms, 1200 Pennsylvania Ave. NW., Washington, D.C. 20226; Bureau of Alcohol, Tobacco, and Firearms, North Atlantic Regional Office, 6 World Trade Center, Room 620, New York, N.Y. 10048; Bureau of Alcohol, Tobacco, and Firearms, Mid-Atlantic Regional Office, Room 310, 2 Penn Center Plaza, Philadelphia, Pa. 19102; Bureau of Alcohol, Tobacco, and Firearms, Southeast Regional Office, 3835 Northeast Expressway, Room 201, Atlanta, Ga. 30340; Bureau of Alcohol, Tobacco, and Firearms, Central Regional Office, Federal Office Bldg., Room 6510-A, 550 Main St., Cincinnati, Ohio 45202; Bureau of Alcohol, Tobacco, and Firearms, Midwest Regional Office, 230 South Dearborn St., 15th Floor, Chicago, Ill. 60604; Bureau of Alcohol, Tobacco, and Firearms, Southwest Regional Office, Main Tower, 1200 Main St., Room 355, Dallas, Tex. 75202; Bureau of Alcohol, Tobacco, and Firearms, Western Regional Office, 525 Market St., 34th Floor, San Francisco, Calif. 94105.
Department of the Treasury, Customs Service.	CSA (Customs Simplification Act) Index (revised) Index to letters and letters relating to Customs Simplification Act, from 1956 forward.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229; Price: $1.75. Checks payable to: U.S. Customs Service.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229.
	Synopsis of Decisions on the Duty Assessment Process, 1972; administrative and court decisions and rulings concerning duty assessment process.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229; Price: $3. Checks payable to: U.S. Customs Service.	Do.
	Customs Forms Catalog; Customs and other agency forms currently available from the Customs Service, July 1975.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229. Price: (not available until revision is complete). Checks payable to: U.S. Customs Service.	Do.
	KWIC (Key Word in Context) Index, June 1975; current Customs Service circular letters.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229. Price: $1. Checks payable to: U.S. Customs Service.	Do.
Do	Legal Keyword Precedent Directory. The directory is a listing by selected keywords of all classification rulings issued since early 1975 that affect a substantial volume of imports or transactions or are otherwise of general interest or importance and of all published classification rulings issued since Aug. 31, 1963, including classification decisions, and classification rulings circulated within the Customs Service by the Customs Information Exchange and the Office of Regulations and Rulings. The directory also contains limited information on decisions and rulings pertaining to entry, value, drawback, marking, country of origin, and vessel repairs. The Legal Keyword Precedent Directory is maintained on microfiche and is continually updated.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229. Price: Duplicate microfiche are available at a cost of $0.15 each and are available only in sets; a set presently contains 24 microfiche. Payable to: U.S. Customs Service.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229 and at regional offices of the Customs Service.
Department of the Treasury, Office of the Secretary.	Index of Selected Records; July 1967 to December 1976; Listing of current administrative documents, reports, and releases from the Office of the Secretary, Bureau of Engraving and Printing, Bureau of the Mint, U.S. Secret Service, Bureau of the Public Debt, Bureau of Government Financial Operations, Federal Law Enforcement Training Center, U.S. Customs Service.	Treasury Department Library, Room 5010, Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220, $1.50, Treasury of the United States.	Treasury Department Library, Room 5010, Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220.
(U.S.) Arms Control and Disarmament Agency.	Index to notices, instructions, regulations, and other ACDA records.	Freedom of Information Officer, U.S. Arms Control and Disarmament Agency, Department of State Bldg., Washington, D.C. 20451. No charge.	Freedom of Information Officer, U.S. Arms Control and Disarmament Agency, Department of State Bldg., Washington, D.C 20451.
Civil Service Commission (CSC).	Index to Civil Service Commission information. CSC document No. 1. Period covered: February 1975 to November 1976. A listing of policy and nonpolicy publications and information systems arranged alphabetically by title and subject.	Distribution Unit, Room B-431, U.S. Civil Service Commission, 1900 E St. NW., Washington, D.C. 20415. Free.	Commission Library or any Commission office, including regional and area offices.

Agency and subagency name	Index title: period covered, brief description of contents	Order from: price; make checks payable to—	For inspection, copying, or additional information contact
Committee for Purchase from the Blind and Other Severely Handicapped.	Index of additions and deletions to the procurement list. Fiscal year 1972 (additions and deletions occurring after Aug. 20, 1971 thru June 30, 1972); fiscal year 1973; fiscal year 1974; fiscal year 1975; fiscal year 1976; fiscal year 1977 .	Order from: Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 N. 14th St., Suite 610, Arlington, Va. 22201. Price: 10¢ per page, per copy. Make checks payable to: Treasurer of the United States.	Committee for Purchase from the Blind and Other Severely Handicapped. Attention: Freedom of Information Officer.
Consumer Product Safety Commission.	Index: Final Opinions and Orders; Statements of Policy and Interpretations; Administrative Staff Manual and Instructions.	Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; No charge.	Office of the Secretary, Consumer Product Safety Commission, 1750 K St. NW., Washington, D.C. 20207.
Council on Environmental Quality	*Memoranda to the heads of all Federal agencies:*		
Do	(i) CEQ memo to heads of agency on revised guidelines, Apr. 23, 1971.	Available from CEQ	Council on Environmental Quality, General Counsel's Office, 722 Jackson Pl., NW., Washington, D.C. 20006; (202) 382-7965.
Do	(ii) CEQ memo to agency NEPA liaison on agency NEPA procedures May 14, 1971.	do	Do.
Do	(iii) CEQ memo to agency NEPA liaison on inclusion of cost-benefit analyses, May 24, 1971.	do	Do.
Do	(iv) CEQ memo to agency NEPA liaison on *Calvert Cliffs* decision, July 30, 1971.	do	Do.
Do	(v) CEQ memo to agency NEPA liaison on extension of deadline on NEPA procedures, Aug. 5, 1971.	do	Do.
Do	(vi) CEQ memo to heads of agencies on agency NEPA procedures, Sept. 23, 1971.	do	Do.
Do	(vii) CEQ memo to heads of agencies on agency NEPA procedures, Nov. 2, 1971.	do	Do.
Do	(viii) CEQ memo to agency NEPA liaison on outline of issues in agency NEPA procedures Dec. 3, 1971.	do	Do.
Do	(ix) CEQ memo to agency NEPA liaison on extracts from leading NEPA court decisions, Dec. 3, 1971.	do	Do.
Do	(x) CEQ memo to agency NEPA liaison on cumulative list of environmental impact statements, Dec. 23, 1971.	do	Do.
Do	(xi) Revised CEQ guidelines on environmental impact statements prepared under section 102(2)(C) of the National Environmental Policy Act, Apr. 23, 1971.	do	Do.
Do	(xii) Recommendations for improving agency NEPA procedures, May 16, 1972.	do	Do.
Do	(xiii) Revision of agency procedures for preparation of environmental impact statements, Aug. 2, 1973.	do	Do.
Do	(xiv) NTIS and the public availability of environmental impact statements under NEPA, Mar. 1, 1974, 102 Monitor vol. 4, No. 2, March 1974, p. 23.	do	Do.
Do	(xv) Council advisory memorandum #1 on delegation by Federal agencies of responsibility for preparation of EIS's. 102 Monitor.	do	Do.
Do	(xvi) CEQ publications list, Apr. 30, 1976	do	Council on Environmental Quality, Attention: Freedom of Information Officer, 722 Jackson Pl. NW., Washington, D.C. 20006; (202) 382-1415.
Do	(xvii) CEQ memo to heads of agencies on SCRAP decision Nov. 26, 1975.	do	Council on Environmental Quality, General Counsel's Office, 722 Jackson Pl. NW., Washington, D.C. 20006; (202) 382-7965.
Do	(xviii) CEQ memo to heads of agencies on environmental impact statements Feb. 10, 1976.	do	Do.
Do	(xix) CEQ position paper "Pollution Control and Employment" February 1976.	do	Council on Environmental Quality, Attention: Dr. E. H. Clark, 722 Jackson Pl. NW., Washington, D.C. 20006; (202) 382-6102.
Do	(xx) CEQ memo to heads of agencies on prime agricultural lands Aug. 30, 1976.	do	Council on Environmental Quality, Attention: General Counsel, 722 Jackson Pl. NW., Washington, D.C. 20006 (202) 382-7965.
Do	(xxi) CEQ memo to heads of agencies on NEPA Supreme Court decisions Sept. 16, 1976.	do	Do.
Do	(xxii) CEQ memo to heads of agencies on NEPA requirement to projects abroad.	do	Do.
Do	(A) Memorandum of implementation of the agreement between the United States and the U.S.S.R. on cooperation in the field of environmental protection, May 1972, 102 Monitor vol. 2, No. 9, October 1972.	**Available by Ordering Cited Copy of the 102 Monitor from GPO.**	Council on Environmental Quality, General Counsel's Office, 722 Jackson Place NW., Washington, D.C. 20006 (202) 382-7965.
Do	(B) 20 questions and answers explaining NEPA Sec. 102, environmental impact statement process, 102 Monitor, vol. 1, No. 10, November 1971, p. 1.	do	Do.
Do	(C) Coal surface mining and reclamation study, 102 Monitor, vol. 3, No. 2, March 1973 p. 62.	do	Do.
Do	(D) Economic impact of environmental programs, 102 Monitor vol. 4, No. 10, November 1974, p. 3.	do	Do.
Do	(E) Environmental programs and employment, 102 Monitor vol. 5, No. 4, May 1975.	do	Do.
Do	(F) Council advisory memorandum (memo on) 102 Monitor, vol. 5, No. 3, April 1975.	do	Do.
Do	(G) Council advisory memorandum #2 on application of NEPA to enforcement of the antitrust laws by the FTC, 102 Monitor, vol. 5, No. 2, March 1975, p. 13.	do	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
Energy Research and Development Administration.	ERDA headquarters reports: Cumulative index issued monthly starting Jan. 1 1975. Includes report number, corporate author, and subject indexes. Includes reports prepared by individual headquarters authors, task forces and study groups, and environmental statements covering ERDA programs and facilities.	ERDA Library and Public Document Room, Washington, D.C. 20545. Copies made available at $0.08 per page. Payable to: Energy Research and Development Administration.	ERDA Library and Public Document Room, Room 1223, 20 Massachusetts Ave. NW., Washington, D.C. 20545.
Do	ERDA manual table of contents: Covers directives; procurement instructions and regulations; and property management regulations, instructions, and bulletins. A cumulative table of contents is issued quarterly listing ERDA issuances and those AEC issuances still in effect.	do	Do.
ERDA, Board of Contract Appeals (BCA).	Decisions and orders for the periods Jan. 19, 1975 to December 1975 and Jan. 1 to June 30, 1976, including indexes.	do	Do.
Do	Atomic Energy Commission Reports: Oct. 1956-Jan. 1975, Vols. 1-8: Contains the BCA decisions and orders and indexes.	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.	Do.
Equal Employment Opportunity Commission.	Index to Commission Decisions Unpublished 1965-72.	Librarian, Equal Employment Opportunity Commission, 2401 E St., NW., Washington, D.C. Price: 5 pp, 25¢. Payable to: U.S. Treasurer.	Librarian, Equal Employment Opportunity Commission, 2401 E St., NW., Washington, D.C. 20506.
Do	Index to Commission Decisions, Published		Librarian or district office addresses at 29 C.F.R. 1610.4.
Do	Index to Equal Employment Opportunity Commission Orders.	See above. Price: 3 pp, 15¢; Payable to: U.S. Treasurer.	Librarian or district office.
Do	Index to Compliance Manual	See above. Price: $2. Payable to: U.S. Treasurer.	Do.
Do	Index to General Counsel Manual	See above. Price: 9 pp, 45¢; Payable to: U.S. Treasurer.	Librarian.
Farm Credit Administration	Index of FCA Information Materials; Oct. 1, to Dec. 31, 1976; (1) Publications (those available in supply); (2) news releases—(single copies available free of charge) issued since Jan. 1, 1972; (3) biographies of FCA officials; (4) speeches by FCA officials; (5) FCA regulations and clarification letters; (6) research reports; (7) FCA administrative and Personnel Handbook; (8) Directory of the FCA and Farm Credit Districts; (9) Monthly statistics on farm credit bank lending (list of tables); (10) FCA orders; and (11) FCA organization charts.	Information Division, Farm Credit Administration, 490 L'Enfant Plaza SW., Washington, D.C. 20578. No charge.	Mr. Carroll Arnold, Director of Information, Farm Credit Administration, 490 L'Enfant Plaza SW., Washington, D.C. 20578.
Federal Communications Commission.	The "FCC Reports," containing Commission decisions of historical or precedential significance since 1934 and indices thereto. The "FCC Reports" are published weekly in pamphlet form and are subsequently compiled and published in bound volumes. The bound volumes contain cumulative indices. Cumulative index volumes covering longer periods are issued periodically.	Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Available on a subscription basis. Bound volumes may also be purchased separately. Prices vary. Checks: Superintendent of Documents.	Office of General Counsel, Federal Communications Commission.
Federal Power Commission	Subject—Index: July 1967 to Sept. 30, 1976	Office of Public Information, Federal Power Commission, 825 North Capitol St. NE., Washington, D.C. 20426. No charge.	Office of Public Information, Federal Power Commission, Room 1000, 825 North Capitol St. NE., Washington, D.C. 20426.
Federal Reserve System, Board of Governors.	Card index to Board actions of the type that are made available to the public under the Freedom of Information Act from July 4, 1967 to date.		May be inspected in Freedom of Information Office, Room B-1118, Main Board Bldg., 20th and C Sts. NW.
Do	Microfilm copies of above index covering period July 4, 1967 to Dec. 31, 1975. Subsequent years to be microfilmed.	Order from Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Checks payable to Board of Governors of the Federal Reserve System. $12.50 a roll.	Freedom of Information Office, Room B-1118, Main Board Bldg., 20th and C St. NW., (202) 452-3684.
Do	Hard copy bound index for:		
	1967	do.[1]	Do.
	1968-71	do.[2]	Do.
	Copies for additional years in preparation.		
Do	Individual copy of the card index	Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Charge not to exceed the direct cost of duplication.	Do.
Do	Weekly index published and distributed to the public providing identifying information as to any matter issued, adopted or promulgated by the Board from the first week in January 1976 to date (H.2 release).	Publications Services, Division of Administrative Services, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. (Mailing list maintained; no charge for current copies.)	Do.

See footnote at end of table.

Agency and subagency name	Index title; period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
Federal Trade Commission (FTC).	Final orders and opinions (duplicated pages of Index): Bound volumes of decisions July 1967, to December 1975.	Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Checks: Superintendent of Documents. $5-17 each.	Legal and Public Records, Federal Trade Commission, Room 130, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580.
Do.	Advisory opinions (duplicated pages of Index): Bound volume, July 1967 to December 1968. Index of advisory opinions subsequent to above date is in bound volumes of decisions.	Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Checks: Superintendent of Documents. $2.25 each.	Do.
Do.	Final orders and opinions: Supplemental index, July 1973 to December 1976.	Legal and Public Records FTC, Room 130, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580. $0.10 per page.	Do.
Do.	Enforcement statement, July 1967 to December 1976.	do	Do.
Do.	Trade regulation rules, July 1967 to December 1976.	do	Do.
Do.	Manuals—operating administrative	do	Do.
Do.	Freedom of Information Act, access requests and responses, March 1973–December 1976.	do	Do.
Do.	Closing letters, investigatory material, March 1974–December 1976.	do	Do.
Do.	Motions to quash, investigational subpoenas, June 1962–December 1976.	do	Do.
Do.	Motions to quash, 6(b) Orders and Orders requiring access, November 1975–December 1976.	do	Do.
Do.	Clearance requests, January 1969–December 1976.	do	Do.
Do.	Commissioners' outside contacts, April 1974–December 1976.	do	Do.
Do.	Staff opinion letters, May 1962–December 1976	do	Do.
Do.	Freedom of Information Act operating guidelines, December 1976.	do	Do.
Foreign Claims Settlement Commission (FCSC).	Guide to indexes, claim decisions, list of FCSC publications, and other material related to claims programs administered by the Foreign Claims Settlement Commission (July 4, 1967 to June 30, 1976).	Executive Director, FCSC, 1111 20th St. NW., Washington, D.C. 20579. No charge.	Executive Director, FCSC, 1111 20th, St. NW., Washington, D.C. 20579.
General Services Administration (GSA).	GSA Freedom of Information Act index; July 4, 1967 through Dec. 31, 1976. Category A information which is final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases. Category B information which is those statements of policy and interpretations which have been adopted by GSA and are not published in the FEDERAL REGISTER. Category C information which is administrative staff manuals and instructions to staff that affect a member of the public.	GSA, Director of Information (AV), Washington, D.C. 20405. Price: $4.75. Make checks payable to: General Services Administration.	GSA Central Office Library and the business service centers located in each regional office listed below: Central Office Library, 18 and F Sts. NW., Room 1033, Washington, D.C. 20405. Business service centers: Region 1: John W. McCormack Post Office and Courthouse, Boston, Mass. 02109. Region 2: 26 Federal Plaza, New York, N.Y. 10007. Region 3: 7 and D Sts. SW., Washington, D.C. 20407. Region 4: 1776 Peachtree St. NW., Atlanta, Ga. 30309. Region 5: 230 South Dearborn St., Chicago, Ill. 60604. Region 6: 1500 East Bannister Rd., Kansas City, Mo. 64131. Region 7: 819 Taylor St., Fort Worth, Tex. 76102. Region 8: Building 41, Denver Federal Center, Denver, Colo. 80225. Region 9: 525 Market St., San Francisco, Calif. 94105. Region 10: GSA Center, Auburn, Wash. 98002.
Indian Claims Commission	ndex of Indian Claims Commission decisions, inception to date: tribe, docket number, citations, summary of action, date. Currently 173 pp.	Clerk, Indian Claims Commission, 1730 K St., NW., Room 642, Washington, D.C. 20006. $0.04 per page. (Payee to be designated.)	Clerk, Indian Claims Commission, 1730 K St., NW., Room 642, Washington, D.C. 20006.
International Boundary and Water Commission, United States and Mexico, U.S. Section.	Brochure: Amistad Dam and Reservoir	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840. No charge.	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840.
Do.	Brochure: Falcon Dam and powerplant	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545. No charge.	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545.
Do.	Water Bulletins: Containing data for 1 yr, covering flow of Rio Grande and related data from Elephant Butte, N. Mex., to Gulf of Mexico, re storage in major reservoirs, sources of river flow, diversions, suspended silt, chemical analyses, sanitary aspects of water quality, meteorologic data, and irrigated areas—for years 1931 through 1974.	Principal Engineer, Water Operations, U.S. Section, IBWC, room 203, IBWC Bldg., 4110 Rio Bravo, El Paso, Tex. 79902. Price: $3 per bulletin (data for 1 yr). Payable to: Treasurer of the United States.	Principal Engineer, Water Operations, U.S. Section, IBWC, Room 203, IBWC Bldg., 4110 Rio Bravo, El Paso, Tex. 79902.
Do.	Water Bulletins: Containing data for 1 yr covering flow of Colorado River and other western boundary streams, and related data (including Tijuana, Santa Cruz, and San Pedro Rivers, and Whitewater Draw) for years 1960 through 1973.	Principal Engineer, Water Operations, U.S. Section, IBWC (same address as shown above). Price: $2 per bulletin (data for 1 yr). Payable to: Treasurer of the United States.	Principal Engineer, Water Operations, U.S. Section, IBWC (same address as shown above).
Interstate Commerce Commission.	Interpretations Manual		Bureau of Operations, Interstate Commerce Commission, 12th and Constitution Ave. NW., Washington, D.C. 20423.
National Labor Relations Board.	Digest of Decisions of the National Labor Relations Board; July 1, 1967–June 30, 1968; Subject matter index to decisions of the N.L.R.B. including outline.	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; $4.75; Superintendent of Documents.	Any regional office of the National Labor Relations Board or Freedom of Information Officer, National Labor Relations Board, 1717 Pennsylvania Ave. NW., Washington, D.C. 20570.
Do.	Digest of Decisions of the National Labor Relations Board; July 1, 1968–June 30, 1969; Subject matter index to decisions of the N.L.R.B. including outline.	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; $4; Superintendent of Documents.	Do.
Do.	Digest of Decisions of the National Labor Relations Board; July 1, 1969–June 30, 1970; Subject matter index to decisions of the N.L.R.B. including outline.	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; (price: not yet consolidated for purchase); Superintendent of Documents.	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
National Labor Relations Board.	Litigation Manual Outline and Litigation Manual National Labor Relations Board; July 1, 1966-June 30, 1971; Subject matter classification of court decisions relating to the National Labor Relations Act.	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; $0.60; Superintendent of Documents.	Any regional office of the National Labor Relations Board or Freedom of Information Officer, National Labor Relations Board, 1717 Pennsylvania Ave. NW., Washington, D.C. 20570.
Do.	Classified index of N.L.R.B. and related court decisions; July 1970-June 1974; Subject matter classification to Board decisions and court decisions related to the National Labor Relations Act.	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; $19.50; Superintendent of Documents.	Do.
Do.	Classified index of N.L.R.B. and related court decisions; subscription to cumulative publications part 1 July 1, 1974-June 30, 1975; part 2 July 1, 1975-Dec. 31, 1975; part 1 now being printed; part 2 in preparation for print.	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; $21 for both parts when available; Superintendent of Documents.	Do.
Do.	Classified index of decisions of regional directors of the National Labor Relations Board in representation proceedings; prepublication print and supplement for July 1, 1967-March 1975; index in publication for period June 1, 1967-Dec. 30, 1975 with quarterly supplements thereafter.	Prepublication print and supplement available from Freedom of Information Officer, N.L.R.B., 1717 Pennsylvania Ave. NW.; $7.00; National Labor Relations Board—printed index and quarterly supplements to be available from Superintendent of Documents, Government Printing Office.	Do.
Do.	Classified index of dispositions of unfair labor practice charges by the General Counsel of the National Labor Relations Board; subject matter index to advice memoranda and appeals memoranda and dispositions; July 1, 1967-Dec. 31, 1975.	In publication; will be made available through Superintendent of Documents with quarterly supplements.	Do.
Do.	Table of cases in which the General Counsel of the National Labor Relations Board refused to issue complaint on ULP charges because of insufficient evidence; July 1, 1967-Dec. 31, 1975; and quarterly thereafter; rudimentary subject outline of cases in which the General Counsel refused to issue complaint because of insufficient evidence; cases in which refusal to issue complaint was based upon finding of no violation of the act are listed in the classified index of dispositions of ULP charges by the General Counsel described *supra*.	Not published because unnecessary and impracticable due to insignificance of cases listed therein. Copies available at cost of direct duplication.	Do.
National Science Foundation (NSF).	Index of NSF circulars, manuals, and bulletins in effect as of Dec. 31, 1976. A numerical and classification index of agency-wide issuances, encompassing: (a) NSF circulars—convey agency policies, regulations, and procedures of a continuing nature; (b) NSF manuals—provide detailed instructions for implementing operating procedures, requirements, and criteria; and (c) NSF bulletins—used to communicate urgent information concerning changes in policy or procedure prior to its incorporation into a circular or manual, and to communicate other information that is pertinent for a specific period.	NSF Public Information Office, Room 531, 1800 G St. NW., Washington, D.C. 20550. $0.10 per page, per copy. Payable to: National Science Foundation.	NSF Library, Room 219, 1800 G St. NW., Washington, D.C. 20550.
Do.	Reviewer/panelist, alphabetical listing for the period of Oct. 1, 1975 to Sept. 30, 1976. Listing contains name, State, and institution of individuals who have reviewed proposals for the National Science Foundation for the period indicated above.	do.	Do.
Do.	Index of Office of the Director staff memoranda (O/D) in effect, as of Dec. 31, 1976. A numerical index, by calendar year, of issuances used by the Director and Deputy Director of the National Science Foundation to implement policy and to communicate with the staff on subjects of their choice.	do.	Do.
Do.	Numerical index of NSF important notices in effect as of Dec. 31, 1976. An index of notices serving as the primary means of general communication by the Director, NSF, with organizations receiving or eligible for NSF support. The notices convey important announcements of NSF policies and procedures or concerning other subjects determined to be of interest to the academic community and to other selected audiences.	do.	Do.
Do.	Reference file of current internal directorate issuances. A listing, by NSF directorate, of pertinent internal issuances of major NSF organizational components conveying policies, criteria, instructions or procedures amplified at a level below the Office of the Director and to communicate information of specific scope.	do.	Do.
Do.	Index of NSF regulations promulgated in the Code of Federal Regulations under title 41, public contracts, property management; and title 45, public welfare. A listing, by subject title, of current Foundation regulations with a brief description of the content of each.	do.	Do.
Do.	Publications of the National Science Foundation. An index by topical classification, as of November 1976, of current NSF publications issued and available to the public. Listings include annual reports, specific program announcements and brochures, science resources studies pamphlets, special studies publications and NSF periodicals. In addition to titles, provides NSF publication numbers and copy prices. (NSF publication 76-43.)	NSF Central Processing Section, 1800 G St. NW., Washington, D.C. 20550. One copy gratis.	For inspection or copying: NSF Library, Room 219, 1800 G St. NW., Washington, D.C. 20550. For additional information: NSF Communications Resource Branch (OGPP) Room 531, 1800 G St. NW., Washington D.C. 20550.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
National Science Foundation (NSF).	NSF guide to programs. A composite listing of summary information about NSF support programs, as of September 1976. Provides general guidance and information describing the principal characteristics and basic purposes of each activity; eligibility requirements; closing dates (where applicable); and the address where more detailed information or applications may be obtained. (NSF publication 76-33.)	NSF Central Processing Section, 1800 G St. NW., Washington, D.C. 20550. One copy gratis; or Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Stock No. 038-000-00294-5. Unit price: $1.35.	For inspection or copying: NSF Library, Room 219, 1800 G St. NW., Washington, D.C. 20550. For additional information: NSF Communications Resource Branch (OGPP) Room 531, 1800 G St. NW., Washington, D.C. 20550.
National Transportation Safety Board (NTSB).	Initial decisions of administrative law judges, Apr. 4, 1967 to Dec. 21, 1976. Chronological listing (by date of service) of decisions after hearings on appeal involving airman or air safety certificates. Safety enforcement decisions, May 18, 1967 to Dec. 29, 1976. Alphabetical and numerical listings of EA and EM final opinions/orders of the Board on appeal from initial decisions of NTSB administrative law judges or Commandant, U.S. Coast Guard. NTSB directives checklist as of Jan. 9, 1976. Numerical listing (by NTSB order No.) of staff operations directives.	Copies of indexes and checklist may be obtained by writing to Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. (Fees for duplication and instructions for payment will be included in letter of acknowledgment to requester.)	Chief, Public Inquiries Section, Room 806-B, National Transportation Safety Board, 800 Independence Ave. SW., Washington, D.C. 20594. Public Reference Room 806-B.
Office of Management and Budget (OMB).	Index to BOB/OMB bulletins, July 4, 1967 to Dec. 31, 1976. Keyword index of OMB bulletins.	Office of Management and Budget. No fee	Velma N. Baldwin, Assistant to the Director for Administration.
Do	Office of Management and Budget circulars Index, 1948 to Dec. 31, 1976. Arranges current OMB circulars by keywords in the titles of the directives and by a limited number of broader captions.	do	Do.
Do	Index to Office of Management and Budget manual. All those sections currently in effect through Dec. 31, 1976. Arranged by keywords in the titles.	do	Do.
Do	Rescinded Office of Management and Budget circulars, through Dec. 31, 1976. Arranged by number, date, subject, rescission date, and circular replacement (if any).	do	Do.
Do	Listing of Federal management circulars transferred from General Services Administration. Arranged by number, subject, and date.	do	Do.
Office of Telecommunications Policy.	Office of Telecommunications Policy public document index, 1970 to June 30, 1975. Arranges statements of policy by title under keyword subject heading.	Copies of index may be obtained by writing to: Publications Office, Office of Telecommunications Policy, 1800 G St. NW., Washington, D.C. 20504.	Publications Office, Office of Telecommunications Policy, 1800 G St. NW., Washington, D.C. 20504.
Do	Office of Telecommunications Policy circulars index, 1971 to June 30, 1976. Arranges OTP circulars chronologically by number and title.	do	Do.
Do	Office of Telecommunications Policy orders to staff indexed chronologically by number and title.	do	Do.
Pension Benefit Guaranty Corporation, Office of the General Counsel.	Index to Pension Benefit Guaranty Corp. Opinion Manual; Sept. 2, 1974 to Dec. 31, 1976; interpretive letters addressing the provisions of title IV of the Employee Retirement Income Security Act—plan termination insurance program.	The Office of Communications, Pension Benefit Guaranty Corp., Room 7100, 2020 K St. N W., Washington, D.C. 20006; Charge $0.10 per page; Payable to The Pension Benefit Guaranty Corp.	The Office of Communications, Attention: Mr. William Fitzgerald, (202) 254-4817, 2020 K St. NW., Washington, D.C. 20006.
Postal Rate Commission	Postal Rate Commission Index, from 1971 to date. Opinions and recommended decisions, advisory opinions and orders having a precedential value.	Secretary of the Commission, Postal Rate Commission, Washington, D.C. 20268. No charge.	Commission's Reading Room, Suite 500, 2000 L St. NW., Washington, D.C.
Postal Service	USPS Public Index, July 4, 1967-Dec. 31, 1976. List of USPS Directives and Publications; Index of Final Legal Opinions, Orders; Current Information Services Price List.	USPS Headquarters Library, 475 L'Enfant Plaza West SW., Washington, D.C. 20260. Section I—List of USPS Directives and Publications ..... $1 Section II—Index of Final Legal Opinions and Orders ..... $9 Complete Index ..... $10 Checks payable to U.S. Postal Service.	General Manager, Library Division, USPS Headquarters Library, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.
Renegotiation Board	Index of documents, vols. 1, 2, and 3, 1967 to present: Agreements, modification agreements, clearances after assignment, clearances after reassignment, clearances without assignment, clearance agreements, letters not to proceed, final opinions, regional board opinions, orders, modification orders, special accounting agreements, interpretations, general orders, administrative orders, memoranda of decision, statements of facts and reasons, summaries of facts and reasons, decisions on applications for stock item exemption, decisions on new durable productive equipment exemption, and decisions on applications for commercial exemption.	Public Information Office, The Renegotiation Board, 2000 M St. NW., Washington, D.C. 20446. $0.15 per page.	Public Information Office, The Renegotiation Board, 2000 M St. NW., Washington, D.C. 20446, Room 4310, Telephone: 254-7019.
Securities and Exchange Commission.	Index to Commission Decisions. Index to opinions, final orders and nonroutine interlocutory orders issued by the Office of Opinions and Review. Updated on a quarterly basis and serves as a basis for the index to the bound volumes of Commission Decisions and Reports.	Publications Department, Securities and Exchange Commission, Washington, D.C. 20549. Available for purchase at cost of duplication.	Public Reference Room, Securities and Exchange Commission, 1100 L St., NW., Washington, D.C. (202) 523-5506
Do	Decisions and Reports. Index of decisions and opinions of the Commission in adjudicatory proceedings, miscellaneous public announcements of general interest, and reports on proposed plans of reorganization under Bankruptcy Act. Principal index is subdivided into 6 statutes administered by the Commission. Ancillary index contains alphabetical list of respondents in Commission proceedings.	Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Latest volume (vol. 43) available at $11.45. Photocopies of indexes only may be obtained from SEC at 10 cents per page.	Do.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
Securities and Exchange Commission.	Index to SEC Docket. Index of all releases issued by the Commission. Index is organized by subject headings and by a listing of persons, corporations named in Commission releases.	Subscriptions to SEC Docket at $42 per year may be purchased from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Photocopies of indexes only may be obtained from SEC at 10 cents per page.	Public Reference Room, Securities and Exchange Commission, 1100 L St., N.W., Washington, D.C. (202) 523-5506.
Selective Service System.....	1. Index to Selective Service regulations and directives, 1948 to 1972. 2. Index to Selective Service regulations and registrants processing manual, 1972 to present. 3. General index to reconciliation service manual. 4. Registrant information bank guide index, 1972 to present.	National Headquarters, Selective Service System, 600 E St. NW., Washington, D.C. 20435. Prices: 1. $2, 2. $2, 3. $0.10, 4. $0.10. Make checks payable to: Selective Service System.	Records Manager, National Headquarters, Selective Service System, 600 E St. N.W., Washington, D.C. 20435. Telephone (202) 382-2304.
Tennessee Valley Authority....	Index to general administrative releases; covers period through September 1976; index to TVA organization bulletins, TVA codes, and TVA instructions.	John Van Mol, Director of Information, Tennessee Valley Authority, Knoxville, Tenn. 37902. Price: $2.00. Checks payable to: Tennessee Valley Authority.	John Van Mol, Director of Information, Tennessee Valley Authority, Knoxville, Tenn. 37902.

[1] $5. a copy.
[2] $10. a copy for each year.

JANUARY 26, 1977.

FRED J. EMERY,
Director, Office of the Federal Register.

[FR Doc.77-2958 Filed 1-28-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

FEDERAL MANAGEMENT CIRCULARS

Status

By Executive Order No. 11893, issued December 31, 1975, certain policy functions were returned to the Office of Management and Budget from the General Services Administration. Pursuant to Section 4 of the Executive Order,

(a)ny circulars, directives, or regulations issued pursuant to functions transferred by this order shall remain in effect until modified or rescinded by the Office of Management and Budget.

The notice published in 42 FR 12 (1977), has raised questions concerning the status of these Federal Management Circulars. That notice was designed, in part, to indicate these circulars are still in effect and are binding upon the agencies to the same extent as they were prior to the effective date of the Executive Order. They have neither been modified or rescinded by this office.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-2931 Filed 1-28-77;8:45 am]

PRIVACY ACT OF 1974

Reports on New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period January 10, through January 21, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records.

NATIONAL ENDOWMENT FOR THE ARTS

System Name:

Interns.

Report Date:

January 6, 1977.

Point of Contact:

Mr. Robert Wade, General Counsel, National Endowment for the Arts, 2401 E Street, NW., Washington, D.C. 20506.

VETERANS ADMINISTRATION

System Name:

Employee ADP Training Records.

Report Date:

January 14, 1977.

Point of Contact:

Richard L. Roudebush, Administrator, Veterans Administration, Washington, D.C. 20420.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-2930 Filed 1-28-77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 25, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Combustion and Advanced Power Technologies Commercialization Study, E(49-18), single time, utilities, industry and institutions, Ellett, C. A., 395-5867.

DEPARTMENT OF COMMERCE

Bureau of Census, Annual Demographic Survey—March 1977, CPS-1, CPS-5, CPS-581, CPS, single time, 53,000 households, George Hall, 395-6140.

DEPARTMENT OF DEFENSE

Department of the Air Force, Reserve Forces Attitude Survey, single time, Reserve Forces, Richard Eisinger, 395-6140.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Assessment of Educational Programming Needs, OE-551, single time, national sample of households, Kathy Wallman, 395-6140.

Office of Human Development, Instruction for Completing Application for Federal Assistance for RSA Training Grants, annually, State VR agencies, colleges, and universities, Budget Review Division, Lowry, R. L., 395-4775.

REVISIONS

VETERANS ADMINISTRATION

Custodians Certificate and Agreement (in cases of minor, or incompetent beneficiaries), VA 27-4703, on occasion, custodians, Caywood, D. P., 395-3443.

DEPARTMENT OF COMMERCE

Bureau of Census, Environmental Quality Control Agency Compilation Sheet EQC 1, annually, large governments, Ellett, C. A. 395-5867.

Economic Development Administration, Employment Schedule and Assurances of Job Opportunities, ED 223, on occasion, business entities expanding or building new facilities, Tracey Cole, 395-5870.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Refund Questionnaire, SSA-632, on occasion, individuals and households, Caywood, D. P., 395-3443.

EXTENSIONS

VETERANS ADMINISTRATION

Conversion Information, VA 29-358B, on occasion, insured veterans, Caywood, D. P., 395-3443.

UNITED STATES INFORMATION AGENCY

Application for Certificate of International Educational Character—Recording, IAP-2, on occasion, business firms, Warren Topelius, 395-5872.

Application for Certificate of International Educational Character—Filmstrip, IAP-3, on occasion, business firms, Warren Topelius, 395-5872.

Application for Certificate of International Educational Character—Slides, IAP-4, on occasion, business firms, Warren Topelius, 395-5872.

Application for Certificate of International Educational Character—Wall Chart, Map, Poster, IAP-8, on occasion, business firms, Warren Topelius, 395-5872.

Application for Certificate of International Educational Character—Motion Picture, IAP-1, on occasion, business firms, Warren Topelius, 395-5872.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration, Basic Rules of the Defense Materials and Priority Systems Between Canada and United States, DMS-1, DPS-1, on occasion, producers of industrial products, Warren Topelius, 395-5872.

National Oceanic and Atmospheric Administration, Severe Storm Report, WS-F-61, on occasion, cooperating weather observers, Tracey Cole, 395-5870.

Economic Development Administration, Potential Project Report for Field Staff Screening of Business Loan Applicants, ED-233, on occasion, firms planning new/expanded plants, Warren Topelius, 395-5872.

DEPARTMENT OF THE TREASURY

Departmental and other, Bank Deposits in Minority Bank Cities, MBDP-1A, quarterly, government agencies, C. Louis Kincannon, 395-3211.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-3083 Filed 1-28-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE

Meetings

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (86 Stat. 770), notice is hereby given of meetings of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handing of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The committee will hold meetings on February 15 and February 22, 1977, at 10:30 a.m. in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland Florida.

The meetings will be open to the public and a brief period will be set aside at each meeting for public comments and questions. The agenda of each meeting includes analysis of current information concerning market supply and demand factors, and consideration of recommendations for regulation of shipments of the named fruits.

The names of committee members, agenda, and other information pertaining to each meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813-682-3103.

Dated: January 26, 1977.

WILLIAM T. MANLEY,
Deputy Administrator, Program Operations.

[FR Doc.77-3007 Filed 1-28-77;8:45 am]

Farmers Home Administration

[Designation Number A424]

GEORGIA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Georgia Counties as a result of drought July 1 through August 31, 1976, in both Johnson and Laurens Counties in addition to an early freeze October 29, 1976, in Johnson County and intermittent extreme heat from July 1 through August 31, 1976, in Laurens County.

Johnson Laurens

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor George Busbee that such designation be made.

Applications for emergency loans must be received by this Department no later than March 10, 1977, for physical losses and October 7, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 19th day of January, 1977.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.77-2953 Filed 1-28-77;8:45 am]

[Designation Number A427]

NORTH DAKOTA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Barnes County, North Dakota, as a result of prolonged drought beginning September 1, 1975, and extending through the 1976 crop year ending December 31, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Arthur A. Link that such designation be made.

Applications for emergency loans must be received by this Department no later than March 10, 1977, for physical losses and October 7, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 19th day of January, 1977.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.77-2954 Filed 1-28-77;8:45 am]

Packers and Stockyards Administration

LONDON LIVESTOCK AND CAR AUCTION, LONDON, ARKANSAS, ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in Section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

AR-156, London Livestock and Car Auction, London, Arkansas.

GA-183, Miller Livestock Company, Colquitt, Georgia.

IL-167, United Market Center, Goreville, Illinois.

MN-169, Willmar Feeder Pig Market, Willmar, Minnesota.

TN-175, Tennessee Livestock Producers, Inc., Cross Plains, Tennessee.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in Section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by February 15, 1977.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 24th day of January, 1977.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.77-2955 Filed 1-28-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-1-138; Docket 27436]

AIR NEW ENGLAND, INC.

Establishment of Subsidy Mail Rates; Order to Show Cause

Petition of Air New England, Inc. for establishment of subsidy mail rates pursuant to section 406 of the Federal Aviation Act of 1958, as amended.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of January, 1977.

On January 24, 1975, Air New England, Inc. (ANE), was certified by the Board, thus becoming eligible for subsidy support. The carrier has been operating for nearly two years under a temporary subsidy rate established and revised by the Board.[1] By its petition as amended on October 1, 1976, ANE requests a past period rate for the period January 24, 1975 through June 30, 1976 and a final future rate as of July 1, 1976.

The carrier's original petition, filed January 24, 1975, requested the establishment of both temporary and final annual subsidy rates of $3.8 million. After analysis of the available data for the carrier, the Board set an annual temporary subsidy rate of $1.9 million.[2]

The carrier subsequently filed an amendment to its petition on August 6, 1975, requesting an increased temporary annual subsidy rate of $3.7 million, and an increased final annual rate of $4.5 million. In response to the request for an increase in the temporary subsidy rate, the Board set a revised temporary annual rate of $3.2 million.[3]

ANE's October 1, 1976, amendment to its petition proposed a final rate of $7.3 million for the past period January 24, 1975, through June 30, 1976.[4] The carrier requested that the past period rate be set "as quickly as possible" indicating that this rate "is sorely needed to improve its cash position." The carrier's October 1, 1976, filing also requested a final future rate of $4.4 million per year in addition to several requests regarding the method of determination and payment of the future rate. In order to avoid a delay in setting a past period rate for the carrier, the determination of ANE's final future rate level and payment formula will be addressed in a subsequent order.

The Board has decided that sufficient operating experience has been gained by ANE as a certificated carrier to support the establishment of a final past-period subsidy mail rate from the date of certification, January 24, 1975, through June 30, 1976. In arriving at the proposed past period rate, the Board has thoroughly reviewed the carrier's petition, its reported financial and traffic data, and the results of a special ratemaking audit conducted by the Board's Bureau of Enforcement (BOE). In addition, we have examined in detail the carrier's operations during the period and find that, given the experimental nature of the initial period of certificated operations, the carrier's decisions with regard to service and equipment were reasonable.

ANE reported system operating revenues of $16.2 million for the 18 months ended June 30, 1976, and operating expenses of $22.7 million for the same period, producing a reported operating breakeven need of $6.5 million for the 18-month period.[5] This deficit includes the effects of such items as the costs associated with certification as well as the integration of FH-227 aircraft into the carrier's system.

We have adjusted ANE's reported operating results to reflect disallowances required by the BOE audit plus other adjustments normally made for subsidy ratemaking purposes.[6] The adjustments to breakeven need were allocated to eligible and ineligible services. Details of the specific adjustments and the methods of allocation are described in Appendix B, attached.[7] [8]

ANE's reported investment was also adjusted in accordance with subsidy ratemaking policy. The adjustments include: direct adjustments to debt to reflect the elimination of those notes which were repaid within 90 days, the elimination of unamortized discount and expense on debt, and an allowance for construction work in progress; direct adjustments to equity to reflect disallowed FH-227 depreciation expense, an adjustment for unrealized capital losses,[9] and an adjustment to DHC-6 depreciation; and pro rata adjustments to eliminate special funds—other, nonoperating property and equipment—net, developmental and preoperating costs and other intangibles. (For details of these adjustments see Appendix C).

ANE has requested a 12.35-percent annual rate of return for the past period.[10] It has long been the Boards policy to establish past period rates of return at a level below applicable future rates. During a past open rate period, many of the normal and abnormal risks of air transport which would be borne by a carrier under a final future rate, are shifted to the Government. This shifting of risks is properly reflected in lower rates of return for past periods.[10] Seven percent is the rate of return which the Board has employed for a number of years in past period rate cases, most recently in 1973.[11] It is apparent, however, that a past period rate of return of seven percent would not be adequate today considering prevailing interest rates. For example, ANE's cost of embedded debt during the open rate period was 9.62 percent (See Appendix F.)

We have determined that a past period annual rate of 10 percent would be fair and reasonable in this case. With a ten percent rate of return, ANE's full debt costs are met and the carrier is provided with a past period return on the equity portion of adjusted eligible investment of 11.6 percent which the Board deems reasonable given the reduced risks associated with a past period.

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[1] Order 75-4-21, April 3, 1975 and Order 75-11-5, November 3, 1975.

[2] Order 75-3-82, March 21, 1975 and Order 75-4-21, April 3, 1975.

[3] Order 75-10-75, October 17, 1975 and Order 75-11-5, November 3, 1975.

[4] Certain revisions and additions to the carrier's October 1, 1976 petition were filed on November 23, 1976, establishing ANE's current rate requests.

[5] The reported figures include a 23-day period of precertificated operations for which the carrier is not seeking subsidy support.

[6] The BOE audit covered calendar year 1975. The audit adjustments were projected over the last six months of the past period where appropriate.

[7] As has been done in the past when an initial past period rate has been set for a small newly certificated carrier, no seasonal adjustment has been made to ANE's reported results due to the experimental nature of the start-up period. See: Challenger Airlines Co., Mail Rates, 10 C.A.B. 809 (1949); and Monarch Air Lines, Inc., Mail Rates, 10 C.A.B. 188 (1949).

[8] Appendices A-F filed as part of original document.

[9] To eliminate operating investment in DC-3 equipment. A contra adjustment increasing nonoperating property and equipment—net was made.

[10] This is the rate of return found reasonable for local service carriers for commercial ratemaking purposes in Phase 8 of the DPFI. (Order 71-4-58, April 9, 1971).

[10] For a more complete discussion of the rationale behind past period rates of return, see Transatlantic Final Mail Rate Case, 19 C.A.B. 464, 614 (1954).

[11] Order 73-10-51, October 12, 1973.

ANE's reported eligible breakeven need of $6.3 million is $1.2 million greater than the Board's calculated need of $5.1 million. This difference results from our reallocation of system breakeven need to its eligible and ineligible components,[12] plus the normal ratemaking adjustments mentioned above and detailed in Appendix B. In addition, the Board's determination of the return element on eligible investment of $.9 million is $.4 million below the carrier's request of $1.3 million, due to the carrier's use of the higher rate of return, plus the adjustments mentioned previously and detailed in Appendix C.

The Board's analysis (see Appendix A) reveals, therefore, that the carrier's eligible breakeven need after adjustments is $5.1 million, and together with a return element on eligible investment of $.9 million, combines to produce a total subsidy eligible need of $6.0 million for the entire 18-month period. After an adjustment to eliminate 23 days of precertificated operations, the past period subsidy need amounts to $5.7 million. After an allowance for a return on the past period subsidy deficiency has been added the past period subsidy rate totals $5.8 million.[13]

Based on the foregoing analysis, it is reasonable to provide ANE with subsidy in the amount of $5.8 million to meet its adjusted subsidy need for the past period. Therefore, the Board tentatively finds and concludes that the fair and reasonable final rate of compensation to be paid to Air New England, Inc., for the transportation of mail by aircraft, the facilities used and useful therefor, and the subsidy eligible services connected therewith between the points between which the carrier has been authorized to transport mail by its certificate of public convenience and necessity for the period January 24, 1975, through June 30, 1976, is the sum of (a) the service mail rates as heretofore established for the carrier by orders of the Board [14] and (b) subsidy in the amount of $5,828,830.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204, 406 and 1002(b) thereof, and the regulations promulgated in 14 CFR 302,

It is ordered, That: [15]

1. Air New England, Inc. is directed to show cause why the Board should not fix, determine, and publish the aforesaid rate as the fair and reasonable final rate of compensation to be paid Air New England, Inc. for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith over that part of the carrier's system which is eligible for subsidy for the period January 24, 1975, through June 30, 1976, inclusive; [16]

2. Further procedures with respect to the final rate proposed herein shall be in accordance with the Board's Rules of Practice particularly Rule 302, et seq., and, if there is any objection to the rate specified herein, notice thereof must be filed within 10 days, and, if notice is filed, written answer and supporting documents must be filed within 30 days after the date of service of this order;

3. If notice of objection is not filed within 10 days, or if notice is filed and answer is not filed within 30 days after service of this order, or, if an answer timely filed raises no material issue of fact, all parties shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order fixing the final subsidy rate specified herein;

4. If notice of objection and answer are filed presenting issues for hearing, issues going to the establishment of the fair and reasonable rates herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR, § 302.307, and

5. This order shall be served upon all parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-2988 Filed 1-28-77;8:45 am]

[Docket 30352]

BRITISH AIRWAYS BOARD, d.b.a. BRITISH AIRWAYS ENFORCEMENT PROCEEDING

Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., January 25, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-2987 Filed 1-28-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

EYE & EAR HOSPITAL, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes 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 Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

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[12] ANE's allocation procedures for most revenue and expense categories were not deemed reasonable nor in conformance with the methods employed by the Board in the past in determining subsidy eligible breakeven need requirements. Major reallocations were necessary in the areas of transport related revenues and expenses, aircraft and traffic servicing expense and general and administrative expense.

The vast majority of ANE's transport related revenues and expenses arise from items such as equipment rentals and general service sales to outside companies. The revenues and expenses from such items do not directly relate to either eligible or ineligible services. Nevertheless, ANE directly assigned the bulk of transport related revenues and expenses to ineligible services. In the area of aircraft and traffic service expense, ANE employed an arbitrary and unsupported one-half weighting of unit costs in ineligible services. In a similar fashion, ANE employed a one-half weighting in allocating general and administrative expenses to ineligible services.

[13] The exact amount of ANE's subsidy for the period January 24, 1975, through June 30, 1976, is calculated as follows:

	Eligible	Ineligible	Total
18 mo adjusted breakeven need	$5,101,512	$749,476	$5,841,988
Return element	898,913	135,556	1,034,469
Total need	6,000,425	876,032	6,876,457
Adjustment for 23d of precertificated operations	(252,306)		
Past period need (Jan. 24, 1975, to June 30, 1976)	5,748,119		
Return allowance on subsidy deficiency *	80,711		
Total, past period subsidy	5,828,830		

*Computed as follows:

$$[(.5 \times D + .5 \times x)r][524/365] = x$$

Where:
D = subsidy need ($5,748,119) less subsidy paid ($4,705,722).
r = rate of return (10 pct) per annum.
x = return allowance on Deficiency.
524/365 = ratio of past period to annual period.

[14] This order is not intended to disturb the service mail rates established for Air New England, Inc., in other orders of the Board.

[15] All forms, reports, schedules, and tariffs filed by Air New England with the Board, to the date of the Board's final decision, and the official mileage record of the Board, are incorporated into the record of this proceeding.

[16] The compensation provided herein shall be in lieu of, and not in addition to, the compensation heretofore received by Air New England for mail transported over its subsidy-eligible routes for the period January 24, 1975, through June 30, 1976.

Docket number: 76-00540. Applicant: Eye & Ear Hospital, 230 Lothrop Street, Pittsburgh, PA 15213. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological tissues which range is hardness from very soft (inner ear receptor cells), to medium hardness (myelinated nerve fibers), to very hard (calcium carbonate otolithic membrane and petrous bone). The research to be conducted will involve the study of the normal and pathologic anatomy of the inner ear. This includes ultrastructural studies and analysis of both single and serial sections. In addition, the article will be used in the course Graduate Research in Anatomy which includes basic electron microscopic techniques in sample preparation, sectioning, instrument operation, dark room procedures, and techniques available for quantitative analysis of data.

Application received by Commissioner of Customs: September 14, 1976. Advice submitted by the Department of Health, Education, and Welfare on: January 7, 1977.

Docket number: 76-00547. Applicant: Herbert H. Lehman College of CUNY, Bedford Park Blvd. W., Bronx, New York 10468. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning plant, animal, fungal and bacterial tissues embedded in epoxy resins which will be investigated to further basic knowledge of cell and tissue ultrastructure. It is hoped that the investigations will aid in the understanding of the abscission process, differentiation, host-parasite interactions and blue-green algal structure in relation to their environment. The article will also be used in the courses Electron Microscopy, Cytology and Tutorials which involve a study of the general principles on techniques and the use of the electron microscopes (transmission and scanning) to study the fine structure of cells and tissues and the employment of certain cytochemical methods to localize various enzymes. Application received by Commissioner of Customs: September 29, 1976. Advice submitted by the Department of Health, Education, and Welfare on: January 7, 1977.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each of the foreign articles provides a range of cutting speeds from 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket Number 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket Number 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational nad Scientific Materials)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-2928 Filed 1-28-77;8:45 am]

National Oceanic and Atmospheric Administration

COASTAL ZONE MANAGEMENT ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given of the meeting of the Coastal Zone Management Advisory Committee (the "Committee") on Tuesday through Friday, February 22-25, 1977. The meeting will commence at 9 a.m., February 22, in the Governor's Conference Room, State Capitol, Monroe Street, Tallahassee, Florida; at 10 a.m., February 23, in the County Commissioner's Meeting Room, Franklin County Courthouse, Market Street, Apalachicola, Florida; at 8:30 a.m., February 24, in the National Hurricane Center's 4th Floor Conference Room, Ungar/Computer Building, University of Miami, Coral Gables, Florida; and at 9 a.m., February 25, in the 1st Floor Conference Room, Atlantic Oceanographic and Meteorological Laboratory, 15 Rickenbacker Causeway, Miami, Florida.

The meeting will be open to public observation subject to the extent of seating available. Interested persons are invited to attend and participate in the meeting, subject to the procedures which follow. From approximately 11:30 a.m. until 12 noon on February 22, 11:15 a.m. until 11:30 a.m. on February 23, and 11:45 a.m. until 12 noon on February 25, interested persons will be permitted to make oral statements to the Committee which are relevant to topics on the agenda. Depending on the level of interest expressed in making oral statements and the time allotted, the number of persons permitted to speak and the length of oral statements may be limited, and preference may be given based upon relevance of statements to items on the agenda; such decisions will be made by the Chairman in consultation with the Committee. Interested persons wishing to make oral statements must register on February 22, 23, and 25 with the Executive Secretary 15 minutes prior to meeting time in the meeting room and must provide their topic(s). A written version of an oral statement or a written statement may be submitted to the Executive Secretary before or after the meeting, or may be mailed within five days to: Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW., Washington, D.C. 20235 (Attn: Dr. Richard J. Keating, Executive Secretary, CZM Advisory Committee). All statements received in type-written form will be distributed to the Committee for consideration with the minutes of the meeting. Inquiries may be directed to Richard Keating at 634-4232.

The items for Committee discussion at the meeting will include the following:

TUESDAY, FEBRUARY 22—TALLAHASSEE, FLA.

9 a.m.	Call to order. Approval of minutes.
9:30 a.m.	Presentation on progress of Florida CZM program.
10:30 a.m.	Brief recess.
10:45 a.m.	Continuation of above topic; allowing time for discussion by committee.
11:30 a.m.	Oral statements (if any) by interested person(s).
12 noon	Lunch.

1:30 p.m.	Presentation on proposed estuarine sanctuary (Apalachicola River/Bay System).
3 p.m.	Brief recess.
3:15 p.m.	Evaluation of CZM program.
4:30 p.m.	Adjourn.

WEDNESDAY, FEBRUARY 23—APALACHICOLA, FLA.

10 a.m.	Presentation on proposed Corps of Engineers' dam project and its environmental, social, and economic impacts.
11:15 a.m.	Oral statements (if any) by interested person(s).
11:30 a.m.	Lunch.
1 p.m.	Onsite inspection of State-owned wetlands.
4 p.m.	Return to Tallahassee.

THURSDAY, FEBRUARY 24—CORAL GABLES, FLA.

8:30 a.m.	Brief tour and discussion of National Hurricane Center's activities.
9:30 a.m.	Presentation on natural hazards and their impact on State coastal management programs.
10:15 a.m.	Brief recess.
10:30 a.m.	Committee's discussion of above topics.
11 a.m.	Leave National Hurricane Center.
	Onsite inspection of Florida Keys' areas likely to be impacted by hurricanes; discussion of evacuation problems in low-lying areas, mangrove loss, etc.
	Lunch along the way.
2 p.m.	Onsite visit to Key Largo coral reef designated a marine sanctuary in December 1975.
	Presentation by Florida Interpretive Service/boat tour.
5:30 p.m.	Return to Miami.

FRIDAY, FEBRUARY 25—MIAMI, FLA.

9 a.m.	Call to order.
9:15 a.m.	Report on progress of CZM program; CEIP regulations; 305 amendments regulations; key issues in pending 306 programs approvals.
10:15 a.m.	Brief recess.
10:30 a.m.	Committee's discussion of above topics.
11 a.m.	Committee's recommendations on excluded Federal lands legislation.
11:45 a.m.	Oral statements (if any) by interested person(s).
12 noon	Lunch.
1:30 p.m.	Discussion of possible committee involvement in ongoing "Methodology Study to Predict Onshore Impacts of Oil and Gas".
2:30 p.m.	Report by task force on State assistance.
3 p.m.	Discussion of agenda for next meeting.
3:30 p.m.	Adjourn.

Dated: January 25, 1977.

T. P. GLEITER,
Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

[FR Doc.77-2917 Filed 1-28-77;8:45 am]

NAVAL UNDERSEA CENTER

Receipt of Application for Scientific Research Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take and import marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Naval Undersea Sciences Department, Naval Undersea Center, San Diego, California 92132, to take and import six (6) beluga whales (*Delphinapterus leucas*), six (6) Risso's dolphins (*Grampus griseus*), ten (10) common dolphins (*Delphinus delphis*), two (2) white-beaked dolphins (*Lagenorhynchus albirostris*), six (6) Pacific white-sided dolphins (*Lagenorhynchus obliquidens*), six (6) finless porpoises (*Neophoecoena phocaenoides*) three (3) false killer whales (*Pseudorca crassidens*), two (2) rough-toothed dolphins (*Steno bredanensis*), thirty seven (37 bottlenose dolphins (*Tursiops truncatus*), twenty six (26) California sea lions (*Zalophus californianus*), and eight (8) ringed seals (*Phoca (=Pusa) hispida*) to be maintained alive.

The animals requested are to be used in five categories of investigations: (1) Whales and dolphins as noise making animals that affect naval operations; (2) specialized sensory and physiological systems as models for man-made analogs; (3) organisms that might be used to perform underwater tasks more efficiently than human divers; (4) the health care and nutrition of animals maintained as captive laboratory animals; and (5) the ecology, behavior, movements, and migrations of the animals with emphasis on their mechanisms of navigation.

The program is a continuation of the studies the Navy has been doing for over ten years. These studies are conducted by a staff of sixteen veterinarians and scientists plus a support staff. The animals will be maintained in San Diego and Kanehoe Bay, Hawaii. The facilities in San Diego include four circular tanks each measuring 6 feet deep, 30 feet in diameter with a 30,000 gallon capacity, and a rectangular pool measuring 20 feet by 30 feet by 9 feet deep. Four holding pens, each with a floor area 10 feet by 12 feet and a center pool that measures 6 feet by 4 feet by 3 feet deep, are used for pinniped maintenance. Five medical holding pens are available for animals that might need isolation. The water supply is pumped from the ocean through four primary filter tanks and through additional filter tanks located near each of the holding tanks. The facilities in Hawaii consist of floating pens in the Bay measuring 20 feet by 20 feet by 8 feet deep. Three larger pens of the same depth, 50 yards on a side, are for animal maintenance and a larger pen is used solely for cetacean breeding. Dolphins are found naturally in the Bay and special filtration systems are not necessary.

The Applicant cooperates with state and local agencies in assisting in the treatment of beached and stranded animals. The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with this application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;
Regional Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702;
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; and
Regional Director, National Marine Fisheries Service, Alaska Region, P.O. 1668, Juneau, Alaska 99801.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is sending copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors. Interested parties may submit written data or views, or requests for a public hearing on this application to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before March 2, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: January 25, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-2962 Filed 1-28-77;8:45 am]

Office of the Secretary

[Dept. Organization Order 25-2]

MARITIME ADMINISTRATION

Statement of Organization and Functions and Delegation of Authority

This order effective December 9, 1976 supersedes the material appearing at 38 FR 30757 of November 7, 1973, 40 FR 16707 of April 14, 1975, 40 FR 31824 of

July 29, 1975, of 40 FR 56707 of December 4, 1975 and 41 FR 31413 of July 28, 1976.

SECTION 1. Purpose. .01 This order prescribes the organization and assignment of functions within the Maritime Administration. The delegations of authority to the Assistant Secretary for Maritime Affairs and the Maritime Subsidy Board are set forth in Department Organization Order 10-8.

.02 This revision incorporates the provisions of the previous amendments (Sections 9., 10., 12., and 13.) and, in general, updates the language of the order.

SEC. 2. *Organization structure.* The organization structure and line of authority of the Maritime Administration shall be depicted in the attached organization chart (Exhibit 1). A copy of the organization chart is on file with the original of this document on file with the Office of the Federal Register.

SEC. 3. *Office of the Assistant Secretary for Maritime Affairs.* .01 The Assistant Secretary for Maritime Affairs ("the Assistant Secretary"), who is ex-officio Maritime Administrator, is the head of the Maritime Administration and serves as Chairman of the Maritime Subsidy Board.

.02 The "Deputy Assistant Secretary for Maritime Affairs" shall assist the Assistant Secretary in carrying out his responsibilities and perform such duties as the Assistant Secretary shall prescribe, together with the duties which he performs as a member of the Maritime Subsidy Board. In addition, he shall be the Acting Assistant Secretary during the absence or disability of the Assistant Secretary and, unless the Secretary of Commerce designates another person, during a vacancy in the office of the Assistant Secretary. He shall also be responsible for supervision and coordination of contract compliance activities and activities under Title VI of the Civil Rights Act of 1964.

.03 The "Executive Staffs" shall consist of the Secretary of the Maritime Administration who also serves as Secretary of the Maritime Subsidy Board, the administrative law judges, and officials concerned with other special services for the Assistant Secretary and the Maritime Subsidy Board.

SEC. 4. *Maritime Subsidy Board.* The Maritime Subsidy Board shall be responsible for and perform the following functions: a. The functions with respect to making, amending, and terminating subsidy contracts, which shall be deemed to include, in the case of construction-differential subsidy, (1) the contract for the construction, reconstruction or reconditioning of a vessel, and (2) the contract for the sale of the vessel to the subsidy applicant or the contract to pay a construction-differential subsidy and the cost of the national defense features and, in the case of operating-differential subsidy, the contract with the subsidy applicant for the payment of the subsidy;

b. The functions with respect to: (1) conducting hearings and making determinations antecedent to making, amending, and terminating subsidy contracts, under the provisions of Titles V, VI, and VIII, and Sections 301 (except investigations, hearings and determinations, including changes in determinations, with respect to minimum manning scales, minimum wage scales and minimum working conditions), 708, 805(a) and 805 (f) of the Merchant Marine Act, 1936, as amended (the "Act"), (2) making readjustments in determinations as to operating cost differentials under Section 606 of the Act, and (3) the approval of the sale, assignment, or transfer of any operating subsidy contract under Section 608 of the Act;

c. The functions with respect to investigating and determining: (1) the relative cost of construction of comparable vessels in the United States and foreign countries, (2) the relative cost of operating vessels under the registry of the United States and under foreign registry, and (3) the extent and character of aids and subsidies granted by foreign governments to their merchant marines, under the provisions of Subsections (c), (d), and (e) of Section 211 of the Act;

d. So much of the functions specified in Section 12 of the Shipping Act, 1916, as amended, as the same relate to the functions of the Board under subparagraphs a. through c. of this paragraph; and

e. So much of the functions with respect to adopting rules and regulations, subpoenaing witnesses, administering oaths, taking evidence, and requiring the production of books, papers, and documents, under Sections 204 and 214 of the Act, as relate to the functions of the Board.

SEC. 5. *Office of the General Counsel.* The Office of the General Counsel shall, subject to the overall authority of the Department's General Counsel as provided in Department Organization Order 10-6, serve as the law office of the Administration; review and give legal clearance to applications for subsidy and other Government aids to shipping, sales, mortgages, charters, and transfers of ships; prepare and approve as to form and legality, contracts, agreements, performance bonds, deeds, leases, general orders, and related documents; render legal opinions as to the interpretation of such documents and the statutes; coordinate preparation and issuance of general orders and regulations for guidance of the public and outside organizations; prepare drafts of proposed legislation, executive orders, and legislative reports to Congressional committees and the Office of Management and Budget; provide advice to agency officials on matters concerning the Privacy and Freedom of Information Acts; negotiate and settle, or recommend settlement of, admiralty claims, just compensation claims, tort claims, and claims referred to the office for litigation; assist the Department of Justice in the trial, appeal and settlement of litigation; represent the Administration in public proceedings involving all shipping matters before administrative agencies of the Government; and represent the Administration before State and Federal courts with the permission of the Department of Justice.

SEC. 6. *Office of Public Affairs.* The Office of Public Affairs shall develop and coordinate a public information and publications program as needed to further the objectives of the Administration's programs; issue or clear for issuance all information for the general public on shipping and on decisions and activities of the Administration; and prepare periodic and special reports, as assigned.

SEC. 7. *Office of Civil Rights.* The Office of Civil Rights shall formulate and conduct programs to assure compliance by Federal contractors and subcontractors with Executive Orders 11246 and 11375 and related regulations, and applicants for and recipients of Federal financial assistance and their contractors and subcontractors with Title VI of the Civil Rights Act of 1964 and related regulations; plan and direct special programs to assure equal opportunity in employment in the ship and boat building and repair industries, water transportation industry, and related industries as assigned; provide assistance in communicating to minority communities the career opportunities available in the Merchant Marine; assist in the recruitment of qualified minority midshipmen candidates for the U.S. Merchant Marine Academy and assure equal opportunity for the Academy midshipmen; and, in cooperation with other agencies, formulate and implement national policies and programs for the development of minority business enterprises through contractors and subcontractors of the Maritime Administration.

SEC. 8. *Office of International Activities.* The Office of International Activities shall plan, conduct and coordinate Maritime Administration's participation in intergovernmental and international organizations concerned with shipping matters; keep abreast of developments in the United States and foreign countries with a foreign relations impact that may affect the U.S. merchant marine; take and/or coordinate action to establish and present Maritime Administration's position in these matters. Within this Office are personnel responsible for representing the Maritime Administration in international activities, as assigned, for development of maritime foreign cost data, and other technical maritime activities in foreign countries.

SEC. 9. *Office of Maritime Manpower.* The "Office of Maritime Manpower" shall analyze and advise the Administration regarding labor management relations and problems as they apply to seamen, longshoremen and shipyard workers, including labor trends, potential areas of dispute, and the effects of technological changes and proposed legislation on labor; develop plans in cooperation with the Department of Labor to provide reserve maritime manpower for mobilization and other emergencies; obtain, analyze, and publish data for use of

industry, labor, Government and the public concerning maritime employment, wages, hours, manning, working conditions, and manpower requirements; process nominations for appointment of midshipmen to the U.S. Merchant Marine Academy; administer a grant-in-aid program for the State maritime academies; determine need for and coordinate training programs for licensed and unlicensed personnel in maritime industries; coordinate technical maritime training assistance to foreign countries under international cooperative programs, and issue merchant marine decorations and awards.

SEC. 10. *Assistant Administrator for Policy and Administration.* The Assistant Administrator for Policy and Administration shall be the principal assistant and adviser to the Assistant Secretary on administrative services, budget and program analysis, financial analysis and accounting, management information systems, management and organization, personnel, and policy and planning activities. He shall direct the activities of the following organizational units:

.01 The "Office of Administrative Services" shall plan and establish national policies and programs for the conduct of facilities and supply management and office services activities, including material control and disposal of real and personal property, other than ships; administer the security program; settle loss or damage claims arising from shipments on Government bills of lading; secure allocations of the production capacity of private plants for the manufacture of components and materials required in the event of mobilization; administer programs for the management of mail, files, records equipment, vital records, and records disposition; and, for headquarters of the Maritime Administration, provide or obtain travel and office services, including space, communications, correspondence control, and administrative property management services.

.02 The "Office of Budget and Program Analysis" shall conduct studies to evaluate the effectiveness of operating programs in accomplishing established objectives; develop and maintain the Agency program category structure and a system of multi-year program analysis and evaluation; direct and coordinate the development and operation of a system of management by objectives, including identification of program objectives and measurement of accomplishments against these objectives; formulate, recommend, and interpret budgetary policies and procedures; develop and present budget requests and justifications; allocate and maintain budgetary control of funds available; analyze fiscal and program plans and reprogramming proposals for conformance with established policies; and maintain a continuous review of the status of funds and program performance in relation to fiscal plans.

.03 The "Office of Financial Management" shall render financial advice and opinions with respect to the substantive programs and contractual activities of the Administration; prescribe a uniform system of accounts for subsidized operators, agents, charterers, and other contractors; administer a program of external audits of contractors' accounts (except those of research and development contractors) to determine compliance with applicable laws, regulations and contract provisions concerning costs and profits; analyze financial statements and other data submitted by contractors to determine financial qualifications and limitations; make special financial surveys and analyses of contractors or of their operations, when necessary; develop a data base and a financial analysis system to determine the financial condition of the American merchant marine, or segments thereof; perform accounting, payrolling and related functions, including preparation of financial statements and reports, auditing and certification of vouchers for payment, and collection of amounts due the Administration; and develop and maintain a financial information reporting system to assist officials in managing their programs and resources.

.04 The "Office of Management Information Systems" shall plan and develop data processing and management information systems; develop systems and programs for the application of computer techniques; and operate the electronic data processing facility, including auxiliary equipment.

.05 The "Office of Management and Organization" shall conduct manpower surveys to determine staffing requirements for all components of the Administration; conduct surveys and studies to improve management practices, organization structures, delegations of authorities, procedures, and work methods; coordinate management improvement activities; maintain a system for the issuance of the manual of orders and other directives; administer programs for the management of reports, forms, correspondence, and committee activities; and prepare special progress and administrative reports to the Office of the Secretary and others, as required.

.06 The "Office of Personnel" shall plan and administer personnel programs and activities relating to recruitment, placement, promotion, separation, employee performance evaluation, training and career development, employee recognition and incentives, employee relations and services, employee-management relations, classification, pay management, and various employee benefit programs. This office shall also plan and administer the equal opportunity program for employment in the Maritime Administration.

.07 The "Office of Policy and Plans" shall develop and recommend long-range marine affairs policies and plans, including new program initiatives and modifications of policies and plans for the revitalization of the United States merchant marine; conduct economic studies and operations analysis activities in support of the policy and planning functions; identify major issues and problems affecting shipping, and conduct or direct and coordinate studies and analyses to provide solutions thereto; generate methodologies for the conduct of economic and operational analyses, and provide analytic services to other offices of the Administration; direct and coordinate the development and maintenance of plans for carrying out the Maritime Administration's responsibilities and functions in the event of mobilization for war or other national emergency; provide representation and participate in the formulation of international and national plans for emergency and mobilization activities; and coordinate disaster assistance plans and programs, energy conservation and related activities of the Administration.

SEC. 11. *Assistant Administrator for Commercial Development.* The Assistant Administrator for Commercial Development shall be the principal assistant and adviser to the Assistant Secretary on research and development, market development, ports, and intermodal transportation development activities. Within his office are personnel responsible for overall program development and control in the above areas, and for planning, directing and coordinating the activities of the National Maritime Research Center located at Kings Point, N.Y. He shall direct the activities of the following organizational units:

.01 The "Office of Maritime Technology" shall develop, coordinate and manage programs to establish a scientific and technological base for achieving a more productive and competitive United States merchant marine; initiate, solicit, develop and recommend specific projects, such as research in hydrodynamics, structures, and oceanographic subject which have a bearing on improvements in the merchant marine, and institutional and university research in marine science and technology appropriate to maritime affairs; and negotiate and administer technical aspects of contracts in above areas.

.02 The "Office of Advanced Ship Development" shall develop, organize, coordinate and manage programs for the application of scientific and technological developments to improve ship systems, shipbuilding, ship machinery, equipment, and other components, with the objective of increasing the efficiency, productivity, and effectiveness of the United States merchant marine; initiate, solicit, develop, and recommend specific projects; and negotiate and administer technical aspects of contracts in these areas.

.03 The "Office of Advanced Ship Operations" shall develop, organize, coordinate and manage programs for the application of scientific, technological, and other developments to upgrade the operational efficiency and competitive position of the United States merchant marine; initiate, solicit, develop, and recommend specific projects in these areas, including navigation and communications, port and terminal operations, cargo handling, marine personnel requirements, automation, ship handling and other operational aspects of the

ship; and negotiate and administer technical aspects of contracts in above areas.

.04 The Office of Market Development shall formulate national policies and programs, and conduct programs for the promotion and development of increased trade for U.S.-flag ships in the foreign commerce of the United States; develop and maintain cooperative efforts with Government agencies, and with shippers, forwarders, bankers, insurance and other groups interested in cargo and trade expansion for U.S.-flag ships; calculate and recommend guideline rates, terms and conditions for transportation of Government-financed cargoes; and regulate, review and report on the administration of cargo preference activities under Public Law 664, 83d Congress, Public Resolution 17, 73d Congress, and other statutes, in accordance with Section 901 of the Merchant Marine Act 1936, as amended.

05. The Office of Port and Intermodal Development shall formulate national policies and programs, and conduct programs for the development and promotion of intermodal transportation systems; conduct studies and formulate plans for the promotion, development and utilization of ports and port facilities; provide technical advice to other Government agencies, private industry and State and municipal governments in the above fields; coordinate and provide leadership to the Department's overall effort to reduce; simplify and otherwise facilitate the use of documents required for trade, travel, and transport purposes; and conduct emergency planning for the utilization and control of ports and port facilities under national mobilization conditions.

SEC. 12. *Assistant Administrator for Operations.* The Assistant Administrator for Operations shall be the principal assistant and adviser to the Assistant Secretary on ship consrtuction, ship operations, and domestic shipping activities. He shall direct the activities of the following organizational units:

.01 The "Office of Ship Construction" shall conduct studies in naval architecture, marine engineering, electrical engineering, and engineering economics; develop preliminary designs establishing the basic characteristics of proposed ships; review and approve ship designs submitted by applicants for Government aid; recommend and, upon request, conduct research and development projects in ship design and construction; develop or approve contract plans and specifications for the construction, reconstruction, conversion, reconversion, reconditioning and betterment of ships; review, obtain approval and certification of national defense features by the Department of the Navy; administer ship construction contracts; inspect ships during course of construction to determine progress and assure conformance with approved plans and specifications; provide naval architectural and engineering services in connection with construction of special purpose ships for other Government agencies; maintain current records of facilities, capacities, workload and employment in commercial shipyards in the United States; and develop requirements for mobilization ship construction programs.

.02 The "Office of Shipbuilding Costs" shall collect, analyze, and maintain data on the relative costs of shipbuilding in the United States and foreign countries; calculate and recommend the amount of construction-differential subsidy; prepare cost estimates, invitations to bid, and recommendations to the Maritime Subsidy Board for the award of ship construction type contracts; authorize progress payments; prepare cost estimates of changes in contract plans and specifications, adjudicate change orders, and recommend approval of cost settlements and contract addenda; secure, analyze and maintain data on domestic and world market values of ships; direct and coordinate a pollution abatement program to protect and enhance the quality of the marine environment by control and abatement of ship-generated pollution; and coordinate implementation of the provisions of the National Environmental Policy Act of 1969 within the Maritime Administration.

.03 The "Office of Domestic Shipping" shall formulate and implement national policies and programs for the development and promotion of domestic waterborne commerce; conduct studies, formulate plans, and make recommendations to improve the competitive position and increase the utilization of the domestic waterborne transportation; give national program direction for maintenance and preservation of the national defense reserve fleet, and for the operation, maintenance and repair of Maritime Administration-owned or acquired merchant ships, conduct of ship condition surveys, and related activities; administer the ship sales program; provide safety engineering services; approve or recommend approval of transfers of ships to foreign ownership, registry or flag; and develop plans for the acquisition, allocation, and operation of merchant ships in time of national emergency and administer these activities as required.

SEC. 13. Assistant Administrator for Maritime Aids. The Assistant Administrator for Maritime Aids shall be the principal assistant and adviser to the Assistant Secretary on subsidy administration, Title XI ship financing guarantees, and other Government aids programs, and marine insurance activities. He shall direct the activities of the following organizational units:

.01 The "Office of Subsidy Administration" shall process applications for construction-differential subsidy, operating-differential subsidy, Federal ship financing guarantees, trade-in allowances, capital construction fund agreements, and other forms of Government aid to shipping; conduct negotiations with applicants, obtain comments of other offices and within delegated authority, approve or recommend approval or disapproval, and take other actions in relation to the award and the administration of aid contracts; administer Construction Reserve Funds; approve actions relating to the administration of Capital Reserve Funds; maintain control records of statutory and contractual reserve funds; collect, analyze and evaluate costs of operating ships under United States and foreign registry; calculate and recommend operating-differential subsidy rates; analyze and recommend trade route structure and service requirements of the oceanborne commerce of the United States, and extent of foreign flag competition on essential trade routes; and collect, maintain, analyze, and disseminate statistical data on cargo and commodity movements in the oceanborne commerce of the United States, composition of world's merchant fleets, and utilization of U.S.-flag ships.

.02 The "Office of Marine Insurance" shall develop, coordinate, control, and administer the marine insurance and the marine war risk insurance activities and programs of the Maritime Administration; maintain contact with the commercial insurance markets, analyze events and trends, and take action to meet changing conditions and foster cooperation between the Federal Government and American marine insurance underwriters in helping to strengthen the domestic marine insurance market; gather, analyze, and disseminate information on marine insurance useful to ship operators and the marine insurance industry; and settle or recommend settlement of claims of a marine insurance and marine war risk insurance nature.

SEC. 14. Field Organization. .01a. There shall be four field organizations called Regions, each headed by a Region Director, as specified below:

Region	*Headquarters location*
Eastern region	New York, N.Y.
Great Lakes region	Cleveland, Ohio.
Central region	New Orleans, La.
Western region	San Francisco, Calif.

b. The Regions shall have geographic areas of responsibility as shown in Exhibit 2.

c.1. The Region Directors shall be responsible for all field operations and programs of the Maritime Administration within their respective Regions, except ship construction and the United States Merchant Marine Academy, subject to national policies, determinations, procedures and directives of the appropriate headquarters office in Washington, D.C. The programs and activities under their jurisdiction shall include marine inspections; training for marine personnel in radar, loran, etc.; market development; port and intermodal transportation development activities; and administrative support activities.

2. In addition, the Eastern, Central, and Western Region Directors shall be responsible for the custody and preservation of ships in the national defense reserve fleets; operation, repair and maintenance of ships; facilities management; contract compliance activities; activities to assure equal opportunity in employment in water transportation industries, as assigned; accounting and ex-

ternal auditing; financial analysis of the shipping industry; and procurement and disposal of property and supplies.

3. The Great Lakes Region Director shall conduct programs and activities to promote the development of Great Lakes shipping.

.02 The "United States Merchant Marine Academy," Kings Point, New York, shall develop and maintain programs for the training of United States citizens to become officers in the United States merchant marine.

This order supersedes Department Organization Order 25-2 of October 23, 1973, as amended.

Effective date: December 9, 1976.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.77-2927 Filed 1-28-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

AIR UNIVERSITY BOARD OF VISITORS

Meeting

JANUARY 13, 1977.

The Air University Board of Visitors will hold a closed meeting on March 15, 1977, at 1:00 p.m. in the Air University Conference Room, Austin Hall (Building 800), Maxwell Air Force Base, Alabama.

The purpose of this meeting is to give the board an opportunity to present to the Commander, Air University, a report of the findings and recommendations concerning Air University educational programs. The meeting will be closed to protect the free exchange of views on matters related solely to the internal personnel rules and practices of an agency as appropriate according to section 552 (b) (2), Title 5, United States Code.

For further information on this meeting contact Dorothy D. Reed, Coordinator, AU Board of Visitors, Office of the Deputy Chief of Staff, Education, Headquarters Air University (EDV), telephone (205) 293-7423.

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

[FR Doc.77-2922 Filed 1-28-77;8:45 am]

Department of the Navy

NAVAL RESEARCH ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is given that the Naval Research Advisory Committee will hold a closed meeting on February 16 and 17, 1977, at Headquarters, U.S. Atlantic Fleet, Norfolk, Virginia. The topic of the Meeting will be the examination of the current status and projected needs of the Navy's Command, Control, and Communications systems as a first step in a projected review of the research and development programs being conducted in support of these systems. The objective of this review is to ascertain the adequacy of these programs and their relationship to those of the other services. All sessions will address classified matters required to be kept secret in the interest of national defense. The Secretary of the Navy has therefore determined in writing that the public interest requires the meeting to be closed to the public because it will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

Dated: January 25, 1977.

J. S. JENKINS,
Captain, JAGC, United States Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.77-2929 Filed 1-28-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 669-7]

ADMINISTRATOR'S TOXIC SUBSTANCES ADVISORY COMMITTEE

Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), it is hereby determined that establishment of the Administrator's Toxic Substances Advisory Committee is in the public interest in connection with duties imposed on the U.S. Environmental Protection Agency by law.

This Committee is established to advise, consult with, and make recommendations to the Administrator, EPA, on policy, technical and procedural matters related to the environmental, economic, and social impacts of actions considered under the Toxic Substances Control Act (TSCA) and of particular interest to the Administrator. The Committee will consider and comment on proposals for rules and regulations, and will assess the likely impacts of such rules and regulations should they be promulgated. It may recommend studies to EPA and may raise other issues relevant to implementing the TSCA.

Copies of the Committee charter will be filed with appropriate standing committees of the Congress and the Library of Congress.

Dated: January 25, 1977.

JOHN QUARLES,
Acting Administrator.

[FR Doc.77-3022 Filed 1-28-77;8:45 am]

[FRL 678-6; OPP-00041]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), notice is hereby given that a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel will be held from 9:30 a.m. to 4:30 p.m. daily on Thursday, February 17, 1977, and Friday, February 18, 1977. The meeting will be held in Room 1112 A, Crystal Mall, Building Number 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

The Scientific Advisory Panel is authorized in accordance with section 25 (d) of FIFRA as amended [86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.]. In accordance with Section 25(d), the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under Sections 6(b) and 25(a) prior to implementation. The purpose of the meeting is to discuss the following topics:

1. Organizational activities of the Panel.
2. Review of proposed regulations for Special Packaging of Pesticides under Section 25(c)(3) of FIFRA.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (WH-567), Room E315, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460 (telephone: 202/755-4851). Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit four copies of a summary no later than February 15, 1977. Individuals who wish to file written statements are advised to submit ten copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Panel.

Dated: January 25, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-3023 Filed 1-28-77;8:45 am]

[FRL 678-5]

STATE-FEDERAL WATER PROGRAMS ADVISORY COMMITTEE

Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following subcommittee meeting of the State-Federal Water Program Advisory Committee:

Name: Nonpoint Source Strategy Subcommittee.
Date and time: February 14, 1977, 9:30 a.m.
Place: Environmental Protection Agency, 401 M Street SW., Washington, D.C., Room 1032, West Tower.

Agenda: Discussion of proposed elements of the NPS strategy.

These meetings are open to the public. Any member of the public may file a written statement with the Committee before, during or after the meeting. All communication regarding these meetings should be addressed to: David K. Sabock, Executive Secretary, State-Federal Water Programs Advisory Committee, Office of Water and Hazardous Materials (WH-556), Environmental Protection Agency, 401 "M" Street SW., Washington, D.C. 20460. Anyone wishing to have their name placed on the mailing list for any Committee reports, meeting announcements, and minutes of all meetings should contact the Executive Secretary, either in writing or by telephone—202-755-0405.

Date: January 26, 1977.

ANDREW W. BREIDENBACH,
Assistant Administrator
for Water and Hazardous Materials.

[FR Doc.77-3021 Filed 1-28-77;8:45 am]

[OPP-42040; FRL 677-6]

STATE OF UTAH

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 *et seq.*) and 40 CFR Part 171, the Honorable Calvin Rampton, Governor of the State of Utah, has submitted a State Plan for the Certification of Commercial and Private Applicators of Restricted Use Pesticides to the U.S. Environmental Protection Agency (EPA) for approval on a contingency basis. Contingency approval is being requested pending enactment of proposed amendments to the Utah Pesticide Control Act of 1971 and implementation of proposed regulations. A description of these regulations is attached to the Plan.

Notice is hereby given of the intention of the Regional Administrator, EPA, Region VIII, to approve this Plan on a contingency basis.

A summary of this Plan follows. The entire Plan, together with all appendices (except for sample examinations), may be examined during normal business hours at the following locations:

1. The Utah State Department of Agriculture, 147 North 200 West, Salt Lake City, Utah 84103, telephone (801) 533-5421.
2. Room 2013, 1860 Lincoln Street, Denver, Colorado 80295, (Pesticides Branch, Air and Hazardous Materials Division, EPA, Region VIII), telephone (303) 837-3926.
3. Room 401, East Tower, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460, (Federal Register Section, Technical Services Division, WH-569, Office of Pesticide Programs, EPA), telephone (202) 755-4854.

SUMMARY OF STATE PLAN

The Utah Department of Agriculture (UDA) has been designated the State lead agency for the administration of the pesticide applicator certification program. The UDA is responsible for development of any necessary enabling legislation and promulgation of regulations as well as enforcement activities. The UDA is advised on pesticides matters by the Utah Pesticide Control Committee made up of representatives of farmer organizations, the pesticide industry, the State Department of Health, the State Division of Fish and Game, the State Cooperative Extension Service and the State Department of Agriculture. Applicator training activities are the responsibility of the Utah Cooperative Extension Service (UCES). Coordination of the various certification activities is a UDA responsibility. Legal authority for the program is found in the Utah Pesticide Control Act of 1971, proposed amendments thereto, and in regulations to be promulgated under this authority. A copy of the Utah Pesticide Control Act and a description of regulations to be promulgated are attached to the State Plan.

The UDA anticipates utilizing present personnel to administer the Plan and does not anticipate requiring Federal funding for the program. A list of jobs and their descriptions for personnel participating in the program and a Department of Agriculture budget are attached to the State plan.

The UDA will submit an annual report to EPA on or before February 1 of each year and other reports as requested by the Administrator of EPA.

Pesticide applicators in Utah will be grouped into three classes: private, commercial, and non-commercial applicators. A private applicator is defined as in Pub. L. 92-516, section 2(e)(2). A commercial applicator is any person who uses any pesticide for hire or compensation. A non-commercial applicator is any person working as an individual or an employee of a firm or government agency who uses pesticides classified for restricted use and who does not qualify as a commercial or private applicator. The State anticipates certifying 6,000 to 8,000 private applicators and 400 to 600 commercial and non-commercial applicators.

The commercial and non-commercial applicator categories are those listed in 40 CFR 171.3(b) with an additional category titled "aerial applicators." The competency standards for the first ten categories are the same as given in 40 CFR 171.4 (b) and (c). The standards for supervision (40 CFR 171.6) are inapplicable for commercial and non-commercial applicators. The use of restricted use pesticides by non-certified applicators in the State of Utah is limited solely to use under the direct supervision of a certified private applicator for uses covered by the private applicator's certification. Competency standards for aerial applicators are contained in the Plan. Commercial and non-commercial applicators will be certified by means of written examination. Each applicator must pass a test covering the general standards for commercial and non-commercial applicators and an examination covering the specific standards for the category(s) for which the applicant applies. Optional training courses will be offered by UCES at various locations in the State to prepare commercial and non-commercial applicants to take the examinations. After passing the written examinations, commercial and non-commercial applicators will be issued a license by a UDA representative stating the categories in which they have qualified. A five-dollar license fee will be assessed each commercial applicator. Non-commercial applicators will not be required to pay a license fee.

The standards of competency for the certification of private applicators are those set forth in 40 CFR 171.5(a) and 171.6.

Private applicators may be routinely certified by a (1) training course, (2) programmed instruction home study, or (3) written examination method. The training course method requires the successful completion of a course provided by UCES. The course will include a no pass/no fail quiz intended to ensure to the instructor that the course material was successfully imparted. The home study method requires the successful completion of an UDA approved program instruction home study workbook which will be available at UDA or UCES offices. The completed workbook must be returned to a UDA representative for grading. A private applicator may take a written examination. A passing grade of 70% or higher is required. The examination will be available at all UDA offices. All private applicator applicants who successfully complete one of the three private applicator certification methods wil be issued private applicator certification credentials by a UDA representative. No certification fee will be charged to private applicators.

A single restricted use pesticide may be purchased and used by a previously non-certified person on a one-time-only basis if an emergency control situation is shown to exist. Before purchasing the product, the applicant will participate in a discussion concerning the specific product with a UCES county agent or a UDA representative. A sample emergency use interview checklist to be used by the State representative and a sample Emergency Pesticide Purchase Permit are attached to the Plan.

Non-English-reading applicants may be certified to use a specific restricted use product by completion of an oral examination administered by a representative of the UDA.

All certified applicators will be required to be recertified at least every five years by satifying any of the general certification procedures previously described.

In the event a Government Agency Plan is developed, the UDA will accept it if it meets all of the State's certification requirements.

Utah will issue appropriate Utah State certification documents to any out-of-state applicant providing proof of certifi-

cation from any state with a federally approved Certification Plan.

Uintah Indian Reservation applicators will utilize the State's certification and enforcement mechanism. A cooperative agreement with the Uintah Reservation governing body is included as an attachment to the State Plan.

Other regulatory activities include the following: Restricted-use pesticide dealers will be required to be licensed and pay a licensing fee. However, dealers will not be required to satisfy any pesticides competency standards. A regular program of inspection, product sampling and follow-up investigations of accidents and complaints will be conducted by UDA personnel.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the State of Utah to the Chief, Pesticides Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Suite 103, Denver, Colorado 80295. The comments must be received within 30 days of publication of this notice and should bear the identifying notation (OPP-42040). All written comments filed pursuant to this notice will be available for public inspection at the above mentioned location from 8:30 a.m. to 3:30 p.m., Monday through Friday.

Dated: January 18, 1977.

JOHN A. GREEN,
Regional Adminis'rator,
Region VIII.

[FR Doc 77-2903 Filed 1-28-77;8:45 am]

[FRL 677-2]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Reference Method Designation

Notice is hereby given that the EPA, in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975), has designated another reference method for the measurement of ambient concentrations of carbon monoxide. The new reference method is an automated method (analyzer) which utilizes the measurement principle (non-dispersive infrared spectrometry) and calibration procedure specified in Appendix C of 40 CFR Part 50, as amended on February 18, 1975 (40 FR 7042). The method is:

RFCA-0177-018, "LIRA Model 202S Air Quality Carbon Monoxide Analyzer System," consisting of a LIRA Model 202S (P/N 459839), a regenerative dryer (P/N 464084), and rack-mounted sampling system; operated on a 0-50 ppm range, with the slow response amplifier, and with or without any of the following options:

Remote meter
Remote zero and span controls
0-10, 100 mv output ranges
0-1, 5, or 10 volt output ranges
0-1, 5, 20, or 50 ma output ranges
1-5, 4-20, or 10-50 ma output ranges

A notice of receipt of application for this method appeared in the FEDERAL REGISTER, Volume 41, December 13, 1976, page 54212. The method is available from Mine Safety Appliances Company, 600 Penn Center Boulevard, Pittsburgh, Pennsylvania 15208.

A test analyzer representative of this method has been tested by its manufacturer, in accordance with the test procedures specified in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as a reference method. The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a reference method, this method is acceptable for use by States and other control agencies for purposes of section 51.17(a) of 40 CFR Part 51 ("Requirements for preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (*e.g.*, operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of § 51.17(a) are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users were promulgated on March 17, 1976 (FEDERAL REGISTER, Vol. 41, page 11255).

In general, each designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzer systems manufactured prior to the designation may be upgraded (*e.g.*, by minor modification or by substitution of new operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been designated as reference or equivalent methods.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representations), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD-76), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this reference method will provide assistance to the States in establishing and operating their air quality surveillance systems under 40 CFR 51.17(a). Additional information concerning this action may be obtained by writing to the address given above.

WILSON K. TALLEY,
Assistant Administrator for
Research and Development.

JANUARY 21, 1977.

[FR Doc.77-2904 Filed 1-28-77;8:45 am]

[FRL 677-1]

DASIBI ENVIRONMENTAL CORP.

Notice of Receipt of Application for Reference or Equivalent Method Determination

Notice is hereby given that on December 22, 1976, the Environmental Protection Agency received an application from Dasibi Environmental Corporation, Glendale, California, to determine if its Model 1003-AH ozone analyzer should be designated by the Administrator of the EPA as a reference or equivalent method under 40 CFR Part 53, promulgated February 18, 1975 (40 FR 7044). A concurrent application has also been received

from California Air Resources Board, Sacramento, California, for such a determination pertinent to the Dasibi Model 1003–AH ozone analyzers owned by that agency. If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the FEDERAL REGISTER.

WILSON K. TALLEY,
Assistant Administrator for Research and Development.

JANUARY 21, 1977.

[FR Doc.77-2905 Filed 1-28-77;8:45 am]

[FRL 678-3]

SPOKANE VALLEY—RATHDRUM PRAIRIE AQUIFER IN IDAHO AND WASHINGTON

Proposal on EPA Determination

The Public Health Service Act, as amended by the Safe Drinking Water Act, Pub. L. 93–523, 88 Stat. 1661, provides in section 1424(e):

(e) If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the FEDERAL REGISTER. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

The first "sole source" designation under Section 1424(e) was the Edwards Underground Reservoir, San Antonio, Texas. The designation, rationale for the Edwards designation and interim project review guidelines were published in the FEDERAL REGISTER, Vol. 40, No. 242, Tuesday, December 16, 1975. National Guidelines for Implementation of Section 1424(e) of the Safe Drinking Water Act (Pub. L. 93–523) are being prepared and will be published in the FEDERAL REGISTER soon.

Petitions have been presented on behalf of the Idaho Coalition for Shorelands Preservation, Spokane Audubon Society, Spokane Vera Valley Citizens Committee and Spokane Sierra Club urging the U.S. Environmental Protection Agency to make a "sole source" determination for the Spokane Valley, Rathdrum Prairie Aquifer in Idaho and Washington.

In view of the foregoing, the Administrator will decide whether to make such a determination under section 1424(e) at the earliest date consistent with a thorough and complete review of the relevant facts and considerations. As a part of that review, and before deciding whether to make such a determination, the Environmental Protection Agency intends to develop a full, factual record and to consider the views of interested persons. Accordingly, the Agency solicits the submission of comments, data and references to sources of information relevant to making the determination provided for in section 1424(e). In particular, information is sought concerning the geographical boundaries and other characteristics of the Spokane Valley, Rathdrum Prairie Aquifer, the recharge zone for that aquifer, the area or areas dependent upon that aquifer for drinking water, the significance of current or anticipated threats to public health that might result from contamination of the aquifer, and the prospects that such contamination will occur as a result of current activities or events that must be anticipated.

Comments, data and references in response to this notice should be submitted in writing to EPA's Region X Office; 1200 Sixth Avenue, M/S 409, Seattle, WA 98101 no later than March 20, 1977. EPA has documentation concerning the Spokane Valley, Rathdrum Prairie Aquifer which is available for inspection at the address listed above.

There has been significant public interest in this matter and the agency will hold an informal public hearing on March 4, 1977 in Spokane, Washington at the Washington Water Power Company's Auditorium, 1411 East Mission Street, from 7:00 p.m. to 10:30 p.m. The public is invited to participate at the public hearing.

Dated: January 21, 1977.

DONALD P. DUBOIS,
Regional Administrator.

[FR Doc.77-2908 Filed 1-28-77;8:45 am]

[OPP-42035A; FRL 678-2]

STATE OF OKLAHOMA

Approval of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan to EPA for its certification program. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section.

On November 30, 1976 notice was published in the FEDERAL REGISTER (41 FR 52514) of the intent of the Regional Administrator, Environmental Protection Agency (EPA) Region VI, to approve, on a contingency basis, the Oklahoma State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides (Oklahoma State Plan). Contingency approval was requested by the State of Oklahoma pending enactment of proposed legislation and promulgation of a recordkeeping regulation thereunder.

Complete copies of the Oklahoma State Plan (except for sample examinations) were made available for public inspection at the following locations: Oklahoma Department of Agriculture, Director, Entomology and Plant Industry Division, 312 NE 28th Street, Room 108, Oklahoma City, Oklahoma; U.S. Environmental Protection Agency, Air and Hazardous Materials Division, Pesticides and Hazardous Materials Branch, EPA, Region VI, Dallas, Texas; and the U.S. Environmental Protection Agency, Federal Register Section, Technical Services Division, Office of Pesticide Programs, Washington, D.C.

No comments were received concerning the Oklahoma State Plan during the 30 day comment period. Therefore, it has been determined that the Oklahoma State Plan will satisfy the requirements of Section 4(a)(2) of the amended FIFRA and 40 CFR Part 171, if the proposed legislation is enacted and the record keeping regulation promulgated as prescribed in the Oklahoma State Plan.

The Oklahoma State Plan will remain available for public inspection at the Oklahoma Department of Agriculture, State Capitol Building, Oklahoma City, Oklahoma.

This contingency approval shall expire October 21, 1977 if these terms and conditions are not satisfied by that time. On or before the expiration of the period of contingency approval, a notice shall be published in the FEDERAL REGISTER concerning the extent to which these terms and conditions have been satisfied, and the approval status of the Oklahoma State Plan as a result thereof.

EFFECTIVE DATE

Pursuant to section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the contingency approval granted herein to the Oklahoma State Plan shall be effective upon signature of this notice. Neither the Oklahoma State Plan itself nor this Agency's contingency approval of the Plan creates any direct or immediate obligation on pesticide applicators or other persons in the State of Oklahoma. Delays in starting the work necessary to implement the Plan such as may be occasioned by providing some later effective date for this contingency approval are inconsistent with the public interest. Accordingly, this contingent approval shall become effective immediately.

Dated: January 19, 1977.

JOHN C. WHITE,
Regional Administrator, Environmental Protection Agency, Region VI.

[FR Doc.77-2909 Filed 1-28-77;8:45 am]

[OPP—30126; FRL 678–1]

DEPARTMENT OF AGRICULTURE

Receipt of Application To Register a Pesticide Product Containing a New Active Ingredient

The U.S. Forest Service, U.S. Department of Agriculture, PO Box 2417, Washington, DC 20013, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product Gypchek Biological Insecticide for the Gypsy Moth (EPA File Symbol 27586–E), containing 20% of the active ingredient polyhedral inclusion bodies of gypsy moth nucleopolyhedrosis virus which has not been included in any previously registered pesticide products. The application received from the U.S. Forest Service proposes that the product be classified for general use in gypsy moth control. PM17

Application was made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136(a) et seq.), and the regulations thereunder (40 CFR Part 162). Notice of receipt of this application is made in accordance with the provisions of Section 3(c)(4) of FIFRA (40 CFR 162.2(b)(6)) and does not indicate a decision by the Agency on the application.

Any Federal agency or other interested persons are invited to submit written comments on this application to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received within 30 days from the date of publication of this notice in the FEDERAL REGISTER and should bear a notation indicating the EPA File Symbol "27586–E." Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application should be directed to the designated Product Manager (PM), Registration Division (WH–567), Office of Pesticide Programs, at the above address or by telephone at 202/426–9425.

Notice of approval or denial of this application to register Gypchek Biological Insecticide for the Gypsy Moth will be announced in the FEDERAL REGISTER. The label furnished by the U.S. Forest Service, as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:30 p.m. Monday through Friday.

Dated: January 24, 1977.

DOUGLAS D. CAMP,
Acting, Director
Registration Division.

[FR Doc.77–2910 Filed 1–28–77;8:45 am]

[FRL 677–8]

[OPP–33000/489; FRL 677–8]

NOTICE OF RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data to be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94–140], and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, SW., Washington, DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH–567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH–567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, & 13—202/755–9315
PM 21 & 22—202/426–2454
PM 24—202/755–2196
PM 31—202/426–2635
PM 33—202/755–9041
PM 15, 16, & 17—202/426–9425
PM 23—202/755–1397
PM 25—202/426–2632
PM 32—202/426–9486
PM 34—202/426–9490

The Interim Policy Statement requires that claims for compensation be filed within 60 days of publication of this notice. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice.

Dated: January 24, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP—33000/489)

EPA File Symbol 100–LIT. Ciba-Geigy Corp., PO Box 11422, Greensboro NC 27409. CIBA-GEIGY CGA–24705 TECHNICAL. Active Ingredients: 2-Chloro-N-(2-ethyl-6-methylphenyl)-N-(2 - methoxy-1-methylethyl) acetamide 95%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA File Symbol 121–RU. Cutter Laboratories, Inc., Regulatory Affairs Dept., 4th and Parker Sts., Berkeley CA 94710. CUTTER INSECT REPELLENT FOAM. Active Ingredients: N,N-Diethyl-meta-toluamide 27.7%; Other isomers 1.46%; Dimethyl Phthalate 2.5%; Di-n-propyl isocinchomeronate 0.83%; N-octyl bicycloheptene dicarboximide 0.83%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA File Symbol 121–RL. Cutter Laboratories, Inc. CUTTER INSECT REPELLENT SPRAY. Active Ingredients: N,N-Diethyl-meta-toluamide 17.1%; Other isomers 0.9%; Dimethyl Phthalate 12%; Di-n-propyl isocinchomeronate 1%; N-octyl bicycloheptene dicarboximide 1%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA File Symbol 121–RA. Cutter Laboratories, Inc. CUTTER INSECT REPELLENT LOTION. Active Ingredients: N,N-diethyl-meta-toluamide 33.25%; Other isomers 1.75%; Dimethyl Phthalate 13%; Di-n-propyl isocinchomeronate 1%; N-octyl bicycloheptene dicarboximide 1%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA Reg. No. 239–2418. Chevron Chemical Co.—Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHENE 75–S SOLUBLE POWDER. Active Ingredients: Acephate (O,S-Dimethyl acetyl-phosphoramidothioate) 75%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: New uses. PM16

EPA Reg. No. 270–65. Farnam Co., 8701 N. 29th St., Omaha NB 63112. TOP II GLOSS WITH FLY REPELLENT. Active Ingredients: N-octyl bicycloheptene dicarboximide 1.00%; Di-n-propyl isocinchomeronate 0.40%; Isopropyl Lanolin Ester 9.00%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA Reg. No. 279–1364. FMC Corp., Agricultural Chemical Div., 100 Niagara St., Middleport NY 14105. PHOSDRIN 2 DUST INSECTICIDE. Active Ingredients: Alpha isomer of 2-carbomethoxyl-1-methylvinyl dimethyl phosphate 1.20%; Related Compounds 0.80%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 432–439. S. B. Penick & Co., 1050 Wall St., W., Lyndhurst NJ 07071. SBP–1382 CONCENTRATE 15. Active Ingredients: (5-Benzyl-1-3-furyl) methyl 2,2 - dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 15.00%; Related compounds 2.04%; Aromatic petroleum hydrocarbons 19.86%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 476–1979. Stauffer Chemical Co., Westport CT 06880. RO-NEET 6–E EMULSIFIABLE LIQUID. Active Ingredients: S-ethyl cyclohexylethylthiocarbamate 73.9%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA Reg. No. 551–200. Baird & McGuire, Inc., Manufacturing Chemists, South St., Holbrook MS 02343. MITE REPELLENT CLOTHING APPLICATION. Active Ingredients: Benzyl Benzoate 90%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 748–207. PPG Industries, Inc., One Gateway Ctr., Pittsburgh PA 15222. CHEM HOE FLA. Active Ingredients: Isopropyl carbanilate 43.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use in irrigation systems. PM25

EPA File Symbol 892–GR. Pioneer Manufacturing Co., 3053 E. 87th St., Cleveland OH 44104. PIONEER INSTANT WIPE & CLEAN LIQUID. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C18) dimethyl benzyl ammonium chlorides 0.09%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.09%; Tetrasodium ethylenediamine tetraacetate 1.44%; Sodium Metasilicate 0.13%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 1023–51. The Upjohn Co., 7171 Portage Rd., Kalamazoo MI 49001. PROXOL 80 SP INSECTICIDE. Active Ingredients: Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate 80%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Dosage rate reduction. PM16

EPA Reg. No. 1266–28. Malter International Corp., PO Box 6099, New Orleans LA 70174. AIRBORNE INSECT KILLER. Active Ingredients: Petroleum Distillates 58.46%; Aromatic Hydrocarbons 15.55%; Essential Oils 03.03%; Technical Piperonyl Butoxide 01.30% Pyrethrins 00.26%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA File Symbol 1266–RLT, Malter International Corp. ADIOS DEODORIZING INSECT SPRAY. Active Ingredients: Petroleum distillates 18.270%; Tetramethrin 0.250%; Related compounds 0.034%; (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; related compounds 0.033%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM17

EPA Reg. No. 1706–95. Nalco Chemical Co., 6216 W. 66th Pl., Chicago IL 60638. 273 MICROORGANISM CONTROL CHEMICAL. Active Ingredients: Methylene bis(thiocyanate) 10%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: New use. PM33

EPA Reg. No. 1706–146. Nalco Chemical Co. NALCO 2532. Active Ingredients: n-alkyl (60% C14, 30% C16, 5% C18) dimethyl benzyl ammonium chloride 12.5%; Bis-(tri-n-butyltin) oxide 2.5%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: New use. PM33

EPA Reg. No. 1757–57. Drew Chemical Corp., 701 Jefferson Rd., Parsippany NJ 07054. BIOSPERSE 219. Active Ingredients: Tributyl chloride complex of ethylene oxide condensate of dehydroabiethylamine 9.63%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added new use. PM33

EPA Reg. No. 1812–49. Parramore & Griffin, PO Box 1847, Valdosta GA. 25% WETTABLE MALATHION. Active Ingredients: Malathion 25%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 3051–32. Agricultural Products Co., Inc., PO Drawer A, Mesquite NM 88048. AGCO 4% MALATHION DUST. Active Ingredients: Malathion 4.00%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM16

EPA Reg. No. 3125–102. Chemagro, Agricultural Div., Mobay Chemical Corp., Box 4913, Kansas City MO 64120. GUTHION 2L EMULSIFIABLE INSECTICIDE. Active Ingredients: *O,O-Dimethyl S*-[4-oxol,2,3-benzotriazin-3 (4*H*)-yl)methyl] phosphorodithioate 22.2%; Aromatic Petroleum Distillate 67.8%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Amendments. PM12

EPA Reg. No. 3125–123. Chemagro. GUTHION 2S EMULSIFIABLE INSECTICIDE. Active Ingredients: *O,O*-Dimethyl S[(4oxo-1,2,3-benzotriazin-3(4H)-yl)methyl] phosphorodithioate 22%; Method of Support: Application proceeds under 2(a) of interim policy. Republished: Amendments. PM12

EPA File Symbol 3286–UU, Ferd Staffel Co., PO Box 2380, San Antonio TX 78298. 5% MALATHION DUST. Ative Ingredients: Malathion 5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM16

EPA Reg. No. 4313–3. Carroll Co., 2900 W. Kingsley Rd., Garland TX 75041. THRIFTY PINE PINE ODOR DISINFECTANT. Active Ingredients: Isopropyl alcohol 19.3%; Pine Oil 14.6%; Coconut Oil Soap 6.1%; ortho - benzyl - para - chlorophenol 2.6%; Potassium ortho-benzyl-para-chlorophenate 0.4%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 4450–34. Chemex Chemicals & Coating Co., Inc., PO Box 5072, Tampa FL 33675. CHEMEX WASP & HORNET INSECTICIDE SPRAY. Active Ingredients: (5-benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 26.375%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM34

EPA Reg. No. 4643–5. Dearborn Chemical Div., 300 Genesee St., Lake Zurich IL 60047. DEARCIDE 711. Active Ingredients: Sodium Pentachlorophenate 25.3%; Sodium Trichlorophenate 6.8%; Sodium Salts of Other Chlorophenols and Related Compounds 3.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 4652–4. Crown Chemical Co., 1416 N. Dixie Highway, Hollywood FL 33020. WONDER BUG KILLER. Active Ingredients: Pyrethrins 0.05%; Piperonyl Butoxide, Technical 0.26%; O,Odiethyl O(2isopropyl4methyl6pyrimidinyl) phosphorothioate 0.50%; Petroleum Distillates 99.00%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM15

EPA Reg. No. 4691–3. Philip Roxane, Inc., 2621 N. Belt Highway, St. Joseph MO 64502. PETS' BEST MANGE LOTION. Active Ingredients: Gamma Isomer of Benzene Hexachloride from Lindane 0.10%; Rotenone 0.12%; 2,2'-Methylenebis (4-chlorophenol) (Dichlorophene) 0.5%; Benzyl Benzoate 30%; Isopropyl Alcohol 68.38%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 5197–49. Kem Manufacturing Corp., Kem International Bldg., Tucker GA 30084. KEM KEMSECT. Active Ingredients: (5-Benzyl-3-furyl) methyl-2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related compounds 0.028%; d-trans Allethrin (allyl homolog of Cinerin I) 0.150%; Related compouds 0.012%; Aromatic petroleum hydrocarbons 0.272%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 5204–14. M&T Chemicals, Inc., PO Box 1104, Rahway NJ 07065. BIOMET 607 SANITIZER FOR LAUNDRY. Active Ingredients: Diisobutylphenoxyethoxy dimethyl benzyl ammonium chloride monohydrate 39.35%; Isopropanol 14.85%; Tri-n-butyltin benzoate 5.30%. Method of Support: Application proceeds under 2(b) of interim policy. PM 33

EPA Reg. No. 5348–12. Patco Lawn Products, Div. of Vaughan's Seed Co., Chimney Rock Rd., Bound Brook NJ 08805. PATCO CRABGRASS PREVENTER. Active Ingredients: Dimethylester of tetrachloroterephthalic Acid 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. Application for reregistration. PM23

EPA File Symbol 6198–RR. National Chemicals, Inc., Winona MN 55987. Q–IV. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 7001–EGE. Occidental Chemical Co., PO Box 198, Lathrop CA 95330. SYSTEMIC DISEASE CONTROL. Active Ingredients: Benomyl (Methyl 1-(butylcarbamoyl) 2-benzimidazolecarbamate) 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 7116–I. U.N.X. Chemicals, Inc., Greenville NC 27834. ALLY DISINFECTANT — SANITIZER — DEODORANT. Active Ingredients: Alkyl (C14 50%, C12 40%, C16 10%) dimethyl benzyl ammonium chloride 10.00%; Ethanol 2.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 7173–RUE. Chempar Chemical Co., Inc., 260 Madison Ave., New York NY 10016. CHEMPAR AMINOTRIAZOLE 90. Active Ingredients: Amitrole (3-amino-1,2,4-triazole) 90%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA File Symbol 7182–I. 3M Co., 3M Center Bldg. 2236SE, St. Paul MN 55101. EMBARK 4–S PLANT GROWTH REGULATOR. Active Ingredients: Diethanolamine salt of mefluidide [*N*-2,4-dimethyl 15]trifluoromethyl) sulfonyl] amino] phenyl] acetamide] 52%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA File Symbol 7216–RO. Ecco Chemicals, Inc., Dallas TX 75247. ECCO SAN 750. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 7531–RU. Modern Pool Products, Inc., 737 Canal St., Stamford CT 06902. ALGEM II. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl-ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA File Symbol 7531–RG. Modern Pool Products, Inc. DELUXE ALGAECIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA File Symbol 9339–O. Flexabar Corp., 140 Walnut St., Northvale NJ 07647. FLEXABAR BACTERIOSTATIC RUG SHAMPOO CONCENTRATE. Active Ingredients: (3,5-dimethyl - 2,4 - dichlorophenol) (DCMX) 1.50%; Sodium Salt of Ethylenediamine tetro acetic acid (EDTA) 0.06%; Isopropyl Alcohol 1.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 9538–A. Sellers Chemical Corp., PO Box 23523, Harahan LA 70183. FLO–MO 10 TOBACCO SUCKER CONTROL AGENT. Active ngredients: n-Decanol (Fatty Alcohol C10) 79.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA File Symbol 11741–RU. D. W. Davies & Co., Inc., 3200 Phillips Ave., Racine WI 53403. DAVIES "SURE-SAN". Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5.0%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5.0%; Phosphoric Acid 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 12004–E. Aerosol & Pharmaceutical Specialist Assoc., George F. DeFoney, 9852 Cowden St., Philadelphia PA 19115. SAN–A–SAFE. Active Ingredients: Benzethenium Chloride 0.25%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 14819–U. Universal Chemicals & Supplies, Inc., 3043 Walnut St., Denver CO 80205. UNIVERSAL ALGIFECT 2000. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM24

EPA File Symbol 15057–0. Vitex Chemical, Inc., 5000 Track Rd., Cleveland OH 44127. VITEX NO–ALG. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA Reg. No. 16377–2. Gloss-All Products Co., 2317 Parmenter St., Middleton WI 53562. WIPE–OUT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA Reg. No. 279–1364. FMC Corp., Agricultural Chemical Div., 100 Niagara St., Middleport NY 14105. PHOSDRIN 2 DUST INSECTICIDE. Active Ingredients: Alpha isomer of 2-carbomethoxyl-1-methylvinyl dimethyl phosphate 1.20%; Related Compounds 0.80%. Method of Support: Application proceeds under 2(b) of interim policy. Application. for reregistration. PM16

EPA Reg. No. 432–439. S. B. Penick & Co., 1050 Wall St., W., Lyndhurst NJ 07071. SBP–1382 CONCENTRATE 15. Active Ingredients: (5-Benzyl-1-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 15.00%; Related compounds 2.04%; Aromatic petroleum hydrocarbons 19.86%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 476–1979. Stauffer Chemical Co., Westport CT 06880. RO–NEET 6–E EMULSIFIABLE LIQUID. Active Ingredients: S-ethyl cyclohexylethylthiocarbamate 73.9%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA Reg. No. 551–200. Baird & McGuire, Inc., Manufacturing Chemists, South St., Holbrook MS 02343. MITE REPELLENT CLOTHING APPLICATION. Active Ingredients: Benzyl Benzoate 90%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 748–207. PPG Industries, Inc., One Gateway Ctr., Pittsburgh PA 15222. CHEM HOE FL4. Active Ingredients: Isopropyl carbanilate 43.0%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use in irrigation systems. PM25

EPA File Symbol 892–GR. Pioneer Manufacturing Co., 3053 E. 87th St., Cleveland OH 44104. PIONEER INSTANT WIPE & CLEAN LIQUID. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C18) dimethyl benzyl ammonium chlorides 0.09%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.09%; Tetrasodium ethylenediamine tetraacetate 1.44%; Sodium Metasilicate 0.13%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 16377–1. Gloss-All Products Co. STER-ALL DISENFECTANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium Carbonate 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA Reg. No. 16377–3. Gloss-All Products Co. SUPER STER-ALL DISENFECTANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 6.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 6.25%; Tetrasodium ethylenediamine tetraacetate 3.60%; Sodium Carbonate 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA Reg. No. 20954–G. Zoecon Corp., 975 California Ave., Palo Alto CA 94304. TRICHLORFON TECHNICAL. Active Ingredients: Dimethyl 2,2,2-trichloro-1-hydroxyethylphosphonate 98%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay statement submitted and Method of Support changed from 2(c) to 2(a). PM16

EPA File Symbol 20954–I. Zoecon Corp. ZOECON INSECT AND MITE HOUSEPLANT MIST CONCENTRATE. Active Ingredients: methoprene [Isopropyl (E,E)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate] 5.00%; hexadecyl cyclopropanecarboxylate 3.75%; resmethrin [(5-benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate] Min. 70% (+) trans, Max. 30% (+) cis isomers 2.50%; related compounds 0.35%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 20954–0. Zoecon Corp. ZOECON INSECT AND MITE HOUSEPLANT MIST. Active Ingredients: methoprene [Isopropyl (E,E) - 11 - methoxy-3,7,11-trimethyl-2,4-dodecadienoate] 0.100%; hexadecyl cyclopropanecarboxylate 0.075%; resmethrin [(5-benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate] Min. 70% (+) trans, Max. 30% (+) cis isomers 0.050%; related compounds 0.007%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 23566–4. U.S. Yacht Paint Co., PO Box 96, Roseland NJ 07068. U.S. YACHT PAINT TROPICAL ANTI-FOULING 690 CRAB POT PAINT BLACK FOR CALVANIZED WIRE CRAB POTS. Active Ingredients: Bix (Tributyltin) oxide 7.5%. Method of Support: Application proceeds under 2(a) of interim policy. PM24

EPA File Symbol 33840-G. Williamson Paint Mfg. Co., Watts St. & Penn-Central R.R. Tracks, Box 6066, Charleston WV 25302. COPPER NAPTHENATE WOOD PRESERVER 2%. Active Ingredients: Copper Napthenate 19.75%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 35135-R. Markay Laboratories, Water Treatment Engineers, 250 Riverview Rd., Montebello CA 90640. MARKAY #32. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM33

EPA File Symbol 37370-RN. American Water Purification, 1025 Contra Costa Blvd., Pleasant Hill CA 94523. UTS SILVERATOR RECHARGE. Active Ingredients: Silver 0.624%. Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 39496-R. Conoco Chemicals, Continental Oil Co., PO Box 2197, Houston TX 77001. ALFOL 810 ALCOHOL. Active Ingredients: n-octanol 45.1%; n-decanol 54.5%; n-hexanol 0.4%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA File Symbol 39496-E. Conoco Chemicals. ALFOL 10 ALCOHOL. Active Ingredients: n-decanol 99.3%. Method of Support: Application proceeds under 2(b) of interim policy. PM25.

[FR Doc.77-2911 Filed 1-28-77;8:45 am]

[OPP-42039; FRL 677-4]

KANSAS

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.) and 40 CFR Part 171 (39 FR 36466 (October 9, 1974) and 40 FR 11698 (March 12, 1975), the Honorable Robert F. Bennett, Governor of the State of Kansas has submitted a State plan for certification of private and commercial applicators of restricted-use pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis.

Notice is hereby given of the intention of the Regional Administrator, EPA, Region VII, to approve this plan on a contingency basis pending enactment of proposed amendments to present legislation and subsequent regulations as described in the plan.

A summary of this plan follows; the entire plan, together with all attached appendices (except for sample examinations), may be examined during normal business hours at the following locations:

State of Kansas, Board of Agriculture, Weed and Pesticide Division, 1720 South Topeka Avenue, Topeka, Kansas 66612.

Environmental Protection Agency, Room 116, Pesticides Branch, Air and Hazardous Materials Division, 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Room 401, East Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460, Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs.

Summary of Kansas State Plan

The Kansas State Board of Agriculture has been designated the State Lead Agency and has the sole responsibility for administering the Pesticide Applicator Certification Program. The Kansas Pesticide Law provides for a Pesticide Advisory Board, which was originally created by the Kansas Pesticide Use Law of 1970. The Pesticide Advisory Board consists of: Secretary of Health and Environment; Executive Director of the State Water Resources Board; Director of the Forestry, Fish and Game Commission; Director of State Geological Survey; Secretary of the State Board of Agriculture; Executive Secretary of the State Conservation Commission; Livestock Commissioner of the Animal Health Department; Director of Kansas Biological Survey; Director of Cooperative Extension Service, Kansas State University; Director of the Agricultural Experiment Stations; one member appointed by the Speaker of the House of Representatives; one member appointed by the President of the Senate; one member licensed under the Kansas Pesticide Law and appointed by the Governor; one member licensed under the Law to operate aerial equipment and appointed by the Governor; one member of the industry who manufactures or wholesales pesticides and is appointed by the Governor; an agricultural user of pesticides appointed by the Governor; and the President of the Kansas Termite and Pest Control Association.

The function of the Advisory Board is to advise the Secretary of the Board of Agriculture (Secretary) on any or all problems relating t othe use, manufacture, transportation, application, and restriction of pesticides in the State.

The Kansas Cooperative Extension Service (Extension Service) is the cooperating agency and has the responsibility of offering training to all private and commercial applicators under a cooperative agreement with the State Board of Agriculture. The Extension Service has an approved training plan.

The Board of Agriculture in cooperation with the Extension Service will distribute information about "Integrated Pest Managament" at all pesticide educational meetings and to other persons upon request.

Pesticides distributed and sold within the State must be registered annually with the State Board of Agriculture as provided by the Kansas Agricultural Chemical (Economic Poison) Act of 1947, KSA 2-2201, et seq.; implementation of State pesticide regulatory and enforcement efforts is a responsibility of the Lead Agency. The Secretary will propose regulations designating "Restricted-Use Pesticides" according to EPA classifications.

The plan indicates that the State Lead Agency and cooperating agencies will have sufficient qualified personnel and funds to carry out the proposed program.

The State Lead Agency will submit an annual report to EPA by April 1 of each year and special reports relating to certification as required.

Legal authority for the Kansas certification program is contained in the Kansas House Bill No. 2001 which shall be known as the Kansas Pesticide Law; Proposed Changes to House Bill No. 2001; and regulations to be proposed and promulgated thereunder as described in the State plan.

The State estimates 3,900 commercial applicators and 40,000 to 45,000 private applicators will need to be certified. All applicators will be provided with certification documents to authorize purchase and use of restricted-use pesticides.

Kansas shall adopt all ten categories of commercial applicators as listed in 40 CFR 171.3. The Secretary has the authority and intends to promulgate regulations subdividing certain categories.

Commercial applicators will be certified by means of written examinations, administered by the Board of Agriculture; one covers the general standards of competency (40 CFR 171.4(b) and 171.6), and the others cover the specific standards of competency (40 CFR 171.4 (c)) for each category in which the applicator desires certification.

A complete copy of the examination for commercial applicators covering the general standards of competency and sample questions for the category Agricultural Pest Control (Plant) are attached to the State plan. However, the State of Kansas has requested that the examinations and sample questions not be made available for public inspection, in order to maintain their confidentiality. The Agency has acceded to this request and has removed the examinations and sample questions from the public inspection copies of the State plan.

The Secretary plans to submit a proposal to the legislature which would allow the Lead Agency to examine, collect fees and issue certificates to private applicators, in place of the Extension Service as the present statute now provides.

Private applicators will be certified by having attained a score of at least 70 percent on an open-book examination approved by the Secretary. In passing the examination, the individual shall demonstrate adequate knowledge of pest problems: proper storage; use; handling and disposal of pesticides and pesticide containers; pertinent information on the pesticide labels; pesticide use safety; and environmental considerations. Following successful completion of the examination and payment of fees a private applicator certificate and pocket card will be issued.

Federal employees qualified for certification under the Government Agency Plan will be certified by the State without further testing provided the Federal certification program is fully equivalent to the requirements of the State.

The State of Kansas will facilitate the certification of applicators on Indian Reservations and may cooperate or enter into formal agreements with any other agency or educational institution for carrying out the purposes of the Kansas Pesticide Law.

To assure that certified applicators comply with the standards for the use of restricted-use pesticides, enforcing personnel will conduct regular inspections, service complaints, personally contact applicators on a regular basis, assist the courts with prosecutions and prepare informational material through investigations that will be used for hearings to consider suspension or revocation of certification. Enforcement authority includes but is not limited to, inspection of records and sampling of pesticides being used.

Other regulatory activities conducted in the State of Kansas which contribute to the control of pesticide use include licensing of commercial applicators and registration of governmental agencies to allow use by their employees. All commercial applicators of general use pesticides must be licensed with the exception of ground-applied agricultural uses.

Both commercial and private applicators will be recertified at three year intervals. Applicators must either pass an examniation or have completed a renewal training course covering new technology and approved by the Secretary.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the State of Kansas to the Regional Administrator, Region VII, U.S. Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, Missouri 64108. The comments must be received within 30 days of date of publication of this notice, and should bear the identifying notation [OPP-42039]. All written comments filed pursuant to this notice will be available for public inspection at the above-mentioned locations from 9:00 a.m. to 4:00 p.m., Monday through Friday.

Dated: January 21, 1977.

ROBERT L. MARKEY,
Acting Regional Administrator,
Region VII.

[FR Doc.77-2901 Filed 1-28-77;8:45 am]

[OPP 42041; FRL 677-5]

MISSOURI

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.) and 40 CFR Part 171 (39 FR 36466 (October 9, 1974) and 40 FR 11698 (March 12, 1975), the Honorable Christopher S. Bond, Governor of the State of Missouri, has submitted a State plan for certification of private and commercial applicators of restricted-use pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis.

Notice is hereby given of the intention of the Regional Administrator, EPA, Region VII, to approve this plan on a contingency basis pending enactment of proposed amendments to the Missouri Pesticide Act of 1974 and subsequent promulgation of the regulations as described in the plan.

A summary of this plan follows; the entire plan, together with all attached appendices (except for sample examinations), may be examined during normal business hours at the following locations:

State of Missouri, Department of Agriculture, 13th Floor, Jefferson Building, Jefferson City, Missouri 65101.

Environmental Protection Agency, Air and Hazardous Materials Division, Pesticides Branch, Room 116, 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Room 401, East Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460, Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA.

SUMMARY OF MISSOURI PLAN

The Missouri Department of Agriculture (MDA) has been designated as the State Lead Agency for the administration and enforcement of the Missouri State Plan for the Certification of Pesticide Applicators. Subsection (6) of Section 281.110 of the Act also authorizes the Director, MDA, to cooperate with any agency of the Federal Government in order to prepare and submit State plans to meet Federal certification standards. The Director is authorized to issue regulations after a public hearing following due notice of not less than thirty (30) days to all interested persons; he is directed to adopt by regulation a list of "restricted-use pesticides" to be applied only by, or under the direct supervision of, a certified applicator; a private applicator with a permit may only apply these pesticides.

In accordance with a Memorandum of Understanding between the State Lead Agency and the University of Missouri Cooperative Extension Service, the Extension Service is designated as a cooperating agency to conduct and continue training courses for private and commercial pesticide applicators, and possibly pesticide dealers. The State Lead Agency will administer examinations, certification, licensing and regulatory control, and approve all training for pesticide applicators and dealers. Meetings between the State Lead Agency and the Extension Service are held at periodic intervals to coordinate the training and testing programs.

Legal authorities for Missouri's certification program are contained in the Missouri Pesticide Act of 1974, Senate Bill No. 431, 77th General Assembly, the proposed amendments dated November 23, 1976, and regulations needed to fully implement the plan.

The plan indicates that the State Lead Agency and the Extension Service have or will have sufficient qualified personnel and funds to carry out the proposed program. Funds for maintenance of the State plan will be requested of the General Assembly as a part of the budget request of the Lead Agency. These funds will be determined by the General Assembly on an annual basis.

The State estimates that between 40,000 and 60,000 private applicators and 2,801 commercial applicators, including noncommercial and public/governmental applicators will need to be certified. All applicators certified to use restricted-use pesticides will be provided with credentials that will also authorize purchase of such pesticides.

The MDA agrees to furnish the Administrator, EPA, a detailed annual report on or before August 1 of each year, and other reports as requested in conformity to 40 CFR 171.7(d).

Missouri intends to adopt all ten (10) major categories of commercial applicators as listed in 40 CFR 171.3. Subcategories of commercial applicators proposed in the State plan are as follows:

1. Agricultural pest control:
   a. Plant pest control.
   b. Animal pest control.
2. Forest pest control.
3. Ornamental and turn pest control.
4. Seed treatment.
5. Aquatic pest control.
6. Right-of-way pest control.
7. Industrial, institutional, structural and health-related pest control:
   a. General structural pest control.
   b. Termite pest control.
   c. Fumigation pest control.
8. Public health pest control.
9. Regulatory pest control.
10. Demonstration and research pest control.

In Missouri, commercial applicators using restricted-use pesticides are required to be certified. Private applicators using restricted-use pesticides in production of an agricultural commodity must also be certified. However, the MDA may exempt a private applicator from the ordinary certification procedures in cases where an emergency situation necessitates his use of a restricted-use pesticide, and in instances where a private applicator finds the pesticide which he has customarily been using to have been reclassified as restricted. In the event of such an emergency, a private applicator permit for single purchase and single use of a restricted-use pesticide will be issued by an approved agent of the MDA after the applicator provides answers to a series of learning responses that meet the requirements of 40 CFR Part 171.5 and 171.6.

To become certified, commercial noncommercial and public applicators must apply for a license, and additionally are required to pass a written examination administered by the MDA that will be of the closed-book type for both the general and specific standards requirements. To qualify for a license, the examinee must attain a passing score of 70 percent on both test sections. Those not passing the test may retake it. Sample questions have been included for approval as a part of the plan, but at the request of the MDA have been deleted from copies of the plan which are available for public inspection.

Private applicators may become certified through the satisfactory completion of a group training program consisting of a course approved by the Administrator, EPA, and provided by the Extension

Service. A written test is not required. The private applicator instead will complete a study guide during the training program.

A self-study program is provided for private applicators who are unable to attend the group training programs. After the applicant has completed the EPA-developed programmed instruction learning program "Apply Pesticides Correctly," he will retain the material for self-correction in the course of a discussion with the instructor. These discussions will be conducted in such a manner as to enable the trainer to assure adequate feedback by each trainee. This will also allow the instructor to go over difficult areas for the private applicator more than once to insure that the appropriate information is imparted.

The private applicator may choose to take autotutorial training which involves the use of video-cassettes and/or slide/tapes in conjunction with a study guide. This material will be presented at such a place as to allow the trainee time to write the information in the study guide as it is shown on the viewing screen. After the applicant has completed the study guide, he will retain the material for self-correction in the course of a discussion with the instructor. These discussions will be conducted in such a manner as to enable the trainer to assure adequate feedback by each trainee.

All private applicators under the ordinary certification procedures will be required to sign an attestation form in the presence of an authorized public official to verify that the requirements for certification have been completed. The public official will also sign the attestation form and mail it to the Lead Agency whereupon a private applicator license will be issued to the applicant.

An oral training program is designed for applicants who have difficulty in understanding the English language and who have poor reading comprehension. The applicant shall attend a group training program or an audiotutorial training program to be informed of the Standards of Competence as required for certification as a private applicator. Following the training program, the applicant will contact the County Extension Agent or the MDA to complete the requirements of certification. The Standards of Competence will be reviewed again as to their application to a specific pesticide label. The applicant will verbally demonstrate to the public official his understanding of a pesticide label and labeling as to its particular use and safety. The applicant will be certified to purchase and use only those pesticides for which he has demonstrated competency; an authorized public official will complete an attestation form and mail it to the Lead Agency. The form will show the limitations as to which restricted-use pesticides can be purchased or used by the applicant. The limitations will be shown on the license and mailed to the private applicator. If and when additional pesticides are required by this applicator, the same procedures will be followed for each pesticide.

Federal employees qualified under the Government Agency Plan (GAP) will satisfy requirements for certification in the State of Missouri when the Director, MDA, receives a copy of the GAP and determines that its requirements for the demonstration of competence are at least equal to those of the plan.

Missouri has no Indian Governing Body subject to jurisdiction of the United States.

The Director, MDA, is authorized to enter into an agreement of reciprocity with any State or jurisdiction if the provisions of the plans of those States or jurisdictions are substantially in accordance with the Missouri plan. At present, Missouri has no formal agreement on reciprocity with other States involving pesticide applicator certification. Any reciprocal agreements will be submitted to EPA.

Other regulatory activities which supplement the certification program include pesticide dealer licensing and registration of pesticides. In accordance with the Missouri Pesticide Act of 1974, Section 281.055, all dealers or restricted-use pesticides will be examined and licensed. All commercial applicators of either restricted-use or general-use pesticides must also be licensed. The Missouri Economic Poisons Act of 1955 requires that all economic poisons sold, distributed or offered for sale within the State, or delivered for transportation or transported in intrastate commerce or between points within the State through any point outside the State shall be registered in the office of the Director MDA, and renewed annually.

To assure maintenance of a high level of competency among certified applicators, and to serve as a basis for certificate renewal, specific requirements will be imposed for recertification of commercial, noncommercial and public pesticide applicators within three years from initial certification and within each subsequent three year yeriod; recertification requirements for private applicators will be imposed within five years from initial certification and within each subsequent five year period. Options include programs conducted by the Extension Service, farm associations, private industry, and trade associations. Commercial applicators may be reexamined without formal training.

The State Lead Agency will maintain records of certified applicators who have attended approved training programs.

To insure that certified applicators comply with standards for the use of restricted-use pesticides, and carry out their responsibility to provide adequate supervision of noncertified applicators, state pesticide inspectors will: investigate complaints of pesticides use; investigate randomly selected sites where restricted-use pesticides are used; and bring violations to the attention of the proper legal and regulatory officials. The Director, MDA, may report violations to the prosecuting attorney of the county where the violation occurs. If any prosecuting attorney refuses or fails to act on request of the Director, the attorney general shall so act. The Director may bring an action to enjoin the violation or threatened violation of the Missouri Pesticide Act of 1974.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the State of Missouri to the Chief, Pesticides Branch, Region VII, Environmental Protection Agency, Room 116, 1735 Baltimore Avenue, Kansas City, Missouri 64108. These Comments must be received within 30 days of date of publication of this notice, and should bear the identifying notation (OPP-42041). All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 9:00 a.m. to 4:00 p.m., Monday through Friday.

DONALD A. TOWNLEY,
Acting Regional Administrator
Region VII.

JANUARY 28, 1977.

[FR Doc.77-2902 Filed 1-28-77;8:45 am]

[FRL 676-6]

SCIENCE ADVISORY BOARD ENVIRONMENTAL MEASUREMENTS ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Environmental Measurements Advisory Committee will be held beginning at 9:00 a.m. February 22, 1977, in room 1112A, Building 2, Crystal Mall, 1921 S. Jefferson Davis Highway, Arlington, Virginia.

This is the fifth meeting of the Committee. The agenda includes current activities of the Science Advisory Board; action to transmit to the Agency requested advice regarding the Draft Sulfates Research Plan; status report by the chairman of the subcommittee formed to provide advice and assistance in the study of emissions from automotive catalytic exhaust control devices; discussion of the Agency's request for the Committee's review of plans to revise existing approaches to monitoring national environmental quality; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend or obtain additional information should contact Dr. A. F. Forziati, Executive Secretary, Environmental Measurements Advisory Committee, (703) 557-7720 by close of business February 18, 1977.

THOMAS D. BATH,
Staff Director,
Science Advisory Board.

JANUARY 25, 1977.

[FR Doc.77-2906 Filed 1-28-77;8:45 am]

[FRL 678-4]

DISCUSSIONS RELEVANT TO TOXIC SUBSTANCES CONTROL ACT

Meetings

The Environmental Protection Agency will hold a series of public meetings nationwide to discuss policy issues relevant to the implementation of the Toxic Substances Control Act (Pub. L. 94-469). The regional meetings are designed to explain and discuss various provisions of the act, which became effective on January 1, 1977, and to review EPA's implementation plans to date. The primary purpose of these meetings is to receive comments from the public on issues deriving from the implementation of this new law.

The schedule for the meetings follows. For information about programs, meeting sites, preregistration procedures, and scheduling a time for presentation of comment, please contact the individual or office indicated below:

Federal region	Date	City	Contact	Address
VI	Feb. 14-15	Houston	Franklin Bradford, Office of Public Affairs, 214-749-1153.	EPA, 1201 Elm St., 1st International Bldg., Dallas, Tex. 75270.
IV	Feb. 17	Atlanta	Asa Foster, Air & Hazardous Materials Division, 404-257-3454.	EPA, 345 Courtland St. NE., Atlanta, Ga. 30308.
II	Feb. 24	New York	Herman Phillips, Office of Public Affairs, 212-264-2515.	EPA, 26 Federal Plaza, Room 1009, New York, N.Y. 10007.
I	Mar. 1	Boxborough (northeast of Worcester).	Paul Keough, Office of Public Affairs, 617-223-7223.	EPA, John F. Kennedy Bldg., Boston, Mass. 02202.
V	Mar. 3	Chicago	Office of Public Affairs, 312-353-2072.	EPA, 230 South Dearborn St., Chicago, Ill. 60604.
VII	Mar. 9	Kansas City, Mo.	Dr. Gerald Jacobsen, Chief, Hazardous Materials Branch, 816-374-3307.	EPA, 1735 Baltimore St., Kansas City, Mo. 64108.
IX	Mar. 15	Los Angeles	Rick Hoffman, 415-556-6266; or, Bob Boesch, 415-556-3352.	EPA, 100 California St., San Francisco, Calif. 94111.
X	Mar. 17	Seattle	Office of Public Affairs, 206-442-1203.	EPA, 1200 6th Ave., Seattle, Wash. 98101.
VIII	Mar. 22	Denver	Office of Public Affairs, 303-837-4904.	EPA, 1860 Lincoln St., Denver, Colo. 80203.

A final meeting in this series will be held in Washington in the spring and will include participants from Federal Region III. The date will be announced in a future FEDERAL REGISTER.

Dated: January 21, 1977.

KENNETH L. JOHNSON,
Acting Assistant Administrator for Toxic Substances.

[FR Doc.77-2907 Filed 1-28-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 842]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

JANUARY 24, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See section 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 to the Commission's rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See §§ 1.227(b)(3) and 21.30(b) of the Commission's rules.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20613-CD-P-(2)-77, Airsignal International, Inc. (KIJ358). C.P. for additional Repeater facilities to operate on 2110.8 MHz at Loc. No. 1: Fruitville Rd. and Christie Avenue, Sarasota; and for additional Control facilities to operate on 2160.8 MHz at a new Loc. No. 2: 1695 10th Street, Sarasota, Fla.

20614-CD-P-(2)-77, Lubbock Radio Paging Service, Inc. (KKE970). C.P. for additional facilities to operate on 454.175 and 454.225 MHz at Loc. No. 3: Metro Tower, Broadway and Avenue L, Lubbock, Tex.

20615-CD-P-(5)-77, South Central Bell Telephone Company (KKD292). C.P. to relocate facilities, change antenna system and replace transmitter operating on 152.51, 152.63, 152.72 and 152.81 MHz, Base and 157.77 and 157.89 MHz. Test to be located at 3951 Erato Street, New Orleans, La.

20616-CD-P-77, San Juan Radiotelephone Corporation (WWA311). C.P. for additional facilities to operate on 152.12 MHz at Loc No. 3: Atop El Yunque Peak, Puerto Rico

20617-CD-P-(2)-77, Industrial and Commercial Communications Services, Inc. (KLF464). C.P. for additional facilities to operate on 454.175 and 454.325 MHz at a new Loc. No. 2: 5720 Taylor Avenue, Racine Wis.

20618-CD-P-(2)-77, South Central Bell Telephone Company (KLB558). C.P. to change antenna system and replace transmitter operating on 152.57 MHz and for additional facilities to operate on 152.81 MHz located at 825 Murray Street, Alexandria La.

20621-CD-P-(2)-77, Radio Paging, Inc. (KKI445). C.P. to change antenna system operating on 35.58 MHz at Loc. No. 3: 910 West Belt Drive North, Houston; and for additional facilities to operate on 75.92 MHz Control at a new Loc. No. 7: 1907 Southwest Freeway, Houston, Tex.

20622-CD-P-77, Airsignal of Colorado, Inc (KAA276). C.P. to relocate facilities operating on 2175.2 MHz, Control at Loc. No 4: 3915 East Exposition Ave., Denver, Colo.

20623-CD-P-77, Radio Paging, Inc. (KWU485). C.P. to relocate facilities and change antenna system operating on 152.24 MHz to be located at One Shell Plaza, Houston Tex.

20624-CD-MP-77, Frank L. Yates, Jr. d.b.a Gulf Mobilphone (KWT972). C.P. to relocate facilities operating on 152.09 MHz to be located near Waveland, Miss.

20625-CD-P-(3)-77, The Mountain States Telephone and Telegraph Company (KOK347). C.P. for additional facilities to operate on 152.63, 152.69 and 152.81 MHz at a new Loc. No. 2: 6 miles WSW of Burley Idaho.

Corrections

20428-CD-P-(2)-77, Valley Telephone Coop, Inc. (KLB559). Correct PN entry to read C.P. to reinstate expired facilities operating on 152.69 and 152.78 MHz located 8 miles east of Lyford, Tex.

20571-CD-P-77, Radio Broadcasting Company (KWU290). Correct entry to show Loc No. 8. All other particulars are to remain as reported on PN No. 841, dated January 17, 1977.

RURAL RADIO

60136-CR-P/L-77, Tony H. Scamardo d.b.a. Industrial Electronics (New). C.P. for a new Rural Subscriber station to operate on 158.67 MHz to be located at any temporary-fixed location within the territory of the Grantee.

Major Amendment

60086-CR-ML-77, David R. Williams d.b.a. Industrial Communications (KZA88). Temporary-Fixed Locations within the territory of the grantee. Amend application to add frequencies 459.025, 459.050, 459.075, 459.100, 459.150, 459.175, 459.200 and 459.250 MHz. All other particulars remain the same as reported on PN No. 836, dated December 13, 1976.

POINT TO POINT MICROWAVE RADIO SERVICE

1026–CF–P–77, General Telephone Company of Florida (KGP52). Plant City Jct. 1.73 miles WNW of Plant City, Florida Lat. 28° 01'32" N, Long. 82°10'01" W. C.P. to add point of communication on frequencies 6256.5H, 6315.9H, 6404.8V, and 2170.4H MHz toward Zephyrhills, Fla. on azimuth 356.9°.

1027–CF–P–77, Same (KYJ44). 201 S. Gall Blvd. Zephyrhills, Fla. Lat. 28°13'39" N, Long. 82°10'46" W. C.P. to add frequencies 6004.5H, 6063.8H, 6152.8V, 2120.4H MHz toward Plant City Jct., Fla. on azimuth 176.9° and 6034.2H MHz toward Spring Lake, Fla. on azimuth 334.8°.

1030–CF–P–77, Southern Bell Telephone and Telegraph Company (WAH421). 708 East 1st St. Rome, Ga. Lat 34°15'19" N, Long. 85°09'59" W. C.P. to increase transmit antenna structure height and move antenna on frequency 6286.2V MHz toward Cedartown, Ga.

1035–CF–P–77, Same (KIV59). 111 East 5th Street Panama City, Fla. Lat. 30°09'26" N, Long. 85°39'34" W. C.P. to add frequency on 3710H MHz toward Merial Lake, Fla.

1036–CF–P–77, Same (KIV58). Merial Lake Approx. 6.5 miles NW of Southport, Fla. Lat. 30°22'42" N, Long. 85°40'34" W. C.P. to add frequencies 3750H MHz toward Panama City, Fla. and 3750H MHz toward Dbl Brch Pd, Fla.

1037–CF–P–77, Same (KIU64). Dbl Brch Pd 5 miles SW of Wausau, Fla. Lat. 30°34'56" N, Long. 85°38'41" W. C.P. to add frequencies 3710H MHz toward Merial Lake, Fla. and 3710H MHz toward Chipley, Fla.

1038–CF–P–77, Same (KIU54). 205 West Railroad Ave. Chipley, Fla. Lat. 30°46'47" N, Long. 85°32'28" W. C.P. to add frequency 3750H MHz toward Dbl Brch Pd, Ga.

1039–CF–P–77, Same (KIW68). Liberty 6.5 miles South of Lakewood, Fla. Lat. 30°53' 26" N, Long. 86°16'51" W. C.P. to add frequency 3970H MHz toward Crestview, Fla.

1040–CF–P–77, Same (KIW69). Beach Ave. and Savage St. Crestview, Fla. Lat. 30°45' 29" N, Long. 86°34'25" W. C.P. to add frequencies 4010H MHz toward Liberty, Fla. and 4010H MHz toward Harold, Fla.

1041–CF–P–77, Same (KIW70). 4.1 miles West of Harold, Fla. Lat. 30°39'04" N, Long. 86° 57'15" W. C.P. to add frequencies 3970H MHz toward Crestview, Fla. and 3970H MHz toward Pensacola, Fla.

1042–CF–P–77, Same (KIW71). 30 West Belmont Street Pensacola, Fla. Lat. 30°25'02" N, Long. 87°13'03" W. C.P. to add freqency 4010H MHz toward Harold, Fla.

1043–CF–P–77, The Bell Telephone (KIL58). 121 Adams Avenue, Lat. 41°24'23" N., Long. 75°39'49" W. C.P. to add frequencies 11285V, 11365V MHz toward Lookout Mtn., Pa. on azimuth 192.5°.

1044–CF–P–77, Same (KIL37). Lookout Mtn. 4.7 miles SE of Dupont, Pa. Lat. 40°15'45" N., Long. 75°42'26" W. C.P. increase transmit antenna structure height; add frequencies 10755V, 10835 V MHz toward Scranton, Pa. on azimuth 12.9° and 10775V, 10835V MHz toward Locust, Pa. on azimuth 138.5°.

1045–CF–P–77, Same (new). Locust 3.5 miles NE of Blakeslee, Pa. Lat. 41°08'15" N., Long. 75°33'39" W. C.P. for a new station on frequencies 11305V, 11385V MHz toward Lookout on azimuth 318.6° and 11265V, 11345V MHz toward Rocky on azimuth 125.5°.

1046–CF–P–77, Same (new). Rocky 4.2 miles West of Tannersville, Pa. Lat. 41°02'36" N., Long. 75°23'12" W. C.P. for a new station on frequencies 10735V, 10815V MHz toward Locust, Pa. on azimuth 305.6° and 10775V, 10855V MHz toward Stroudsburg, Pa. on azimuth 111.9°.

1047–CF–P–77, Same (new). 20 South of 7th Street Stroudsburg, Pa. Lat. 40°59'04" N., Long. 75°11'38" W. C.P. for a new station on frequencies 11305V, 11385V MHz toward Rocky, Pa. on azimuth 292.0°.

1079–CF–P–77, Southern Bell Telephone and Telegraph Company (KJA97). 213 South of Colt Street Florence, S.C. Lat. 34°11'39" N., Long. 79°46'17" W. C.P. to change polarization from horizontal to vertical 3710, 3790, 3870 MHz toward Marion, S.C.

1089–CF–P–77, Same (KJA98). Pine at Harlee, Marion, S.C. Lat. 34°10'47" N., Long. 79°23'53" W. C.P. to change polarization from horizontal to vertical 3990, 4070, 4150 MHz toward Florence, S.C.

1119–CF–P–77, The Mountain States Telephone and Telegraph Company (KCO85). 124 West of Magnolia Street, Collins, Colo. Lat. 40°35'00" N., Long. 105°04'41" W. C.P. to add frequency 6004.5V MHz toward Milliken, Colo.

1120–CF–P–77, Same (KCO84). 3.3 miles NNW of Milliken, Colo. Lat. 40°22'43" N., Long. 104°52'13" W. C.P. to add frequencies 6256.5H MHz toward Fort Collins, Colo. and 6256.5V MHz toward Greiley Jct., Colo.

680–CF–P–77, Tower Communication Systems Corporation (KQO 41). Ridgeview Drive, Coshocton, Ohio, Lat. 40°16'04" N, Long. 81°50'14" W.: Construction permit to change transmit station location, replace antenna and add 6241.7V MHz toward Newcomerstown, Ohio, on azimuth 85.8°. (Note: Applicant requests waiver of Section 21.701(i) and Special Temporary Authority.)

984–CF–P–77, Midwestern Relay Company (WLJ 46). Lake Geneva No. 1, 3.0 miles East of Lake Geneva, Wis. Lat. 42°85'49" N, Long. 88°21'30" W.: Construction permit to add 11625H MHz toward Lake Geneva No. 3, Wisconsin, on azimuth 289.5°.

985–CF–P–77, Midwestern Relay Company (new). Lake Geneva No. 3, 1.0 mile North of Lake Geneva, Wis. Lat. 42°87'05" N, Long. 88°26'21" W.: Construction permit for new station—11175H MHz toward Lake Geneva No. 1, Wis., on azimuth 109.4°.

998–CF–P–77, Teleprompter Transmission of Kansas, Inc. (KPH 85). Mt. Aeneas, 18.0 miles ESE of Kallspell, Mont. Lat. 48°09' 12" N, Long. 113°55'45" W.: Construction permit to change location of receive station—5967.4H, 6041.6V, 6100.9V and 6160.2V MHz toward Polson Ridge, Mont., on azimuth 196.8°.

1015–CF–P–77, Midwestern Relay Company (WIV 63). Duluth RPT, 5th Avenue West and 10th Street, Duluth, Minn. Lat. 46° 47'21" N, Long. 92°06'51" W.: Construction permit to replace transmitter—6375.2V MHz toward Duquette, Minn.

1117–CF–P–77, South Central Bell Telephone Company (KRW 72). Charity Hospital, 1532 Tulane Ave., New Orleans, La. Lat. 29°57'21" N, Long. 90°04'42" W: Construction permit to replace transmitter—6375.2V 29°57'21" N, Long. 90°04'42" W.: Construction permit to change receive station

1077–CF–MP–77, United States Transmission Systems, Inc. (WAH514). 1.3 miles NW of Moore, S.C. Lat. 34°50'42" N., Long. 82°00' 36" W.: Modified Construction Permit to add 6226.9H MHz toward Spartanburg, S.C. on azimuth of 29.6°.

1078–CF–P–77, Same (new). Daniel Morgan Boulevard, E/O Highway 221 in Spartanburg, S.C. Lat. 34°57'17" N., Long. 81°56' 04" W.: Construction Permit for a new station—5945.2H MHz toward Moore, S.C. on azimuth 209.6°.

MAJOR AMENDMENTS

65–CF–P–77, RCA American Communications, Inc. (new). Kokee Park, Hawaii. Amended application to change coordinates to Lat. 22°07'00" N., Long. 159°50'21" W.; add new point of communication at Barking Sands, Hawaii for frequency 2129.0V on azimuth 230.2°

66–CF–P–77, Same (new). Barking Sands, Hawaii. Amended application to add new point of communication at Kokee Park for frequency 2179.0V on azfmuth 50.1°. (Rest remains same as appeared on public notice dated October 18, 1976.)

[FR Doc.77-2982 Filed 1-28-77; 8:45 am]

[Report No. I-311]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

JANUARY 24, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

92–DSE–MP–77 RCA Alaska Communications, Inc. (KD52), Unalaska, Alaska. Modification of construction permit (File No. 357–DSE–P–76) to install FM/PDM multiplex equipment in lieu of Single Channel Per Carrier, and changes in the EIRP and Emission Designators.

93–DSE–P–77 Independent School District No. 492, Austin, Minn. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 43°40'40" N., Long. 93°00'05" W. Freq. 3700–4200 MHz. Emission: 36000F9. 10 meter antenna.

94–DSE–P–77 Public Broadcasting Council of Central New York, Syracuse (Liverpool) N.Y. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 43°12'14" N. Long. 76°12'17" W. Rec. Freq. 3700–4200 MHz. Emission 36000 F9. 10 meter antenna.

95–DSE–P–77 South Carolina ETV Commission, Columbia, S.C. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 34°07'10" N., Long. 80°56'16" W. Rec. Freq. 3700–4200 MHz. Emission 36000F9. 10 meter antenna.

96–DSE–P–77 Louisiana Educational Television Authority, Baton Rouge, La. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 30°22'23" N., Long. 91°12'18" W. Rec. Freq. 3700–4200 MHz. Emission 36000F9. 10 meter antenna.

97–DSE–P–77 Twin City Area ETV Corp. and West Central Minnesota Educational Television Co., Appleton, Minn. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 45°10'-03" N., Long. 96°00'00" W. Rec. Freq.

3700–4200 MHz. Emission: 36000F9. 10 meter antenna.

98–DSE–P–77 New Jersey Public Broadcasting Authority, Trenton, N.J. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 40°16'–57'' N., Long. 74°41'11'' W. Rec. Freq. 3700–4200 MHz. Emission 36000F9. 10 meter antenna.

99–DSE–P–77 State Educational Radio and Television Facility Board, Des Moines, Iowa. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 41°33'47'' N., Long. 93°39'19'' W. Rec. Freq. 3700–4200 MHz. Emission 36000F9. 10 meter antenna.

100–DSE–P–77 WHYY, INC., Philadelphia, Pa. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 39°57'29'' N. Long. 75°12'46'' W. Rec. Freq. 3700–4200 MHz. Emission 36000F9. 10 meter antenna.

[FR Doc.77-2924 Filed 1-28-77;8:45 am]

FM AND TV TRANSLATOR APPLICATION READY AND AVAILABLE FOR PROCESSING

Adopted: January 24, 1977.

Released: January 26, 1977.

Notice is hereby given pursuant to §§ 1.572(c) and 1.573(d) of the Commission's rules, that on March 2, 1977, the TV and FM translator applications listed, which were inadvertently omitted from the Cut-Off List, adopted January 6, 1977 released January 17, 1977, Mimeo No. 76914, will be considered as ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.519(b) of the Commission's rules, an application, in order to be considered with either application listed below or with any other application on file by the close of business on March 1, 1977, which involves a conflict necessitating a hearing with any application on that list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on March 1, 1977.

The attention of any party in interest desiring to file pleadings concerning any pending TV and FM translator application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

BPFT-376 (new), Silver Bay, Minn., Stereo Broadcasting, Inc. Req: Channel 288, 105 MHz, 10 watt. Primary: WAKX, Duluth, Minn.

BPTT-3140 (new), Norris Camp, Minn., Lake of the Woods County. Req: Channel 69, 800–806 MHz, 100 watt. Primary: KTHI, Fargo—Grand Forks, N. Dak.

FEDERAL COMMUNICATIONS COMMISSION
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-2983 Filed 1-28-77;8:45 am]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92–463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 68, "Marine Radiotelephone Operator Education," Notice of 19th Meeting, Wednesday, February 16, 1977—9:30 a.m., Conference Room 847, 1919 M Street, N.W., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Confirmation of Secretary; Adoption of Agenda.
3. Acceptance of SC–68 Summary Records, December 15, 1976, Paper 180–76/SC 68–86.
4. Review unfinished business.
5. Discuss final report.
6. New business.
7. Establishment of next meeting date.

A. Newell Garden, Chairman, SC–68, Raytheon Company, 141 Spring Street, Lexington, Mass. 02173, Phone: 617–862–6600 (Ext. 414).

WEDNESDAY, FEBRUARY 16, 1977

To: Members of Special Committee No. 65, "SHIP RADAR".
Subject: Notice of 52nd Meeting.
Date/Time: Wednesday, February 16, 1977—1:30 p.m.
Location: Conference Room 8210, 2025 M Street, NW., Washington, D.C.

Agenda for SC–65 Committee Meeting appears on reverse side of this sheet. SC–65 Working Group schedule. To be held at 2025 M Street, NW., Washington, D.C.

Working Group: Collision Avoidance; Room 8210; Date: February 16; Time: 9:30 a.m.

If other Working Group meetings are scheduled, Group Members will be notified.

NOTE: Meeting Room location is subject to change. Check at Room 8210 first.

AGENDA FOR FEBRUARY 16, 1977

AGENDA

1. Call to Order; Chairman's Report; Adoption of Agenda.
2. Acceptance of SC–65 Summary Records; Appointment of Rapporteur, January 14, 1977, Paper 6–77/SC 65–229.
3. Progress Report of Collision Avoidance Working Group.
4. Status Reports on Other Working Groups.
5. Report of Action of Executive Committee on RTCM Paper 145–76/SC 65–220. "Performance Specification for a Computer Aided Collision Avoidance System for Merchant Ships."
6. Other business.
7. Establishment of next meeting date, March 16, 1977.

For approval at this meeting. Irvin Hurwitz, Chairman, SC–65, Federal Communications Commission, Washington, D.C. 20554, Phone: 202–632–7197.

EXECUTIVE COMMITTEE MEETING

THURSDAY, FEBRUARY 17, 1977

The next Executive Committee Meeting will be on Thursday, February 17, 1977, at 9:30 a.m. in Conference Room 847, 1919 M Street, NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of the Minutes of Executive Committee Meetings.
4. Progress Reports on Currently Active Committees.
5. Status Reports on Other Committees.
6. New Membership Applications for Executive Committee Approval.
7. Report on 1977 Assembly Meeting.
8. Approval of Special Committee Papers.
9. Administrative Action Items.
10. Summary Reports and Announcemnts.
11. New Business.
12. Establishment of next meeting date.

To comply with the advance notice requirements of Pub. L. 92–463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meeting is available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. (Phone (202) 632–6490)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS.
Secretary.

[FR Doc.77-2984 Filed 1-28-77;8:45 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/Operator and vessels*
01058	States Steamship Co.: *Hawaii, M.M. Dant.*
01059	London & Overseas Freighters Ltd.: *London Pioneer.*

Certificate No.	Owner/Operator and Vessels
01088	Schulte & Burns: *Guenther Schulte.*
01330	Shell Tankers (U.K.) Ltd.: *Hindsia.*
01336	Aktieselskabet Borgestad: *Milles.*
01351	The Hadley Shipping Co. Ltd.: *Clymene, Cerinthus.*
01447	Scotstoun Shipping Co. Ltd.: *Loch Long.*
01574	Fearnley & Eger: *Ferncourt.*
01663	Hydroussa Compania Naviera S.A.: *Hydroussa.*
01935	Partnership between Steamship Company Svendborg Ltd. and Steamship Company of 1912 Ltd.: *Karen Maersk, Maersk Feeder.*
02146	Pittston Marine Transport Corp.: *Rockland.*
02152	A. F. Klaveness & Co. A/S: *Queensville.*
02198	Peninsular & Oriental Steam Navigation Co.: *Sussex.*
02199	Atlantic Richfield Co.: *Great Lakes.*
02212	Mill Ridge Corp.: *M.R. 1, M.R. 2.*
02270	Enso-Gutzeit Osakeyhtio: *Trolleholm, Vasaholm, Maltesholm.*
02477	American Dredging Co.: *SE-104, SE-103.*
02585	Koch Refining Co.: *TCB 68.*
02693	Metropolitan Waterways Corp.: *Mykalt.*
02715	Allied Towing Corp.: *ATC-92.*
02728	Societe Ivoirienne de Transport Maritime: *Tabou, Tonkoui, Kossou, Korhogo, Azaguie, Agou.*
02842	Clemente Campos y Cia. S.A.: *Manuel Campos.*
02959	Kokuyo Kaiun Kabushiki Kaisha: *Izumigawa Maru.*
03047	E. I. du Pont de Nemours and Co.: *TCB 308.*
03106	Oriental Africa Lines Inc.: *Oriental Amiga.*
03227	Pando Compania Naviera S.A. of Panama: *North Duchess.*
03230	Principle Compania Naviera S.A. of Panama: *North Highness.*
03256	Upper Mississipi Towing Corp.: *UM 901, UM 902.*
03276	Universe Tankships Inc.: *Universe Frontier.*
03293	Maritime Fruit Carriers Co.: Ld.: *Sabracore, Bananacore, Lemoncore, Mangocore, Tangerinecore, Avocadocore.*
03295	Huron Cement Division National Gypsum Co.: *Samuel Mitchell.*
03389	Shell Tankers B.V.: *Philidora.*
03397	Hilmar Reksten: *Lucian, Hadrian, Octavian, Sir Winston Churchill, Aurelian, Kong Haakon VII, Julian, Fabian, Nerva.*
03421	Daio Kisen K.K.: *Munakata Maru.*
03536	Iino Kaiun K.K.: *Fujisan Maru.*
03458	Matsuoka Kisen Kabushiki Kaisha: *Hakonesan Maru.*
03479	Okada Shosen Kabushiki Kaisha: *Settsu Maru.*
03492	Sawayama Kisen K.K.: *Philippine Maru.*
03504	Shonan Kisen K.K.: *Shotai Maru.*
03525	Tsurumi Yuso K.K.: *Kakuyu Maru.*
03692	Marmac Corp.: *KS-101, KS-102.*
03917	Mobil Shipping Co. Ltd: *Sachem.*
03971	Korea Shipping Corp.: *Chang Hang, Dong Myung.*
04002	Compagnie Des Messageries Maritimes: *Godavery, Yarra, Yalou, Mariotte.*
04029	National Sand and Material Co. Ltd.: SS *Charles Dick.*
04113	Mon River Towing Inc.: *PO 1201.*
04398	Hapag-Lloyd: *Bischofstein.*
05090	Esso Petroleum Co. Ltd.: *Esso Lincoln, Esso Edinburgh.*
05096	Esso Tankschiff Reederei GmbH: *Esso Bremen, Esso Stuttgart.*
05263	Oceanomar Compania Maritima S.A.: *Kilima.*
05349	Trans-Caribbean Lines Inc.: *Carib Freeze.*
05383	Lineas Pinillos: *Lago Victoria.*
05472	National Shipping Corp.: *Rupsa.*
05645	National Sea Products, Inc.: *Storm, Surf.*
05732	Tank Masters Inc.: *Tank Master No. 2.*
05743	Reederei Barthold Richters: *Petra.*
05775	Good Luck Shipping Co. Ltd.: *Good Commander.*
05810	John Hudson Fuel & Shipping Ltd.: *Hudson Light.*
06392	Sofamar-Sociedade de Painas de Mar E Rio S.A.R.L.: *Rio Zambeze, Rio Zaire, Rio Cuansa.*
06435	Dampskibsaktieselskabet Den Norske Afrika-Og Australielinie, Wilhelmesn Dampskibsaktieselskabet A/S Tonsberg, A/S Tankfart I, A/S Tankfart IV, A/S Tankfast V, A/S Tankfart VI: *Tiber.*
06495	Mortensen & Lange: *Sirtus.*
06553	Manunited Compania Naviera S.A. Panama: *Achillet.*
06567	Hooker Chemical Corp.: *Heco 1.*
06578	Van Nievelt, Goudriaan & Co. B.V.: *Meres, Alcor, Anne Christina.*
06838	Compagnie Franco Camerounaise S.A.R.L. de Navigation: *Mungo.*
06847	Getty Oil Co. (Eastern Operations) Inc.: *Louisiana Getty, Wilmington Getty, Providence Getty, New York Getty, Delaware Getty.*
06914	Evans McKeil Workboats Ltd.: *Cargo Master.*
07072	United Ram Corp.: *Sans Grund.*
07154	NV Veendam: *Veendam.*
07176	Great Fortune Navigation Co. S.A.: *Great Power.*
07257	Sea Ploutos Shipping Co. S.A.: *Sea Gull.*
07283	Evergreen Line S.A.: *Ever Fortune.*
07291	Butler Marine Equipment Co.: *T 100 SL, T 150 SL, T 200 SL, BU 41, BU 42, BU 40, BU 43, T 250 SL.*
07327	Marcomando Armadora S.A.: *Kapetanissa.*
07328	New England Fish Co.: *Smokwa, G. W. King.*
07640	Exxon Co. U.S.A.: *TTC-1.*
07642	Armadores Marisurf Ltd.: *Maribruna.*
07817	Yick Fung Shipping and Enterprises Co., Ltd.: *Mindano Sea, Coral Sea, Caspian Sea.*
07824	Swiftsure, Inc.: *Western Pioneer.*
07833	Pyramid Ventures Group, Inc.: *Pyramid Veteran, Pyramid Venus, Pyramid Viking.*
07843	Northland Marine Lines, Inc.: *Taslina, Galena, Kivalina, ZB 300, Western Trader, ZB 304, ZB 301, Koko Head.*
07880	Logicon, Inc.: *GW-100.*
08018	Protoklitos Compania Naviera S.A.: *Agios Fanourios.*
08129	Caltec Maritime S.A. Panama: *Caltec Trader.*
08212	Revenna Shipping, Inc.: *Nego Shang.*
08495	Nautic Star Shipping Co. S.A.: *Porto.*
08688	Diakan Grace S.A.: *Diakan Grace.*
08723	Product Carriers, Inc.: *Stolt Vidar.*
09121	Oram S.A. Panama: *South Wall.*
09266	Atlantic Consolidated Foods Ltd.: *Atlantic Hawke, Atlantic Gairdner, Atlantic J.A.G., Atlantic Paton, Atlantic Ocean Maid, Olga, Elizabeth, Claire, Lindsey, Atlantic Margaret, Atlantic Carol, Atlantic Toni, Atlantic Norma, Atlantic Ruthann, Atlantic Peggy, Atlantic Marie, Atlantic Jane, Atlantic Ellen, Atlantic Beatrice, Dorothy.*
09329	Rederierne Steencoasters K/S: *Jytte Steen.*
09465	River Barges Inc.: *Joyce O.*
09518	Pacific Universal Navigation S.A.: *Pacific Reefer.*
09678	Hullgates Shipping Co. Ltd.: *Bengate.*
09711	Albatross Maritime Co. Ltd. (Panama) S.A.: *Pacific Ocean.*
09833	Arnica Shipping Co. Ltd.: *Fropadano.*
09874	Gulf Caribbean Navigation Co.: *Katya M.*
10093	Universal Giant Shipping Co. Ltd. S.A.: *Great Antares.*
10260	Hollywood Marine Inc.: *Hollywood 1806.*
10279	Ikuchi Kaiun Kabushiki Kaisha: *Gallant, Grace.*
10481	Tracey Navigation Co. Ltd.: *Jennifer.*
10598	International Ship Finance (Liberia) Co. Inc.: *Capella.*
11073	Evifar Compania Naviera S.A.: *Montana.*
11323	James P. Cross Sr.: *Farken No. 1.*
11759	Samelet Helmstaub: *Stavik.*
11951	I/S Rederiet Erik B. Kromann: *Aage Andreasen.*
12044	International Iranian Trading Co.: *Capetan Michalis.*
12064	Dietrich Sander Bereederungs-GmbH: *Hede.*
12065	La Islas Navegacion S.A.: Altemis Island.

By The Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-3012 Filed 1-28-77;8:45 am]

PACIFIC-STRAITS CONFERENCE

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 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, by February 21, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which

they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

H. R. Rollins, Secretary, Pacific-Straits Conference, 635 Sacramento Street, San Francisco, California 94111.

Agreement No. 5680-23, entered into by the member lines of the Pacific-Straits Conference, modifies the conference agreement by the addition of a new article (Article 11) which will give the Conference Secretary permanent authority to sign on behalf of the Conference membership and file for approval with the Federal Maritime Commission any amendments or additions to Agreement No. 5680 which have previously been voted on and approved by the Conference membership. The added Article 11 reads as follows:

Article No. 11. This agreement may be executed in several parts the said parts to read and be effectual as one instrument, which may be changed or added to at any meeting by consent of the members as provided in Article 8(a), provided, however, that no action under this paragraph or any other paragraph of this agreement constituting modification of this agreement within the purview of Section 15 of the Shipping Act shall be carried into effect until approved by the Governmental Agency charged with the administration of Section 15 of the Shipping Act, 1916, as amended. Each of the parties hereto, hereby expressly authorize the Conference Secretary to sign on its behalf and to file for approval with the Agency charged with administering the Shipping Act of 1916, as amended, any amendments to this agreement and to the appendix to this agreement which have been duly adopted by the Conference by the vote and procedures prescribed by this agreement or by the appendix to this agreement. Any person, by the act of becoming a party to this agreement shall thereby authorize the Secretary to sign and file amendments on its behalf as provided hereinabove.

By Order of the Federal Maritime Commission.

Dated: January 26, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-3013 Filed 1-28-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. G-8820, etc.]

TEXACO INC. (OPERATOR), ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

JANUARY 19, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 11, 1977 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-8820..... D 12-30-76	Texaco Inc. (operator), et al., P.O. Box 2420, Tulsa, Okla. 74102.	Natural Gas Pipeline Co. of America, Blakemore Field, Hansford County, Tex.	(2)	(2)
G-14230..... B 12-20-76	Atlantic Richfield Co., P.O.Box 2819, Dallas, Tex. 75221.	El Paso Natural Gas Co., Lockhart B, No. 8, sec. 14-T21-R36 Lea County, N. Mex.	(2)	(2)
C170-917..... C175-42 C 1-3-77	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	Panhandle Eastern Pipe Line Co., Douglas plant, Powder River basin area, Converse and Campbell Counties, Wyo.	(2)	14.73
C176-327..... B 12-21-76	Aminoil Development, Inc., 2800 North Loop West, Houston, Tex. 77092.	Transcontinental Gas Pipe Line Corp., block 117 field, East Cameron area, offshore Louisiana.	(2)	.....
C177-184..... (G-19720) B 12-27-76	Diamond Shamrock Corp., P.O. Box 631, Amarillo, Tex. 79173.	Northern Natural Gas Co., Ochiltree County, Tex.	(2)	(2)
C177-185..... A 12-27-76	HNG Oil Co., P.O. Box 1188, Houston, Tex. 77001.	Mid-Louisiana Gas Co., Kansas-Nebraska Natural Gas Co., secs. 9, 11, and NE/4 and S/2, sec. 10, block Z-1, A. C. H. & B. & W. Survey, Viking (Upper Morrow) Field, Hemphill County, Tex.	[3] 153.4962¢	14.73
C177-186..... A 12-27-76	Petroleum, Inc., 300 West Douglas, Wichita, Kans. 67202.	Northwest Pipeline Corp., Sublette County, Wyo.	[3] $1.650516	14.73
C177-187..... A 12-27-76	Terra Resources, Inc., 5416 South Yale Ave., Tulsa, Okla. 74135.	United Gas Pipe Line Co., Lapeyrouse Field, Terrebonne Parish, La.	[3] [4] 154.3900	15.025
C177-188..... A 12-27-76	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Colorado Interstate Gas Co., Haskell County, Kans., SW/4 sec. 4-28S-34W.	[3] [4] 52.8022¢ [11] [12] [13] 52.7967¢	14.65 .....
C177-189..... A 12-27-76	Helmerich & Payne, Inc. (operator), et al., 1579 East 21st St., Tulsa, Okla. 74114.	Michigan Wisconsin Pipe Line Co., Northeast Binger Field, Caddo County, Okla.	[3] $1.5653	14.73
C177-190..... A 12-28-76	Arkla Exploration Co., P.O. Box 21734, Shreveport, La. 71151.	Arkansas Louisiana Gas Co., Bonanza Field, Sebastian County, Ark.	[11] [14] $1.4262	14.65
C177-192..... A 12-29-76	Freeport Oil Co., a division of Freeport Minerals Co., P.O. Box 3038, Midland, Tex. 79701.	Mississippi River Transmission Corp., Brick Prospect area, Beckham County, Okla.	[3] [14] 90.156¢	14.65
C177-193..... A 12-29-76	American Natural Gas Production Co., 1 Woodward Ave., Detroit, Mich. 48226.	Michigan Wisconsin Pipe Line Co., Beckham County, Okla.	[3] $1.44	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI77-194..... A 12-29-76	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Grand Isle Block 16 Field, offshore, Louisiana.	[3] $1.76	15.025
CI77-195..... (CS67-82) B 12-27-76	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	Panhandle Eastern Pipe Line Co., Southwest Fargo Field, Ellis County, Okla.	(16)	(16)
CI77-196..... A 12-27-76	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., Deep Lake Field, Cameron Paris , La.	[11 17] $1.43	15.025
CI77-197..... (G-19016) B 12-28-76	Coastal States Gas Producing Co., 5 Greenway Plaza East, Houston, Tex. 77046.	South Texas Natural Gas Gathering Co., Duval, LaSalle, and Webb Counties, Tex.	(18)	(18)
CI77-200..... A 12-30-76	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., West Cameron Block 71 Field, offshore La.	[11 17] $1.43	15.025
CI77-201..... A 12-30-76	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Brinninstool No. 1 Well, Lea, County, N. Mex.	[3] $1.44	14.73
CI77-202..... A 1-3-77	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., Cupp A unit, Mayfield, Southwest Field, Beckham County, Okla.	[3 19] 152.2801¢	14.65
CI77-203..... (G-10801) B 1-3-77	Diamond Shamrock Corp., P.O. Box 631, Amarillo, Tex. 79173.	Northern Natural Gas Co., Clark and Comanche Counties, Kans.	(20)	(20)
CI77-204..... A 1-3-77	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	Transcontinental Gas Pipe Line Corp., Bear Field, Beauregard Parish, La.	[11 21 22] 62.7926028¢	15.025
CI77-205..... (CS72-21) B 1-3-77	Earlsboro Oil & Gas Co., Inc., 1380 1st National Center North, Oklahoma City, Okla. 73102.	Cities Service Co., Wakita Field, Grant County, Okla.	(23)	.....
CI77-206..... (CS72-21) B 1-3-77	do	Arkla Gas Co., Southeast Lamont Field, Grant County, Okla.	(24)	(24)
CI77-207..... (CS72-21) B-1-3-77	do	Cities Service Gas Co., Wakita Field, Grant County, Okla.	(23)	.....

[1] Nonproductive.
[2] Reclassification of well from gas to oil.
[3] Subject to adjustments pursuant to opinion No. 770, as amended.
[4] Applicant states that the acreage was erroneously included in exhibit A-1 of gas purchase contract dated May 22 1975.
[5] Depleted.
[6] Subject to 2.1705¢ downward Btu adjustment.
[7] Includes 11.6757¢ tax reimbursement, plus 1¢ escalation per quarter.
[8] Includes 7¢ tax reimbursement and 0.5100¢ gathering.
[9] Price prior to Jan. 1, 1977.
[10] Price effective Jan. 1, 1977.
[11] Subject to upward and downward Btu adjustment.
[12] Includes 0.9946¢ gathering.
[13] Includes 100-pct tax reimbursement.
[14] Applicant and purchaser are affiliated.
[15] Plus 7.077¢ tax reimbursement, minus 1.408¢ Btu adjustment based on Btu content of 986.
[16] Depletion of reserves.
[17] Plus 1¢ escalation per quarter.
[18] Depletion of gas reserves.
[19] Includes 143.2181¢ base rate, plus 10.9207¢ tax reimbursement, and an estimated Btu adjustment of −1.8368¢ per 1,000 ft³.
[20] Reservoir has been depleted.
[21] Includes 54.0614¢ base rate, 7¢ tax reimbursement, 1.221228¢ Btu adjustment and 0.51¢ gathering.
[22] Contracts for sale of natural gas in interstate commerce for gas from wells commenced prior to Jan. 1, 1973, and not previously sold in interstate commerce prior to Jan. 1, 1973, except pursuant to the provisions of sec. 2.68, 2.70, 157.22 or 157.29.
[23] Applicant unable to buck high-pressure gas line; uneconomical to set compressor. Connection changed to Sun Oil Co.'s low pressure line going through their gasoline plant with the residue gas being purchased by Cities Service Co.
[24] Well ran dry.

[FR Doc.77-2808 Filed 1-28-77;8:45 am]

FEDERAL TRADE COMMISSION

DIRECTORS OF THE BUREAUS OF COMPETITION, CONSUMER PROTECTION PROTECTION AND ECONOMICS

Delegation of Authority

On June 23, 1976, the United States Government and the Federal Trade Commission entered into a Restrictive Business Practices ("RBP") Cooperation Agreement with the Federal Republic of Germany, ____ U.S.T. ____, T.I.A.S. No. 8291. That agreement, which amounts to mutual reinforcement of the antitrust law enforcement agencies of the United States and those of the Federal Republic of Germany, went into force on September 11, 1976, and provides, inter alia, that any party may request information from any other party in connection with RBP law enforcement or studies relating to RBP's.

Pursuant to the authority provided by Reorganization Plan No. 4 of 1961 (26 F.R. 6191, 75 Stat: 837), the Commission announces that it has delegated to the Directors of the Bureaus of Competition, Consumer Protection and Economics the authority to make any future information requests pursuant to the above agreement which may be necessary in the conduct of any investigation or other official Commission business to the Government of the Federal Republic of Germany on behalf of the Commission, subject to the concurrence of the General Counsel. The General Counsel was authorized to make necessary liaison with the Department of State to facilitate the processing of all such requests.

By direction of the Commission dated January 19, 1977.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-2947 Filed 1-28-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

IMMUNIZATION PRACTICES ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Center for Disease Control announces the following Committee meeting:

Name: Immunization Practices Advisory Committee.
Dates and time: February 10-11, 1977, 8:30 a.m.
Place: Room 207, Building 1, Center for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333.
Type of Meeting: Open.
Contact person: H. Bruce Dull, M.D., Executive Secretary of Committee, Building 1, Room 2118, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Phone: AC/404 633-3311, Extension 3701, FTS: 236-3701.
Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents for public health practice.
Agenda: The Committee will continue its review of existing recommendations on vaccines of public health importance and proceed with their updating.

At the recent emergency meetings on influenza, time was not scheduled for the Committee to review other vaccine recommendations. It is now necessary for the Committee to meet at the earliest possible date for purposes outlined in the agenda; therefore, the usual requirement for 15 days' advance notice of this meeting is not possible.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: January 26, 1977.

WILLIAM C. WATSON, Jr.,
Acting Director,
Center for Disease Control.

[FR Doc.77-3073 Filed 1-28-77;8:45 am]

Office of Education

ADVISORY COUNCIL ON DEVELOPING INSTITUTIONS

Public Meeting

JANUARY 26, 1977.

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the Advisory Council on Developing Institutions will be held

March 4, 1977, from 9:00 a.m. to 4:00 p.m. in Room 5636, Regional Office Building 3, 7th & D Streets, S.W., Washington, D.C.

The Advisory Council on Developing Institutions was established by Title III of the Higher Education Act of 1965, as amended. The Council is governed by the provisions of Part D of the General Education Provisions Act and of the Federal Advisory Committee Act (Pub. L. 92-463). The Council shall assist the Commissioner in identifying the characteristics of developing institutions through which the purpose of Title III may be achieved, and in establishing the priorities and criteria to be used in making grants under section 304(a) of that Title.

The meeting of the Council shall be open to the public. The meeting will be devoted entirely to the next Annual Report of the Council.

Records shall be kept in the form of the Council's Annual Report. Copies of the Annual Report will be available at a later date to the public at the Office of the Director of the College and University Unit, BPE, located in Room 3036, ROB, 7th & D Streets, S.W.

Signed at Washington, D.C. on January 26, 1977.

PRESTON VALIEN,
Office of Education
Delegate to the Council.

[FR Doc.77-2959 Filed 1-28-77;8:45 am]

TITLE I AUDIT APPEAL

Acceptance of Application for Appeal

Notice is hereby given that, pursuant to the notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972, as amended by 41 FR 28568, July 12, 1976), an application for an appeal before the Board has been received from the State of New Jersey and it has met the jurisdictional requirements of section 5 of the notice establishing the Board.

The appeal involves the allowability of specified expenditures of funds under Title I of the Elementary and Secondary Education Act during the period September 1, 1970, through August 31, 1973. The sum of $1,161,917 is sought for recovery on the grounds that Newark, a local education agency, used Title I funds in schools which did not mean the eligibility requirements established in Federal regulations. The Audit Control Number is 50006-02.

The prehearing conference will be held at 10:30 a.m. on March 3, 1977, in Room 4173, 400 Maryland Avenue, S.W. Washington, D.C.

Section 7(c) of the Notice setting up the Board provides:

(c) Intervention by third parties. (1) Interested third parties may, upon application to the Board Chairman, intervene in proceedings conducted under this notice. Such application must indicate to the satisfaction of the Board Chairman that the intervener has information relative to the specific issues raised by the final audit determination and that such information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, such parties shall be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to cross-examine other witnesses, and to be represented by counsel.

All such applications for intervention will be considered if received on or before February 14, 1977.

(20 U.S.C. 241a, 1232c.)

(Catalog of Federal Domestic Assistance Number 13.428, Educationally Deprived Children—Local Educational Agencies.)

Dated: January 25, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner
of Education.

[FR Doc.77-2977 Filed 1-28-77;8:45 am]

TITLE I—AUDIT APPEAL

Acceptance of Application for Appeal

Notice is hereby given that, pursuant to the notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972, as amended by 41 FR 28568, July 12, 1976), an application for an appeal before the Board has been received from the State of New Mexico and it has met the jurisdictional requirements of section 5 of the notice establishing the Board.

The appeal involves the allowability of specified expenditures of funds for programs under Title I of the ESEA during the period March 28, 1967, through August 31, 1971. The U.S. Office of Education seeks to recover $157,587 from New Mexico for allegedly inappropriate expenditures of Title I migrant funds in the local educational agencies of Gadsden, Las Cruces, Clovis, Roswell, Hutch Valley, Espanola and Las Vegas. The issues involve the eligibility of participating children, the appropriateness of project design, and the adequacy of certain administrative and accounting procedures. The Audit Control Number is 20093-06.

The prehearing conference will be held at 10:30 a.m. on March 31, 1977, in Room 4173, 400 Maryland Avenue, S.W., Washington, D.C.

Section 7(c) of the notice setting up the board provides:

(c) Intervention by third parties. (1) Interested third parties may, upon application to the Board Chairman, intervene in proceedings conducted under this notice. Such application must indicate to the satisfaction of the Board Chairman that the intervener has information relative to the specific issues raised by the final audit determination and that such information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, such parties shall be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to cross-examine other witnesses, and to be represented by counsel.

All such applications for intervention will be considered if received on or before March 15, 1977.

(20 U.S.C. 241a, 1232c.)

Dated: January 25, 1977.

WILLIAM F. PIERCE,
Acting United States
Commissioner of Education.

(Catalog of Federal Domestic Assistance Number 13.428, Educationally Deprived Children—Local Educational Agencies.)

[FR Doc.77-2978 Filed 1-28-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

DRAFT COLSTRIP ENVIRONMENTAL IMPACT STATEMENT

Intent To Prepare Draft Environmental Statement

Notice of intent to file an environmental statement is hereby given by the Bonneville Power Administration (BPA), 1002 NE. Holladay Street, Portland, Oregon 97232.

Bonneville Power Administration has been designated by the Secretary of the Interior to act as lead bureau within the Department of the Interior for the preparation of the environmental impact statement on the Federal actions related to the Colstrip Project. The environmental statement will cover the impacts from the Federal action associated with the coal supply, the power plant, the water supply, and the transmission system that make up the Colstrip Project.

Suggestions, comments, and observations are solicited during this period for consideration in preparation of the draft environmental statement.

Upon filing of the draft environmental statement with the Council on Environmental Quality (CEQ), comments will be received on the draft statement itself. Tentatively, the draft environmental statement is now planned for filing with the CEQ in September 1977.

For additional information on the Colstrip EIS, contact the BPA Kalispell District Office, telephone (406) 755-6202.

Dated: January 19, 1977.

DONALD PAUL HODEL,
Administrator.

[FR Doc.77-2926 Filed 2-8-77;8:45 am]

Fish and Wildlife Service

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 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant. Glenn C. Yoder, Route 1, Box 34A, Topeka, Indiana 46571.

OMB NO. 42-R1835

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Please only one)

☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.

Permit for buying and selling all pheasants on "T (C/P) list.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)

Glenn C. Yoder
Rt. 1 Box 34A
Topeka , Indiana 46571

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

☒ MR. ☐ MRS. ☐ MISS ☐ MS.

HEIGHT	WEIGHT
5' 8"	150

DATE OF BIRTH	COLOR HAIR	COLOR EYES
2/13/49	brown	brown

PHONE NUMBER (INCLUDE AREA CODE) 219/593-3839

SOCIAL SECURITY NUMBER 314-52-2120

OCCUPATION
Carpenter

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY OR INSTITUTION, COMPLETE THE FOLLOWING:

EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED

To and from my farm.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)

23-4778

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)

9. CERTIFIED CHECK OR MONEY ORDER (if required) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE
Oct.1 /76

11. DURATION NEEDED
2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT INDICATED (See 50 C.F.R. 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

17.33 Permit-captive self-sustaining population

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.

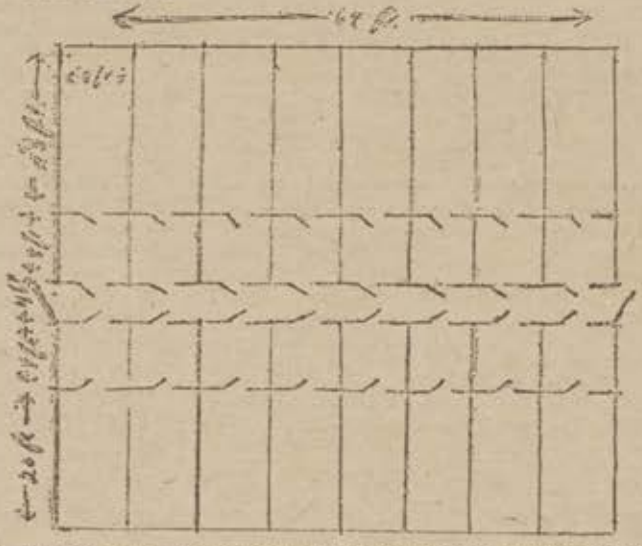
SIGNATURE (In ink)	DATE
Glenn C Yoder	7/20/76

3-200
(6/76)

GPO 838-042

(1) Pheasant, Brown-eared Crossoptilon mantchuricum
Pheasants, Edwards Lophura edwardsi
Pheasant, Humes (Bar-tailed) Syrmaticus humiae
Pheasant, Mikado Sayrmaticus mikado
Pheasant, Palawan peacock Polyplectron emphanum
Pheasant, Swinhoe Lophura swinhoii
Pheasant, White-eared Crossoptilon crossoptilon
Also all pheasants that might be added later.
For buying and selling in interstate commerce.

(2) All my birds are housed in new building 20'X 64' with runs inside and outside.



(3) I have been raising many kinds of pheasants for four years.

(4) I would be willing to participate in a cooperative breeding program, and to maintain or contribute data to a studbook.

(5) Birds would be shiped in heavy duty cardboard boxes with plenty of vent holes cut in. Boxes will be big enough so birds have plenty of room. Container of water, lettuce, and apple will be put in box.

(6) The birds I have lost were young birds from of good brooding conditions. And some older birds lost to predators. Inow have new brooder house and breeding pens that are predator proof.

(7) (i) Buying and selling in interstate commerce.
(ii) Birds would be sold to persons with permit.

GLENN C. YODER,
Rt. 1 Box 34A,
Topeka, Indiana 46571.

DEAR MR. HESTER: This letter is in regards to more information you required on my application.

(1) The following are pheasants I have raised, Blue Eared, Impeyans, Amherst, Golden, and Reeves. I have been raising these pheasants for over 5 years.

(2) Shipping containers are heavy duty cardboard boxes with large holes, covered with mesh wire for light and ventilation. Boxes will be large enough for birds to move around in freely. Water container will be wired to box.

Most of the birds would be shipped and received by United Air Lines. Transportation takes from 6 hrs. to not more than 36 hrs. Other birds would be picked up and delivered personally.

(3) The reason I feel I would be justified in obtaining a permit is to get unrelated birds to prevent inbreeding. Inbreeding can soon destroy these beautiful birds.

(4) Activities I seek to have authorized by permit is to buy and sell captive self-sustaining species any were in the United States.

Sincerely.

GLEN C. YODER.

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 Room 512, 1717 H 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/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-301-25; please refer to this number when submitting comments. All relevant comments received on or before March 2, 1977, will be considered.

Dated: January 14, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc. 77-2985 Filed 1-28-77;8:45 am]

Bureau of Land Management

[Nev-036338]

NEVADA

Modification of Request for Renewal, in Part, of Withdrawn Lands and Request for Withdrawal of Additional Lands

JANUARY 18, 1977.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, the notice published in the FEDERAL REGISTER, Doc. 76-13198, at page 18690 of the issue for May 6, 1976, is modified to include the following paragraph:

All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, on or before March 2, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

Bureau of Land Management, 3008 Federal Building, 300 Booth Street, Reno, Nevada 89509.

WM. J. MALENCIK,
Chief,
Division of Technical Services.

[FR Doc.77-2923 Filed 1-28-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 76-37]

UMBLES' DREW-HALE PHARMACY, INC.

Hearing

Notice is hereby given that on September 9, 1976, the Drug Enforcement Administration, Department of Justice, issued to Umbles' Drew-Hale Pharmacy, Inc., Toledo, Ohio an Order to Show Cause as to why the Drug Enforcement Administration should not deny the applications for Registration under the Controlled Substances Act of 1970, of the Respondent executed on April 24, 1975 and April 14, 1976, pursuant to Section 303 of the Controlled Substances Act (21 U.S.C. 823).

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on February 15, 1977 in the Hearing Room, Room 1210, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C.

Dated: January 26, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-2966 Filed 1-28-77;8:45 am]

LEGAL SERVICES CORPORATION

Grants and Contracts

JANUARY 25, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *"

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Greater Orlando Area Legal Services for Orange County, Florida.

2. Legal Aid Service of Broward County for Broward County, Florida.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Atlanta Regional Office, 615 Peachtree Street, N.E., Room 503, Atlanta, Georgia 30308.

THOMAS EHRLICH,
President.

[FR Doc.77-2957 Filed 1-28-77;8:45 am]

NATIONAL STUDY COMMISSION ON RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS

MEETING

Pursuant to Subsection 10(a) of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the National Study Commission on Records and Documents of Federal Officials will meet on February 17, 1977 at 9:30 a.m., in Room 105 of the National Archives Building, Pennsylvania Avenue at 8th Street, N.W., Washington, D.C.

Purpose: The Commission was established under Title II of the Presidential Recordings and Materials Preservation Act (Pub. L. 93-526; 88 Stat. 1698; 44 U.S.C. 3315 et seq.) to study problems involving the control, disposition, and preservation of records and documents produced by or on behalf of Federal officials.

Agenda: The purpose of the meeting is to review and discuss the preliminary policy decisions for the final report of the Commission.

The meeting will be open to the public. Individuals are welcome to attend to the extent of available space.

Dated: January 26, 1977.

HERBERT BROWNELL,
Chairman.

[FR Doc.77-2963 Filed 1-28-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR RESEARCH, TASK GROUP NO. 16

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Task Group #16 of the Advisory Committee for Research.

Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Date: February 18, 1977, 9 a.m. each day.

Type of meeting: Open.

Contact person: Mr. Leonard P. Gardner, Executive Secretary, Advisory Committee for Research, National Science Foundation, Room 307, Washington, D.C. 20550, Telephone (302) 632-4278.

Purpose of Task Group: The purpose of the Task Group, composed of members of the Advisory Committee for Research, is to provide the full Committee with a mechanism to consider numerous issues of interest to the Committee that have been assigned by the National Science Foundation.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Div. of Pers. and Mgmt., Rm. 248, National Science Foundation, Washington, D.C. 20550.

Tentative agenda: *February 18.* To consider the determinants of academic faculty salaries and the extent to which they may be influenced by the awarding of Federal research grants.

Dated: January 26, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-3017 Filed 1-28-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

INTERNATIONAL ATOMIC ENERGY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operations and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA odes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the member states.

As a part of this program, Safety Guide, SG–S4, "Site Selection and Evaluation for Nuclear Power Plants With Respect to Population Distribution," is being developed. The Working Group draft of this Safety Guide was modified by the IAEA Technical Review Committee on Siting which met in September 1976, and we are soliciting public comments on this modified draft. Comments on this draft received by April 1, 1977 will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a).)

Dated at Rockville, Md., this 18th day of January 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc.77-2769 Filed 1-28-77;8:45 am]

[Docket No. P–564–A]

PACIFIC GAS & ELECTRIC CO., (STANISLAUS NUCLEAR PROJECT, UNIT NO. 1)

Memorandum and Order Resetting Oral Argument

The Petitioner for Intervention Northern California Power Agency (NCPA) has moved that the oral argument set for January 25, 1977 with regard to the outstanding petitions to intervene be continued until February 8, 1977. The basis for the motion is the unavailability of counsel and the necessity for time to analyze the recent Initial Decision of an Atomic Safety and Licensing Board in "Toledo Edison Company, et al.", (Davis-Besse Nuclear Power Station, Units 1, 2 and 3), Docket Nos. 50–364A, et al. NCPA indicates that the Applicant, the Regulatory Staff and the other Petitioners have consented to the requested continuance.

Since good cause has been shown, the Board hereby grants the NCPA motion for change of date for oral argument on the petitions to intervene.

Accordingly, notice is hereby given that oral argument on the outstanding petitions to intervene in this proceeding is rescheduled from January 25, 1977 until 10:00 a.m. on February 8, 1977 at the 5th Floor Hearing Room, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland 20014.

Dated at Bethesda, Md., this 19th day of January 1977.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.77-2770 Filed 1-28-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.68, Revision 1, "Initial Test Programs for Water-Cooled Reactor Power Plants," describes the general scope and depth of initial test programs acceptable to the NRC staff for water-cooled reactor power plants. Appendix A provides a representative listing of plant structures, systems, components, design features, and performance capability tests that should be demonstrated during the initial test program. Appendix B provides information on NRC inspections relating to initial test programs. Appendix C provides guidance on the preparation of initial test programs. This guide, originally published in November 1973, was extensively revised to incorporate improvements in the conduct of initial test programs. The revision is based on experience gained during the implementation of the original version of the guide.

Separate regulatory guides providing more detailed guidance in the conduct of initial test programs for specific systems are developed as considered necessary. Such guides are now being designated as Regulatory Guide 1.68. X series guides.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.68, Revision 1, will, however, be particularly useful in evaluating the need for an early revision if received by March 28, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 24th day of January 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc.77-2772; Filed 1-28-77;8:45 am]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Facility Operating License No. DPR–3, issued to Yankee Atomic Electric Company (the licensee), which revised Technical Specifications for op-

eration of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment changes the "Core XII Allowable Peak Rod LHGR versus Exposure" in Figure 3.2–1 in the Technical Specifications. The changes are based on the results of the revised ECCS performance analysis submitted in compliance with NRC's Order for Modification of License dated August 27, 1976. The changes are also based on an acceptable correction in the evaluation model that precludes the use of a nucleate boiling heat transfer correlation during blowdown after CHF has been predicted, in response to the request in our letter dated December 10, 1976.

Concurrent with the change in the Technical Specifications, this amendment terminates NRC's August 27, 1976 Order for Modification of License.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice is a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 8, 1976 as supplemented December 27, 1976, (2) Amendment No. 34 to License No. DPR–3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Greenfield Public Library, 422 Main Street, Greenfield, Massachusetts 01581. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 10th day of January 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-2771 Filed 1-28-77;8:45 am]

[Docket Nos. 50-424, 50-425]

GEORGIA POWER CO.

Issuance of Amendments to Construction Permits Nos. CPPR–108 and CPPR–109

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) pursuant to a Supplemental Initial Decision dated January 11, 1977, has issued Amendment No. 1 to Construction Permits Nos. CPPR–108 and CPPR–109 issued to Georgia Power Company for the contruction of Alvin W. Vogtle Nuclear Plant, Units 1 and 2, respectively. These units are pressurized water reactors and are located in Burke County, Georgia. The amendments are effective as of the date of issuance.

The amendments reflect a change in ownership of Alvin W. Vogtle Nuclear Plant, Units 1 and 2. As a result of the change, Oglethorpe Electric Membership Corporation (OEMC), and the Municipal Electric Authority of Georgia (MEAG) will acquire interests in the ownership of the facilities. The Georgia Power Company will retain sole responsibility for overall planning, design, construction, operation, maintenance and disposal of the facilities. In addition, the amendments extend the latest dates for completion of construction of Units 1 and 2.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the construction permit amendments. Notice of supplemental hearing on proposed amendments to construction permits in connection with this action was published in the FEDERAL REGISTER on September 8, 1975 (40 FR 41568).

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement need not be prepared in connection with issuance of these amendments. A Negative Declaration supporting change of ownership interest and extension of dates for completion of construction was published in the FEDERAL REGISTER on November 26, 1976 (41 FR 52111).

For further details with respect to this action, see (1) the application for amendments dated July 15, 1975, as amended on December 15, 1975, and September 16, 1976; (2) Supplemental Initial Decision dated January 11, 1977, (3) Amendment No. 1 to Construction Permit No. CPPR–108, and (4) Amendment No. 1 to Construction Permit No. CPPR–109. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Burke County Public Library, 4th Street, Waynesboro, Georgia 30830.

A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 24th day of January 1977.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc.72-2792 Filed 1-28-77;8:45 am]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operations, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the member states.

As a part of this program, Safety Guide, SG–G4, "Inspection and Enforcement by the Regulatory Body," has been developed and the NRC staff is soliciting comments on this Guide from the U.S. public.

An IAEA Working Group consisting of Mr. N. Hoffmeister of Germany, Mr. V. K. Razdan of India and Mr. K. S. Pedersen (U.S. Nuclear Regulatory Commission) of the United States developed the draft from an IAEA collation during a meeting that was held in Vienna, Austria on October 11–22, 1976.

As the next step in its development the draft Safety Guide is scheduled to be reviewed by the IAEA Technical Review

Committee on Government Organization at a meeting in Vienna, Austria in May 1977. Comments received by March 15, 1977 will be useful to this review. Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Md., this 18th day of January 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc.77-2793 Filed 1-28-77;8:45 am]

[Docket Nos. STN 50-556, STN 50-557]

PUBLIC SERVICE COMPANY OF OKLAHOMA, ASSOCIATED ELECTRIC COOPERATIVE, INC. AND WESTERN FARMERS ELECTRIC COOPERATIVE, INC. (BLACK FOX, UNITS 1 AND 2)

Third Prehearing Conference

Notice is hereby given that the Third Prehearing Conference in the above-identified proceeding will be held at 10:00 a.m. on Tuesday, February 15, 1977, in Courtroom No. 3, U.S. District Courthouse, 333 W. 4th Street, Tulsa, Oklahoma 74103.

This Third Prehearing Conference will be held by the Atomic Safety and Licensing Board (the Board) established to conduct this licensing proceeding, which involves an application for construction permits for two nuclear reactors designated as the Black Fox Station, Units 1 and 2, which are proposed to be built in Oklahoma. The Third Prehearing Conference will deal with the following matters:

(1) Oral argument on all outstanding petitions to intervene;
(2) Oral argument on all outstanding motions;
(3) Discussion of the status of discovery;
(4) Discussion of the status of the schedule for the proceeding; and
(5) Such other matters as may aid in the orderly disposition of the proceeding.

The currently admitted parties have advised the Board that the proposed schedule[1] submitted at the Second Prehearing Conference is acceptable and the Board, therefore, adopts that schedule until modified by further order of the Board.

Members of the public are invited to attend this prehearing conference as well as the evidentiary hearing which will be held at a later date. Members of the public wishing to make limited appearances pursuant to § 2.715(a) of the Commission's rules of practice may identify themselves at this conference but oral or written statements to be presented will not be received at this conference. The Board will receive such limited appearances at the beginning of the evidentiary hearing.

Issued this 24th day of January 1977, at Bethesda, Maryland.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.77-2794 Filed 1-28-77;8:45 am]

[1] This proposed schedule is Exhibit A to the Board's Second Prehearing Conference Order and was distributed with the Board's Memorandum and Order of January 18, 1977.

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REGULATORY ACTIVITIES

Meeting; Addition to Agenda

The agenda for the February 9, 1977 meeting of the ACRS Subcommittee on Regulatory Activities has been changed as follow:

(B) *11:00 a.m. until the close of business.* (Open).

Add: (2) Evaluation of the integrity of reactor vessels designed to ASME Code, Sections I and/or VIII, as discussed in NUREG-0081, dated June 1976.

All other items remain the same.

Notice of this meeting was published in FEDERAL REGISTER, Vol. 42, January 24, 1977, page 4226.

Dated: January 25, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-3046 Filed 1-28-77;8:45 am]

FEDERAL ADVISORY COMMITTEES

Renewal

In accordance with section 14 of Pub. L. 92-463 (Federal Advisory Committee Act) the Nuclear Regulatory Commission has determined that renewal of the Advisory Committee on Medical Uses of Isotopes for the period February 1, 1977, through February 1, 1979, is necessary and in the public interest. A new charter for this Committee has been filed in accordance with sections 9 and 14 of Pub. L. 92-463.

A new charter has also been filed for the Advisory Committee on Reactor Safeguards, which was established by the Atomic Energy Act of 1954, as amended, (Pub. L. 83-703), the duration of which is of a continuing nature.

Dated: January 26, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-3047 Filed 1-28-77;8:45 am]

BRIEFING ON PLUTONIUM PACKAGING, AND EARLY SITE REVIEWS FOR PLANNED NUCLEAR FACILITIES

Notice of Meeting

Notice is hereby given that the Nuclear Regulatory Commission will hold the following meetings on February 3, 1977:

2 p.m. ..... Briefing on plutonium packaging.
3:30 p.m. ..... Early site reviews for planned nuclear facilities (policy session).

These meetings are being held open to public observation as an initial step in the Commission's implementation of the Government in the Sunshine Act which goes into effect March 13, 1977.

The meetings will be held in the Commissioners' Conference Room, Room 1115, 1717 H Street NW., Washington, D.C. For further information, contact Walter Magee, Office of the Secretary, telephone: 634-1410.

Dated this 28th day of January 1977, at Washington, D.C.

For the Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-3133 Filed 1-28-77;9:34 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19857]

ALABAMA POWER CO.

Proposed Issuance of Promissory Notes To Finance Pollution Control Facilities

JANUARY 24, 1977.

Notice is hereby given that Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, an electric utility subsidiary company of The Southern Company, a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 9(a) and 12(d) of the Act and Rule 44(b)(3) promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration which is summarized below for a complete statement of the proposed transaction.

Alabama states that in order to comply with prescribed air and water quality control standards of the State of Alabama it has been and will be necessary to construct certain pollution control facilities. The filing relates to Alabama's proposal for its disposition and acquisition of the pollution control facilities for use in connection with its Miller Steam Plant (the "Plant") located in Jefferson County, Alabama. By agreement dated September 4, 1972, and supplement thereto dated July 17, 1975, between The Industrial Development Board of the Town of West Jefferson, Alabama (the "Board") and Alabama, the Board will issue its pollution control revenue bonds for paying the cost of the construction and equipping of the pollution control facilities at the Plant (the "Project").

Alabama proposes to enter into an Installment Sale Agreement ("Agreement") with the Board which will provide for the acquisition and completion of the Project by the Board and the issuance by the Board of its pollution con-

trol revenue bonds (the "Revenue Bonds") in a principal amount estimated not to exceed $50,000,000 to cover a portion of the cost of construction of the Project. The proceeds of the sale of the Revenue Bonds will be deposited by the Board with the trustee ("Revenue Trustee") under an indenture ("Revenue Indenture") to be entered into between the Board and the Revenue Trustee pursuant to which the Revenue Bonds are to be issued and secured. Such proceeds will be applied to payment of the cost of construction of the Project. The Agreement also will provide for the sale of the Project to Alabama, the payment by Alabama of the purchase price for the Project in semi-annual installments over a term of years, and the assignment to the Revenue Trustee of the Board's interest in, and of the moneys receivable by the Board under the Agreement. The Agreement will provide that the purchase price for the Project, including interest thereon, payable by Alabama will be such amount as shall be sufficient (together with other moneys held by the Revenue Trustee for that purpose) to pay the principal of and premium (if any) and interest on the Revenue Bonds as the same become due and payable. The Agreement will also obligate Alabama to pay the fees and charges of the Revenue Trustee. To secure its obligations under the Agreement, Alabama proposes to grant to the Board a security interest in the Project subordinate to the lien of the Indenture dated as of January 1, 1942, between Alabama and Chemical Bank, as Trustee, as supplemented and amended, such subordinated security interest to be assigned by the Board to the Revenue Trustee along with the assignment by the Board of its other interests under the Agreement.

The Agreement will provide that Alabama may at any time prepay the purchase price for the Project, including interest thereon, in whole or in part (at the option of Alabama), such payment to be sufficient to redeem or purchase the outstanding Revenue Bonds in the manner and to the extent provided in the Revenue Indenture, including applicable premiums which will be 3% of the principal amount in the eleventh year and which will reduce by ½ of 1% annually thereafter.

The Agreement will provide that Alabama may prepay the purchase price for the Project, including interest thereon, in whole at the option of Alabama in certain cases of undue burdens or excessive liabilities imposed with respect to the Project, its destruction or damage beyond practicable or desirable repairability and condemnation or taking by eminent domain, or if operation of the Plant is enjoined and Alabama determines to discontinue operation thereof, such redemptions to be at the principal amount plus accrued interest, but without premium. The Revenue Bonds will mature not later than 30 years from the first day of the month in which they are initially issued and will include serial maturities and/or the benefit of a mandatory redemption sinking fund, the effect of either to be calculated to retire not less than 25% of the aggregate principal amount of the issue prior to final maturity.

In order to comply with the applicable laws of the State of Alabama it will be necessary for Alabama to convey to the Board such portions of the Project as are now owned by Alabama ("Existing Facilities") subject to said Indenture between Alabama and Chemical Bank. Under the Agreement, Alabama will receive, out of the proceeds of the Revenue Bonds, an amount equal to Alabama's original cost for the existing facilities, including amounts advanced by Alabama to the Board on account of any cost of construction. The existing facilities will thereupon become a part of the Project which is to be completed by the Board and which Alabama proposes to purchase as provided in the Agreement.

It is contemplated that arrangements will be made by the Board with one or more investment bankers for the sale of the Revenue Bonds. In accordance with the laws of the State of Alabama, the interest rate to be borne by the Revenue Bonds will be fixed by the Board. Alabama will not be party to the underwriting agreement for the Revenue Bonds. Bond counsel will issue an opinion that interest on the Revenue Bonds presently is exempt from Federal income taxation. Alabama has been advised that the annual interest rates on obligations, the interest on which is tax exempt, historically have been and can be expected at the time of issue of the Revenue Bonds, to be 1½% to 2½% lower than the rates of obligations of like tenor and comparable quality, interest on which is fully subject to Federal income taxation.

The fees and expenses to be incurred in connection with this transaction will be supplied by amendment. The Alabama Public Service Commission has approved the issuance of the pollution control obligations under the Agreement by Alabama and that no other State commission or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than February 22, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations permitted under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-2943 Filed 1-28-77;8:45 am]

[Rel. No. 9617]

COLONIAL CONVERTIBLE & SENIOR SECURITIES, INC. ET AL.

Filing of Application For Exemption to Permit an Offer of Exchange

JANUARY 24, 1977.

In the matter of Colonial Convertible and Senior Securities, Inc., Colonial Growth Shares, Inc., The Colonial Fund, Inc., Colonial Income Fund, Inc., and Colonial Management Associates, Inc., 75 Federal Street, Boston, Massachusetts 02110 (812-4034).

Notice is hereby given that Colonial Convertible & Senior Securities Inc., Colonial Growth Shares, Inc., The Colonial Fund, Inc. and Colonial Income Fund, Inc. (the "Colonial Funds"), each of which is registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), and Colonial Management Associates, Inc. ("CMAI"), the investment adviser and principal underwriter for each of the Colonial Funds (collectively referred to as "Applicants"), filed an application on October 4, 1976, for an order of the Commission (1) pursuant to Section 11(a) of the Act to permit each of the Colonial Funds to offer its shares for shares of Standard & Poor's/Inter Capital Liquid Asset Fund, Inc. ("S&P") upon payment of a $5 exchange fee and (2) pursuant to Section 6(c) of the Act to exempt Applicant's from the provisions of Section 22(d) of the Act and the rules thereunder to the extent necessary to permit such an offer of exchange. 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

CMAI, as principal underwriter for each of the Colonial Funds, maintains a continuous public offering of the shares of each of the Colonial Funds at their respective net asset values plus a sales charge. Applicants state that on purchases of less than $10,000, the maximum sales charge is 8.50%, which is reduced on larger purchases; and there is no sales charge imposed on the reinvestment of dividends and capital gains from shares of any of the Funds.

According to the application, S&P, an open-end investment company registered under the Act, invests primarily in short-term money market instruments

and acts as its own distributor, and it imposes no sales or administrative charge in connection with the sale of its shares. Applicants assert that since the Colonial Funds impose no charge on redemption of their shares, a shareholder of any of the Colonial Funds may redeem his shares of any of the Colonial Funds and purchase shares of S&P (provided that the minimum initial investment in S&P shares is $1,000), without payment of any redemption or sales charges, except that a $5 service fee is charged by Bradford Trust Company of Boston ("Bradford"), the transfer and shareholder services agent for each of the Colonial Funds.

Applicants propose to permit an S&P shareholder to exchange shares of S&P acquired either (1) by investing the net proceeds from a redemption of shares of any of the Colonial Funds (the "redeemed Fund") and held for such shareholder in a Colonial Exchange Account in the name of such shareholder at S&P, or (2) by the reinvestment of income dividends and capital gain distributions paid on all S&P shares held in such Account, for shares of the redeemed Fund, in either case without the imposition of the customary sales charge described in the prospectus of the redeemed Fund (hereinafter referred to as the "Exchange Privilege"). S&P shares acquired in any other manner than as described above would not qualify for the Exchange Privilege.

The participant in a Colonial Exchange Account would be able to exercise his Exchange Privilege at any time by instructing S&P to redeem shares of S&P in his Colonial Exchange Account and apply the redemption proceeds to the acquisition of shares of the redeemed Fund. No charge on the exchange of S&P shares for shares of the redeemed Fund will be imposed by S&P or Applicants. The Exchange Privilege will not be available to the proceeds from a redemption of S&P shares which are paid directly to the investor. Each of the Colonial Funds and S&P have reserved the right to establish a limit on the number of exchanges pursuant to the Exchange Privilege which any investor may make within a certain period. The Exchange Privilege will be subject to termination by each of the Colonial Funds or S&P on not less than six months' prior written notice to holders of such Fund or Funds' Colonial Exchange Accounts. An investor maintaining a Colonial Exchange Account will receive the current prospectuses of both S&P and the redeemed Fund provided he remains entitled to the Exchange Privilege. The Exchange Privilege will lapse for an investor if his account balance of shares of the redeemed Fund shows a zero balance for a period of three consecutive years.

Section 11(a) provides, in part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at current offering prices described in the prospectus.

Applicants view the Exchange Privilege as an integrated arrangement, exercisable only by an investor who initially acquires S&P shares by first redeeming his shares of a Colonial Fund and applying the proceeds therefrom to the purchase of S&P shares. Therefore, Applicants submit that an exercise of the Exchange Privilege may be deemed an exchange on a basis other than the relative net asset values of the shares since the $5 service charge would have been imposed on the initial acquisition of S&P shares by application of the proceeds of the redemption of shares of the redeemed Fund.

Applicants state that the Exchange Privilege might also violate Section 22(d) of the Act since an investor would be able to purchase shares of the redemed Fund without the customary sales charge described in such Fund's prospectus. Applicants state that, because any investor eligible for the Exchange Privilege will have initially been an investor in shares of the redeemed Fund and will continue to receive current prospectuses of such Fund while he holds a Colonial Exchange Account with S&P, no additional sales efforts will be incurred by CMAI in connection with the reacquisition of shares of such Fund, and that no sales charge should be imposed on the investor in connection with his reacquisition of shares of the redeemed Fund. Applicants represent that the $5 service charge will defray the administrative costs involved in each exchange. It is asserted that the Exchange Privilege will not enable any investor to avoid payment of the applicable sales charge on his original investment in shares of any of the Colonial Funds.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any class of transactions from any provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given, that any interested person may, not later than February 17, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter, accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-2946 Filed 1-28-77;8:45 am]

[Rel. No. 19856]

INDIANA & MICHIGAN ELECTRIC CO.

Proposed Issue and Sale of Notes to Banks and Dealers in Commercial Paper and Request for Exception From Competitive Bidding

JANUARY 24, 1977.

Notice is hereby given that Indiana & Michigan Electric Company ("I&M"), 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed with this Commission a third and fourth post-effective amendment to its application previously filed in this proceeding pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rules 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

By orders dated June 30, August 2, and September 15, 1976 (HCAR Nos. 19598, 19655, and 19680), this Commission, among other things, authorized the issuance and sale of short-term notes by I&M to 38 banks with lines of credit in an aggregate amount of $189,595,000. By said orders, I&M was authorized to incur short-term borrowings through June 30, 1977, to mature no later than December 31, 1977, in an aggregate principal amount not to exceed $150,000,000 outstanding at any one time. This amount, date, and maturity were to be limited as allowable under I&M's Articles of Acceptance (20 percent of capitalization as defined therein, December 31, 1976, and

June 30, 1977 respectively). I&M was granted an exception from the competitive bidding requirements of Rule 50 in connection with the issuance of this short-term debt. Pursuant to order dated September 29, 1976 in proceeding 70-5887 (HCAR No. 19697), I&M called a special meeting of its cumulative preferred shareholders on October 13, 1976, at which time I&M was permitted, under its Articles of Acceptance, to issue short-term debt up to 20 percent of capitalization as defined therein, to December 31, 1980, with maturity no later than June 30, 1981.

By its third post-effective amendment, I&M proposes to incur such short-term debt in an aggregate amount not to exceed $175,000,000 outstanding at any one time. By its fourth post-effective amendment, I&M proposes to issue and sell such short-term notes to the 38 banks with lines of credit in an aggregate amount of $190,345,000. The authorization sought by the fourth post-effective amendment is to increase the line of credit available at the previously named American National Bank and Trust Company, South Bend, Indiana, from $500,000 to $750,000. The notes are to be issued from time to time prior to July 1, 1977, as funds may be required, provided that none of the notes, commercial paper, and demand notes to bank trust departments will mature later than December 31, 1977. As of January 13, 1977, I&M had short-term notes, including commercial paper and demand notes, outstanding in an aggregate amount of $143,838,000.

Each note payable to a bank to be issued by I&M will mature not more than 270 days after the date of issuance or renewal thereof, will bear interest at an annual rate of interest not greater than the prime rate of commercial banks in effect at the time of issuance or in effect from time to time and will be prepayable at any time without premium or penalty. In the case of most of the banks from which I&M proposes to borrow, sufficient bank balances to meet operating and financial needs are kept at such banks to satisfy any compensating balance requirements of such banks in connection with the borrowings. If the average of such bank balances were maintained solely in order to fulfill the prevailing compensating balance requirements of such banks, generally up to about 20 percent, the effective interest cost to I&M of issuance and sale of such notes to such banks would be approximately 1.6 percent above a prime comercial rate of 6¼ percent, or about 7.81 percent. In the case of those banks in which I&M does not maintain bank balances for operating and financial needs, I&M will be required to maintain compensating balances, generally 10 percent of the amount of the bank lines made available by such banks and additional compensating balances, generally 10 percent, of the amount of any borrowings. If the full amount were borrowed from these banks, the effective interest cost to I&M would be approximately 1.6 percent above a prime commercial rate of 6¼ percent, or about 7.81 percent. I&M will also file with the Commission, by post-effective amendment, lists of other banks not previously identified in filings with the commission in this proceeding to which it proposes to issue and sell notes, and no such notes will be issued and sold to such banks not previously identified prior to the issuance of a Supplemental Order by the Commission in connection therewith. Such post-effective amendments will also indicate the compensating balances, if any, required to be maintained in connection with such borrowings and the effective annual cost of the borrowings.

I&M also proposes to issue commercial paper in the form of promissory notes in denominations of not less than $50,000 nor more than $5,000,000, which will be of varying maturities, with no maturity more than 270 days after the date of issue and none will be prepayable prior to maturity. The commercial paper notes will be sold directly by I&M to Lehman Commercial Paper Incorporated (the "dealer") at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days if such commercial paper notes would have an effective interest cost which exceeds the effective interest cost at which I&M could borrow from banks. The dealer will reoffer the commercial paper notes to not more than 200 of the dealer's customers identified and designated in a nonpublic list prepared by the dealer in advance, at a discount rate of ⅛ of 1 percent per annum less than the discount rate to I&M. It is expected that such customers of the dealer will hold the commercial paper prior to maturity, but, if any such customer wishes to resell such commercial paper prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase such commercial paper sold by it and reoffer it to other customers on its nonpublic list.

I&M also proposes to issue and sell its demand notes to the trust departments of Fort Wayne National Bank, Fort Wayne, Indiana and Lincoln National Bank; Fort Wayne, Indiana, in the maximum amounts of $5,000,000 and $10,000,000, respectively. It is stated that the bank trust department have a flow of funds as fiduciaries for various accounts, which would be available for investment in such demand notes. These demand notes will be in the form of promissory notes in denominations of not less than $1,000 bearing an interest rate equivalent to the highest rate paid daily by General Motors Acceptance Corporation on its commercial paper with a maturity of less than 180 days. Notes issued from January 1 to June 30 will mature July 1 of the same year. The bank trust departments will have the right to demand payment at any time and I&M will have the right to repay at any time without penalty, all or part of the principal amount of such notes outstanding.

On January 13, 1977, the highest rate paid by General Motors Acceptance Corporation on its commercial paper with a maturity of less than 180 days was 4⅝ percent. This rate was approximately 1¼ percent less than the rate at which I&M was then able to issue commercial paper of comparable maturities and approximately 3 percent below the effective rate for bank borrowings based on a prime rate of 6¼ percent and compensating balances of 15 percent and 20 percent. It is stated that based on past experiences, the rate on these demand notes will consistently be lower than the comparable rates for commercial paper and bank borrowings including the effect of compensating balances.

The proceeds from the issue and sale of the notes will be used by I&M to reimburse its treasury for past expenditures made in connection with its construction program and to pay part of the cost of its future construction program. Such construction expenditures for the year 1977 are estimated at approximately $140,000,000, exclusive of the cost of the construction program of I&M's subsidiary, Indiana & Michigan Power Company. The estimate of this subsidiary's construction expenditures for the year 1977 is approximately $85,000,000.

I&M requests and claims exception from the competitive bidding requirements of Rule 50 for the proposed issuance of notes to banks and demand notes to bank departments pursuant to paragraph (a)(2) thereof. Additionally, I&M requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper and that current rates for commercial paper of prime borrowers such as I&M are published daily in financial publications.

No fees and expenses are expected to be incurred in connection with the proposed transactions. It is further stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 16, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application 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 applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended by said post-effective amendments or as it may be further amended, may be granted as provided in Rule 23 of the General Rules

and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-2944 Filed 1-28-77;8:45 am]

[Rel. No. 9618]

JOHN HANCOCK INVESTORS, INC.

Filing of Application for Exemption

JANUARY 24, 1977.

Notice is hereby given that John Hancock Investors Inc. ("Applicant"), 200 Berkeley Street, Boston, Massachusetts 02117, a closed-end investment company registered under the Investment Company Act of 1940 (the "Act"), filed an application on December 1, 1976, pursuant to Section 6(c) of the Act, for an order of the Commission exempting Applicant's holding of securities of Geneve Corporation from the provisions of Section 12(d)(3) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant had total assets, as of June 30, 1976, of approximately $128 million. On April 15, 1971, Applicant acquired, by direct placement, $2,000,000 of 7 percent Convertible Senior Notes due 1986 (the "Notes") of Geneve Corporation (now Genevco Capital Services, Ltd., hereinafter called "Geneve"), a Delaware corporation. In January of 1974, Geneve invested $7,000,000 in the firm of Torpie & Saltzman, Inc. ("Torpie"), a registered broker-dealer and a member firm of the National Association of Securities Dealers, Inc. At the same time an additional $7,000,000 was invested in Torpie by Cable Funding Corporation (a Delaware Corporation in which Geneve held a 45 percent stock interest). Applicant had no knowledge of these investments in Torpie until after they were made, and Applicant did not participate in the investment decisions. Notwithstanding its considerable efforts over the intervening period to sell the Notes, Applicant has been unable to find a purchaser willing to pay a fair price for them. Applicant states that the market for the Notes is limited because they are restricted securities, and because Section 12(d)(3) of the Act prevents any investment company from purchasing them. However, Applicant represents that it intends to continue its efforts to find a purchaser willing to pay a fair price for the Notes.

Section 12(d)(3) of the Act, in pertinent part, makes it unlawful for any registered investment company and any company or companies controlled by such registered investment company to purchase or otherwise acquire any security issued by, or any other interest in, certain proscribed categories of business, including a broker-dealer, such as Torpie unless certain conditions are met. In Investment Company Act Release No. 3542, dated September 21, 1962, the Commission set forth its view that Section 12(d)(3) of the Act is applicable to the acquisition by investment companies of interests in companies which, in turn, have an interest by stock ownership or otherwise in certain proscribed categories of business including brokers or dealers. In that Release, the Commission set forth its view that section 12(d)(3) of the Act is violated not only when a security of interest in a proscribed category of business is originally purchased or acquired by an Investment company, but also when investment companies, or controlled companies thereof, hold an interest in a portfolio company which thereafter acquires an interest in such a proscribed category of business. In the instant case, Applicant holds an interest in a portfolio company, Geneve, which, after the acquisition of such interest by Applicant, in turn acquired an interest in a broker-dealer, Torpie.

While Applicant does not concede that Section 12(d)(3) of the Act can be properly applied to this situation, the Applicant requests an order of the Commission, pursuant to Section 6(c) of the Act, exempting the Applicant's investment in the Notes from the requirements of Section 12(d)(3) of the Act subject to the condition that Applicant will continue its efforts to find a purchaser for the Notes willing to pay a price considered to be fair by Applicant for them.

Section 6(c) of Act provides, in pertinent part, that upon application the Commission may conditionally or unconditionally exempt any person, security or transaction or any class of classes of persons, securities or transactions from any provision or provisions of the Act or of any rule or Regulation thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that exempting its investment in Geneve from Section 12(d)(3) of the Act is consistent with the public interest, the protection of investors, and the policy and purposes of the Act. Applicant asserts that none of its directors, officers or its investment adviser participated in the decision by Geneve or Cable Funding Corporation to invest $7,000,000 in Torpie. Applicant represents that neither Geneve nor Cable Funding Corporation themselves currently engage in, and have never engaged in any of the categories of business prescribed by Section 12(d)(3). Applicant states that the Notes were purchased in an arm's length transaction, and do not involve any self-dealing by any affiliated person of it. Applicant further asserts that failure to grant such an exemption will directly harm Applicant's shareholders by requiring sale of the Notes at a price which is disadvantageous to the Applicant.

Notice is further given that any interested person may, not later than February 17, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address set forth above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-2945 Filed 1-28-77;8:45 am]

[File No. 500-1]

KING RESOURCES COMPANY

Suspension of Trading

JANUARY 21, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of King Resources Company being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 12:15 p.m. (EST) on January 21, 1977 through January 24, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-2942 Filed 1-28-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

DIRECTOR, USAID/HONDURAS

Delegation of Authority

Pursuant to the authority vested in me as Assistant Administrator for Latin America, Agency for International Development, by the Foreign Assitance Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the Director, USAID/Honduras, authority to negotiate and execute A.I.D. Loan No. 522-T-032 (Small Farmer Technologies) in accordance with and subject to the terms and conditions set forth in a project authorization dated December 30, 1976, authorizing said Project ("Project Authorization").

This delegation of authority shall lapse 120 days from the date of execution of the Project Authorization.

E. N. S. GIRARD II,
Assistant Administrator for Latin America.

[FR Doc.77-2921 Filed 1-28-77;8:45 am]

[Redelegation of Authority No. 164-10]

MISSION DIRECTOR AND DEPUTY MISSION DIRECTOR, USAID INDONESIA

Redelegation of Authority

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 Grants to International Organizations; No. 99, dated April 27, 1973 (38 FR 12834), with respect to Contracting and Related Functions; and No. 112, dated October 12, 1975 (40 FR 48955), with respect to other authorities and functions delegated to me, I hereby redelegate to the Mission Director and Deputy Mission Director, USAID/Indonesia, and to any person acting in their official capacity, authority to exercise any of the following functions, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to negotiate and execute loan and grant agreements and amendments thereto, 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 authorization of such loan or grant; such grant agreements for purposes of this authority and all other authorities contained in this redelegation shall mean agreements with foreign governments, foreign government agencies and international organizations having a membership consisting primarily of such foreign governments;

2. Authority to implement loan and grant agreements with respect to loans and grants authorized under the Act and loans authorized by the Board of Directors of the corporate Development Loan Fund, including 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 except as provided in 2(e) below;

(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 contracts amendments and modifications thereto, and invitations for bids with respect to such contracts financed by funds made available under such loan or grant agreements; the foregoing authority with respect to contractors and contracts does not extend to country contracts for technical assistance financed in whole or in part by an A.I.D. grant.

The authorities enumerated above may be redelegated by the individuals listed above, as appropriate, but not successively redelegated, except that the authority described above in paragraph 1 with respect to execution of loan agreements and amendments may not be redelegated.

The authority enumerated above in paragraph 1 with respect to execution of loan agreements is also hereby redelegated under the same terms and conditions set forth herein to the U.S. Ambassador to Indonesia.

The Redelegation of Authority dated October 24, 1973 from D. G. MacDonald, Assistant Administrator, Bureau for Asia, to the Mission Director and Deputy Mission Director, USAID/Indonesia is hereby rescinded.

This Redelegation of Authority is effective immediately.

Dated: December 23, 1976.

MICHAEL H. B. ADLER,
Acting Assistant Administrator Bureau for Asia.

[FR Doc.77-2918 Filed 1-28-77;8:45 am]

[Redelegation of Authority No. 164-11]

MISSION DIRECTOR AND DEPUTY MISSION DIRECTOR, USAID PAKISTAN

Redelegation of Authority

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority No. 5, dated December 29, 1961 (27 F.R. 449), as amended, with respect to Loan Agreements; No. 38, dated April 10, 1964 (29 F.R. 5280), as amended, with respect to Project Agreements, Trust Fund Agreements, and Grants to International Organizations; No. 99, dated April 27, 1973 (38 F.R. 12834), with respect to Contracting and Related Functions; and No. 112, dated October 12, 1975 (40 F.R. 48955), with respect to other authorities and functions delegated to me, I hereby redelegate to the Mission Director and Deputy Mission Director, USAID/Pakistan, and to any person acting in their official capacity, authority to exercise any of the following functions, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to negotiate and execute loan and grant agreements and amendments thereto, 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 authorization of such loan or grant; such grant agreements for purposes of this authority and all other authorities contained in this redelegation shall mean agreements with foreign governments, foreign government agencies and international organizations having a membership consisting primarily of such foreign governments;

2. Authority to implement loan and grant agreements with respect to loans and grants authorized under the Act and loans authorized by the Board of Directors of the corporate Development Loan Fund, including 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 except as provided in 2(e) below;

(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 contracts, amendments and modifications thereto, and invitations for bids with respect to such contracts financed by funds made available under such loan or grant agreements; the foregoing authority with respect to contractors and contracts does not extend to country contracts for technical assistance financed in whole or in part by an A.I.D. grant.

The authorities enumerated above may be redelegated by the individuals listed above, as appropriate, but not successively redelegated, except that the authority described above in paragraph 1 with respect to execution of loan agreements and amendments may not be redelegated.

The authority enumerated above in paragraph 1 with respect to execution of loan agreements is also hereby redelegated under the same terms and conditions set forth herein to the U.S. Ambassador to Pakistan.

Redelegation of Authority No. 164-5 dated June 26, 1972 (37 FR 13646) is hereby rescinded.

This Redelegation of Authority is effective immediately.

Dated: December 23, 1976.

MICHAEL H. B. ADLER,
Acting Assistant Administrator, Bureau for Asia.

[FR Doc.77-2919 Filed 1-28-77;8:45 am]

[Redelegation of Authority No. 164-12]

MISSION DIRECTOR AND DEPUTY MISSION DIRECTOR, USAID PHILIPPINES

Redelegation of Authority

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 Grants to International Organizations; No. 99, dated April 27, 1973 (38 FR 12834), with respect to Contracting and Related Functions; and No. 112, dated October 12, 1975 (40 FR 48955), with respect to other authorities and functions delegated to me, I hereby redelegate to the Mission Director and Deputy Mission Director, USAID/Philippines, and to any person acting in their official capacity, authority to exercise any of the following functions, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to negotiate and execute loan and grant agreements and amendments thereto, 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 authorization of such loan or grant; such grant agreements for purposes of this authority and all other authorities contained in this redelegation shall mean agreements with foreign governments, foreign government agencies and international organizations having a membership consisting primarily of such foreign governments;

2. Authority to implement loan and grant agreements with respect to loans and grants authorized under the Act and loans authorized by the Board of Directors of the corporate Development Loan Fund, including 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 except as provided in 2(e) below;

(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 contracts, amendments and modifications thereto, and invitations for bids with respect to such contracts financed by funds made available under such loan or grant agreements; the foregoing authority with respect to contractors and contracts does not extend to country contracts for technical assistance financed in whole or in part by an A.I.D. grant.

The authorities enumerated above may be redelegated by the individuals listed above, as appropriate, but not successively redelegated, except that the authority described above in paragraph 1 with respect to execution of loan agreements and amendments may not be redelegated.

The authority enumerated above in paragraph 1 with respect to execution of loan agreements is also hereby redelegated under the same terms and conditions set forth herein to the U.S. Ambassador to the Philippines.

Delegation of Authority No. 111 dated September 23, 1975 (40 FR 45451) is hereby rescinded.

This Redelegation of Authority is effective immediately.

Dated: December 23, 1976.

MICHAEL H. B. ADLER,
Acting Assistant Administrator
Bureau for Asia.

[FR Doc.77-2920 Filed 1-28-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRPORT TRAFFIC CONTROL TOWER AT PUEBLO, COLORADO

Notice To Reduce Hours

Notice is hereby given that on or about March 24, 1977, the Airport Traffic Control Tower at Pueblo, Colorado, will be closed each day from 10:00 p.m. until 6:00 a.m. local time. This information will be reflected in forthcoming issues of the Airman Information Manual.

Issued in Aurora, Colorado, on January 18, 1977.

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

[FR Doc.77-2969 Filed 1-28-77;8:45 am]

MINIMIZING SAFETY HAZARDS ASSOCIATED WITH SLIPPERY RUNWAYS

Meeting

This notice announces a meeting to obtain individual viewpoints on reducing runway slipperiness and improving pavement maintenance procedures at each airport serving turbojet aircraft. This one-day meeting will commence at 10 a.m., February 23, 1977, in Conference Rooms 6 A, B, and C, Federal Aviation Administration Headquarters Building, 800 Independence Avenue SW, Washington, D.C. 20591. Persons desiring to attend should write or call the Operations Division, Office of Airports Programs, Washington, D.C. 20591, telephone (202) 426-3087, by February 9, 1977.

The meeting is open to the public, but limited to space available. Any member of the public may present oral statements at the meeting. Written views may be submitted at or following the meeting, but not later than a date which will be given at the meeting. No group action will take place.

Subject matters on which viewpoints are invited include:

a. Determining slippery conditions.
b. Reducing the effects of slippery surfaces.
c. Promoting airport pavement maintenance procedures.

Issued in Washington, D.C., on January 26, 1977.

WILLIAM V. VITALE,
Acting Assistant Administrator,
Office of Airports Programs.

[FR Doc.77-3014 Filed 1-28-77;8:45 am]

Federal Highway Administration

ADVANCE ACQUISITION OF RIGHT-OF-WAY PARCELS

Acquisition of particular parcels within the limits of a proposed Federal-aid highway corridor prior to normal right-of-way acquisition activities is permitted in individual cases of demonstrated need under the provisions of § 712.204(d) of Title 23, Code of Federal Regulations. This procedure has been criticized by the United States Court of Appeals for the District of Columbia Circuit in *National Wildlife Federation* v. *Tiemann*, Civil Action No. 75-1214 (D.C. Cir. October 28, 1976).

To fulfill the understanding of the Federal Highway Administration (FHWA) with regard to the intent of this court decision, it is necessary to revise current advance acquisition procedures. State applications for authority to make advance acquisitions are ordinarily reviewed and acted upon by FHWA field offices pursuant to the delegation of authority in paragraph 6b(3) of FHWA Order 1-1, Part 1, Chapter 5. As an interim measure, all such applications recommended for approval by a regional office will be submitted to the Washington Headquarters office for review and action.

Questions concerning this notice should be directed to the Chief, Real Property Acquisition Division, Office of Right-of-Way, Federal Highway Administration, 400 7th Street SW., Washington, D.C. 20590.

Issued on: January 24, 1977.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.77-2998 Filed 1-28-77;8:45 am]

Office of the Secretary

[OST File No. 40; Notice 77-4]

FEDERAL TASK FORCE REPORT ON MOTOR VEHICLE GOALS BEYOND 1980

Status Report

On March 21, 1975, the Chairman of the Energy Resources Council requested the Secretary of Transportation to lead a joint task force to recommend long range energy goals for the motor vehicle fleet. The interagency task force has published seven panel reports dealing with various aspects of the automobile (i.e., safety; air quality, noise, and health; design; manufacturing and maintenance; marketing and mobility; fuel and material resources; industrial and consumer economics). These panel reports and

other information were integrated into "The Report of the Federal Task Force on Motor Vehicle Goals Beyond 1980" which was published in September 1976. A public comment docket was established, public briefing sessions were held in September in Washington, Detroit, Houston and Los Angeles and a formal public hearing was held in October in Washington to facilitate public comment upon the work of the task force.

Summary of Public Hearing. The public docket on the draft report of the Federal Task Force on Motor Vehicle Goals Beyond 1980 includes statements delivered at a public hearing held October 21, 1976, letters from members of the public, several volumes of detailed comments from automobile manufacturers and the Motor Vehicle Manufacturers Association (MVMA), and a research report on the costs and benefits of air pollution control. The comments offered at the October 21 public hearing are representative of much of the material in the public docket and this highlight summary is based primarily on those comments.

The draft report and the Task Force itself received favorable comment in several respects: the candor and openness of much of the work of the Task Force, including the opportunities for comment which had been provided from the start of the studies; the fact that the task force considered comprehensively the many trade-offs associated with the fuel economy, safety, emissions, and economics of automobile design, manufacture, purchase, and operation; and the fact that the several Federal agencies associated with policy, regulation, and R&D on automotive matters had effectively cooperated in the work of the Task Force.

It was broadly stated that the Task Force Report was a highly useful document to be refined through continuing discussions and evaluations, together with periodic updating.

The major U.S. automobile manufacturers and the Motor Vehicle Manufacturers Association (MVMA) submitted a substantial number and variety of comments. Many involved minor criticisms, but several were of deeper concern to the automotive industry.

In general the industrial sector takes the view that the report was overly optimistic in a number of respects. They consider the Task Force weight estimates for future cars as too low; the weight estimates for improved emission controls and for vehicle safety improvements as too low; the estimates for fuel economy of future vehicles as too high; the relationship between vehicle acceleration performance (through the horsepower to weight ratio) and fuel economy as incorrect, and the fuel economy penalties for safety improvements and for emission improvements as too low. They consider the projection of consumer prices for future vehicles and for safety, emissions, and fuel economy improvements to be too low; the maintenance cost estimates for future vehicles to be too low, and the total fuel savings due to mandated fuel economy improvements to be too high. They consider the estimates of the benefits of improved safety and reduced emissions to be too high, and not properly supported by hard data and not adequately compared with non-vehicle approaches to improving highway safety and air quality. They consider the projections of future sales of automobiles to be unreliable; the discussion of alternative strategies for conserving energy to be too brief, and that insufficient attention is given to the option of increasing the price of fuel to conserve energy.

It is these many suggestions for modification of details which leads the industry to urge continuing refinement. They do believe the present report is a good base for doing this, including the real value of bringing together the various agencies involved with automobiles so as to provide the best balance for the action.

Some commentators also said that the Task Force should not limit itself to considering only motor vehicles, but should consider the full spectrum of energy conservation measures potentially available to the U.S. economy.

The American Automobile Association, as spokesman for the motorist, expressed concern about the possibility of excessive regulation leading to a denial of efficient personal transportation to consumers and suggested a moratorium on regulations applicable to cars until the "assumptions" underlying the conclusions of the Task Force are proven out.

The Center for Auto Safety (CAS) advocated stronger vehicular safety measures and suggested that the Task Force consider pedestrian safety measures and levels of safety beyond "level II". The CAS spokesman criticized the National Highway Traffic Safety Administration for acting too deliberately in issuing and enforcing safety regulations.

The representative of the American Lung Association urged a tightening of standards of oxides of nitrogen.

Dr. Lawrence Goldmuntz of Economics, Science and Planning, Inc., criticized the estimate of safety benefits as being overstated, unproven and hypothetical and considered the costs of tightening safety standards to level II (rather than enforcing the use of seat belts) to be greater than the benefits. He also stated that the health benefits of reducing oxide of nitrogen emissions is misrepresented by the failure of the Task Force to include base year reference numbers.

A research report submitted to the public docket by Professor S. Fred Singer on the costs and benefits of air pollution control concluded that marginal costs of automotive emission control already exceed marginal benefits, at least with current emission control technology.

Dr. Victor Wouk pointed out potential benefits of hybrid engines for cars and recommended that the Task Force consider them more thoroughly.

General Accounting Office Comments. On January 13, 1977, the General Accounting Office submitted comments on the Task Force report to the Chairman of the ERC, which included the following:

> We believe that a logical next step to the draft report by the Federal Task Force on Motor Vehicle Goals Beyond 1980 is a follow-up program that would further assess the problems and issues raised in the report and would then develop and recommend to the Congres feasible levels and timing of Federal emissions, safety, and fuel economy standards beyond 1980 that best meet the total needs of the Nation.
>
> The Federal task force study represents the first time the Federal Government has comprehensively looked at the problem of often conflicting Federal standards affecting automobile design. As such the draft study report is a valuable and current base of information for starting the process of making needed decisions on trade-offs among the various standards. Therefore, we believe that this is the most opportune time for the executive branch to undertake a program designed specifically to resolve the issue of how to best balance Federal automobile standards beyond 1980.

The GAO recommended the following:

> Establish a comprehensive follow-up program with the specific objective of developing and recomemnding to the Congress a balanced set of automobile standards that address the feasible levels and timing of Federal emissions, safety, and fuel economy standards beyond 1980 which will best meet the total needs of the Nation.
>
> Review and update these standards periodically as changes occur in technology, the Nation's energy situation, and the related environmental and economic impacts.

Availability of the Report and Comments. Copies of all comments received on the panel reports, the transcript of the public hearing and comments on the Task Force report are available for inspection and copying from 9:00 a.m. to 5:30 p.m. local time, Monday through Friday, except Federal holidays, in the Office of the Assistant General Counsel for Operations and Legal Counsel, Room 10100, 400 Seventh Street, S.W., Washington, D.C., telephone (202) 426-4723.

Single copies of the Task Force report and the Executive Summary of the report are available upon request to Mr. Paul Long, Chief Facilities Management Branch, TAD-443, U.S. Department of Transportation, Washington, D.C. 20590, phone (202) 426-9654.

Issued in Washington, D.C., on January 20, 1977.

JOHN W. BARNUM,
Deputy Secretary of Transportation.

[FR Doc.77-2999 Filed 1-28-77;8:45 am]

[Notice 77-5])

INTERAGENCY STUDY OF POST-1980 GOALS FOR COMMERCIAL MOTOR VEHICLES

Status Report and Request for Further Public Input

On March 21, 1975, the Chairman of the Energy Resources Council requested the Secretary of Transportation to lead a joint task force to recommend long

range energy goals of the motor vehicle fleet. The ERC's charge stated:

As part of the Nation's long range effort to conserve energy, there is a need to set motor vehicle fuel economy goals beyond 1980. Such goals must meet the transportation needs for automobiles, trucks, and buses, but they must also be blended with environment, safety, and economic considerations.

Separate interagency task forces were established to approach passenger car and light truck concerns, on the one hand, and commercial vehicle (medium and heavy-duty trucks and buses) concerns on the other.

Participating in the commercial vehicle task force have been representatives of the Department of Transportation, Federal Energy Administration, Environmental Protection Agency, National Science Foundation, Energy Research and Development Administration, Interstate Commerce Commission and the United States Postal Service. It should be noted here that concurrent with this activity the Department of Transportation, Federal Energy Administration and Environmental Protection Agency were operating a voluntary truck and bus fuel economy improvement program under a joint memorandum of understanding. The Interagency Study of Post-1980 Goals for Commercial Motor Vehicles will also serve to set the goals for the voluntary program.

A request was made for public comment and a public hearing was held during the conduct of the interagency study and on May 17, 1976, (41 FR 20204) the availability of the draft "Interagency Study of Post-1980 Goals for Commercial Motor Vehicles" was announced. Comments were requested to be submitted before June 30, 1976. Nineteen responses were received. Subsequently several additional comments were received and accepted into the comment file. These comments are available for viewing and selective copying from 8:00 a.m. to 5:30 p.m., weekdays at Room 5222 of the DOT Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590. A summary of the comments is available without cost upon receipt of mail requests to: Manager, Voluntary Truck and Bus Program, TST-50, U.S. Department of Transportation, Washington, D.C. 20590.

It was recognized at the outset of the study that setting goals for commercial vehicles involved complex evaluations because of the many types of these vehicles, their wide variety of services and their numerous impacts. Accordingly it was not considered feasible to arrive at final recommendations on goals without a continuing dialogue among the concerned parties. The present report represents the first step in the process envisioned. The report on "National Transportation Trends and Choices", published by the Secretary of Transportation on January 14, 1977, also contains many of the findings of the commercial motor vehicle goals report.

The next steps should be to improve the data base and analytic techniques and to expose the subject to full public debate and full participation, particularly by those elements of society most directly affected by future decisions regarding commercial vehicles.

The concensus of those who have commented on the commercial motor vehicle goals study is that it represents a good start toward establishing desirable goals, but that the issues need further discussions and evaluations among government, industry and other interested parties. The report predicts a 68 percent increase in ton miles of freight hauled by commercial vehicles in 1990, which may be accomplished with merely a 50 percent increase in commercial vehicle miles and a 21 percent increase in fuel consumed. Included in the efficiency increases are technical changes to the vehicles to improve fuel economy, gaseous emissions, noise emissions, and safety. The fuel productivity projected in the over-the-road combination vehicle category may be substantially improved by postulated increases in size and weight, which would allow the freight to be hauled by fewer trucks with less fuel expended, and producing fewer opportunities for accidents, reduced emissions, and fewer noise events per ton-mile of freight demand.

As the initial analysis of the combined effects of the future energy, emissions, noise, and safety options, the draft report makes obvious the need for additional cost and effect data, as well as improved means to evaluate potential benefits. During the first stage of public debate, the comments received have substantiated these needs by raising a number of specific issues which must be considered as revisions are being made to the report and its Executive Summary and subsequently as legislative and regulatory decisions are made regarding commercial vehicles.

Highlights of Comments Received to Date are.—1. *Size and weights.* The study explored the potential effect of a set of truck size and weight values substantially larger than generally permitted today. Commentors generally agreed that size and weight increases could substantially improve fuel-use efficiency, but there was considerable divergence of view as to whether increased sizes and weights would be generally acceptable or could be truly justified. It was noted that the FHWA research study, upon which suggested size and weights goals were based, would need updating of both the costs and benefits. Questions were raised in particular as to realistic bridge replacement costs associated with possible size and weight increases. Other questions concerned the ability of the states to raise sufficient funds to achieve the necessary road and bridge upgrading prior to operation of heavier vehicles.

The realism of achieving nationwide standardization of future increases in size and weight was also questioned, considering the complexities of the political authorities involved, the past history of size and weight regulations, and the reduction in size and weight which would occur in the few states that presently permit up to 108 foot long triples or gross weights of up to 139,000 pounds.

In addition to the comments submitted and discussed above, letters have been received from citizens and organizations representing competitive transportation modes criticizing the higher size and weight limits suggested as possible goals by the study. The commentors suggest that the goals set forth in the study might not be achieved if freight were attracted away from competing modes and if the truck population were increased beyond that projected in the report. These commentors suggested that these factors must be evaluated in the context of all modes of good transportation if maximum benefits to society are to be identified.

The assignment from the Energy Resources Council was not so broad in scope as to include the study of such modal interface factors. However, the criticism is valid and plans for DOT research now include analysis of the intermodal comparisons. In that connection consideration should also be given to improving the energy efficiency of long-haul freight movement through increased use of trailer-on-flat-car and container-on-flat-car capabilities.

A specific step-by-step plan for action is set forth in the Secretary's "National Transportation Trends and Choices", to analyze the issues raised regarding size and weight. It should be noted that the Secretary's document places greater emphasis on prospects for use of twin 40-foot trailers than this report has considered. Both reports, however, emphasize the need to withhold permission for increased axle loading until the roadways (including bridges) are appropriately upgraded to accommodate any such increases. In addition, if weight increases are adopted, Federal and State highway use taxes should be increased for the heavier classes of commercial vehicles to cover the costs of improvements and increased maintenance for the highway system. As each step is taken, safety, environment, and effects upon competing modes must be considered.

2. *Noise Emissions.* The discussion concerning potential 75dB(A) * truck noise limitations and stringent tire noise regulations received extensive criticism, especially the cost benefits of such limits and the analytical approach used. Data submitted by one commentor showed crossbar tire costs to be lower than rib tire costs, for example. The report's conclusion that radial ribs provide adequate traction and lowest cost per mile, while providing lowest present noise levels, was questioned. (Additional DOT and SAE publications within the next few months will address many of these questions in detail.) A number of commentors stated that EPA's new truck noise standards should be discussed in the "Goals Study" (They had not been published when the study went to print.) and that the FPA standards confirmed the commentors' contention that there is not any practical present technology available for achieving a truck noise level of 75dB(A).

considering the requirement to meet Selective Enforcement Audits contained in the EPA standards. Also questioned were the initial costs and the maintenance costs of low-noise trucks.

3. *Gaseous Emissions.* The study was criticized for not adequately supporting the recommendation that the most stringent, cost-effective technically feasible emissions standards should be set. Specifically it was felt that the report had not proven that the goals suggested for heavy-duty vehicle emissions (a) were cost-effective in terms of air quality improvement and (b) were more cost-effective than stationary source controls. The goals (0.5 gms/bhp-hr HC, 10 gms/bhp-hr CO and 3 gms/bhp-hr NO_x)[1] were criticized by some as going beyond available technology and not providing "a reasonable compromise." One commentor suggested that standards should be written favoring fuel-efficient engines and suggested 1, 5, and 5 gms/bhp-hr for diesel engine HC, CO, and No_x respectively. Questions were raised concerning modeling techniques used, the status of available technology, the issue of tradeoffs against stationary source emissions control and the magnitude of control costs.

Support was expressed for the concept stated in the report that the Administrator of EPA retain authority to set appropriate heavy duty vehicle emission levels as the uncertainties concerning the most practical "balanced" levels are clarified.

4. *Safety.* Numerous vehicle safety improvement items were suggested in the report as possible goals.[1] A number of other commentors questioned the value of some of these improvements, including the associated costs and weight penalties. Alternative suggestions for improving safety revolved around improved driver selection and training. All commentors appeared to agree with the report that the available commercial motor vehicle safety statistics are insufficient to resolve the many and diverse views on truck safety. Some commentors proposed a moratorium on further safety standards until an adequate data base could be made available.

5. *Baseline Year.* The use of 1973 as a truck baseline data year (as was done in the report) was criticized by some as not using the latest data; its use could also tend to penalize unfairly some operators if regulations were later set forth which used the average percentage fuel economy gains by each carrier relative to the 1973 average.

6. *Ton-miles.* The use of "ton-miles" or "ton-miles per gallon" as units to measure productivity and fuel-use efficiency was supported by some and criticized by others who felt that other criteria such as dollar value, cargo density, and service should also be considered.

7. *Other Issues.* A number of other issues were discussed by one or more commentors, including past sales trends data which may include, questionable data provided by the vehicle manufacturers as to vehicle weight ratings, the degree of conservativism of the motor carrier industry in respect to changes, the need for "real world" data, the effectiveness of various fuel-saving devices, the desirability of separating trucks from buses in the study, the monetary cost of lower speed limits (despite fuel savings), and the effectiveness of lean burn, stratified charge and turbocharged gasoline engines for truck use.

A number of commentators indicated that the use of the steady-state fuel economy equation in Sections II and VI for estimating overall fuel economy improvements was not valid. The study's authors did not make any estimates of overall fuel economy based upon that equation, but used it merely to show in a formal manner improvements in one mode of operation. This will be clarified in future drafts or the final publication of the "Goals Study".

Some commentors interpreted the present draft as the final statement of future commercial vehicle goals rather than the initial draft around which the future goals would be developed through ongoing discussions and analyses.

Continuing Analysis: Based upon early comments, a revised Executive Summary was released in November 1976 and remains available upon request at the DOT address noted below. Public comment and recommendations are invited on the Report on its entirety, on the revised Executive Summary, on the initial comments discussed above, and on the major policy issues involved in establishing recommendations for future commercial vehicle goals.

A revised draft of the Report and the Executive Summary is anticipated toward the end of 1977. It will be based upon the comments received to date, comments received as a result of this solicitation and other new information being developed by the government.

In addition to comments on the report, we welcome suggestions regarding means by which the "Commercial Vehicle Goals Study" can best serve the interests of the nation. Consideration is being given to the establishment of a Joint Government-Private Sector Advisory Committee: (1) To consider revisions to the content of the "Goals Study"; (2) to reflect the consensus of the various concerned individuals and groups; (3) to assist in continuation of the dialogue begun with the Draft Report; (4) to provide input for the Voluntary Truck and Bus Fuel Economy Improvement Program; and (5) to consider and make recommendations on methods of institutionalizing cooperative and coordinated decisionmaking in the commercial vehicle field. Comments on the merits of such a committee and suggestions for membership would be appreciated. Suggestions regarding other means to achieve these ends are also welcome. Additionally, suggestions regarding measures to address the intermodal interface questions would also be welcomed.

Copies of the summary of initial comments, the revised Executive Summary and the full "Interagency Study of Post-1980 Goals for Commercial Motor Vehicles" are available without cost until present supplies are exhausted for inspection or pick up from 8:00 a.m. to 5:30 p.m. in the office of the Manager, Voluntary Truck and Bus Fuel Economy Program, Room 5222, Trans Point Building, U.S. Department of Transportation, 2100 Second Street, S.W., Washington, D.C. Copies are also available upon receipt of mail requests to Manager, Voluntary Truck and Bus Program, TST-50, U.S. Department of Transportation, Washington, D.C. 20590.

Although the main report has been reprinted since it was first offered for public comment in May 1976, its content is essentially unchanged. Therefore, while we are seeking comments on the whole study and its implications, we request that, if a copy was obtained previously, further copies be requested only as necessary to facilitate review and comment preparation. All comments (in three copies if possible) should reference the "Interagency Study of Post-1980 Goals for Commercial Motor Vehicles" and should be sent to: W. H. Close, Manager, Voluntary Truck and Bus Fuel Economy Program, at the above address. All comments received prior to the close of business on April 29, 1977, will be given full consideration.

Issued in Washington, D.C., on January 20, 1977.

JOHN W. BARNUM,
Deputy Secretary of Transportation.

[FR Doc.77-3000 Filed 1-28-77;8:45 am]

[1] These goals are now also reflected in the January 1977 planning document published by the Secertary of Transportation entitled "National Transportation Trends and Choices" which is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The price is $8.50 and the stock number is 050-000-00124-5.

WATER RESOURCES COUNCIL

STANDING STATE ADVISORY COMMITTEE

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Standing State Advisory Committee (SSAC).

Date and time: February 16, 1977, 9:30 a.m. until 12 noon.

Place: Lower Level Conference Room, Gelman Building, 2120 L Street, N.W., Washington, D.C. 20037.

Proposed Agenda: (1) State and local government expenditures for water planning and management. (2) Reanalysis of selected completed water resources projects. (3) Institutional arrangements for the Water Assessment and Appraisal Program. (4) 1977 National Conference on Water, May 22-25, 1977. (5) Joint meeting of State and Federal water officials, August 30-September 1, 1977.

Purpose of Meeting: Discussion and solicitation of the Committee's views on the above items.

The meeting of the Standing State Advisory Committee (SSAC) is open to the public.

Any member of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits, the Committee Chairman may allow public presentation of oral statements at the meeting.

All communications regarding the SSAC should be addressed to Handley C. Oswalt, Administrative Officer, Water Resources Council, Acting Committee Management Officer, Room 810, 2120 L Street, N.W., Washington, D.C. 20037, phone (202) 254–6453.

GARY D. COBB,
Acting Director.

JANUARY 27, 1977.

[FR Doc.77-3011 Filed 1-28-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

U.S./CANADA RAILROAD FREIGHT RATES

Request for Special Docket Applications and Complaints

JANUARY 24, 1977.

In Civil Action No. 74–167 *Canadian National Railway Company and Canadian Pacific Limited v. The United States of America and the Interstate Commerce Commission and Aluminum Company of Canada LTD., et al.*, the United States District Court for the District of Columbia held that the defendants were entitled to judgment on their counterclaims as a matter of law and ordered:

1. That the failure of defendants to the counterclaims, Canadian National Railway Company, Canadian Pacific Limited and the 32 Eastern Railroads, to limit, under the authority of Ex Parte No. 267, increases on their rates on export-import traffic moving by all-rail or water-rail between points in Canada and Eastern Territory of the United States to not more than 12 percent over the Ex Parte No. 265 level, constitutes a violation of the Interstate Commerce Commission's Order entered in the general revenue proceeding identified as Ex Parte No. 267, *Increased Freight Rates, 1970 and 1971*, on March 4, 1971, as subsequently interpreted and clarified by the Commission's Orders entered on August 19, 1971, August 6, 1973, and October 5, 1973; and further

2. That said railroad defendants to the counterclaims, their officers, agents or representatives are hereby enjoined and restrained from further disobedience of the Commission's Orders entered in Ex Parte No. 267 and are further ordered to obey said Commission Orders and cease and desist from charging rates on the aforesaid traffic in excess of 12 percent over the Ex Parte No. 265 level and to correct their tariffs accordingly;

In view of the order of the Court shippers and/or receivers of import or export traffic moving between points in Canada, on the one hand, and points in the United States on the other, should request rail carriers subject to the jurisdiction of the Interstate Commerce Commission to file special docket applications with this Commission seeking reparation [1] or in the alternative shippers and/or receivers should file informal complaints—such complaints should conform with the Commission's General Rules of Practice—with the Commission's Bureau of Traffic, Section of Rates and Informal Cases, for the purpose of tolling the Statute set forth in Section 16(3) of the Interstate Commerce Act. Special docket applications should be addressed to:

Office of the Secretary, Interstate Commerce Commission, 12th & Constitution Avenue, Washington, DC 20423.

and complaints should make reference to this notice and be addressed to:

Mr. Scott Walker, Chief, Section of Rates & Informal Cases, Bureau of Traffic, Interstate Commerce Commission, 12th & Constitution Avenue, Washington, DC 20423.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-2891 Filed 1-28-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 314]

ASSIGNMENT OF HEARINGS

JANUARY 26, 1977.

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 48315 (Sub-No. 6), Hopkins Motor Coach, Inc.; MC 100853 (Sub-No. 15), Pinkett's Shore Lines, Inc. and MC 104656 (Sub-No. 13), Mandrell Motor Coach, Inc., now being assigned March 15, 1977 (3 days) at Cambridge, Maryland, in a hearing room to be later designated.

MC 136897 (Sub-No. 19), Swift Transportation Company, Inc., now assigned March 2, 1977, at Los Angeles, Calif. is canceled and application dismissed.

MC 107295 Sub 830, Pre-Fab Transit Co. now being assigned March 2, 1977 (1 day) at Los Angeles, California and will be held in Room 8041, Federal Building, 300 North Los Angeles Street.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 77-3004 Filed 1-28-77;8:45 am]

[Notice No. 11]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the services 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 4405 (Sub-No. 544TA), filed January 18, 1977. Applicant: DEALERS TRANSIT, INC., 522 S. Boston Ave., Enterprise Bldg., Tulsa, Okla. 74130. Applicant's representative: Leonard L. Bennett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers, semi-trailers and trailer chassis*, other than those designed to be drawn by passenger automobiles, in initial movements in truckaway and driveaway service; and (2) *Tractors*, in secondary movements, in driveaway service, when drawing trailers, semi-trailers and trailer chassis in initial movements; (1) from Murfreesboro, Tenn., to points in the United States (except Alaska and Hawaii); and (2) from Murfreesboro, Tenn., to points in Arizona, Nevada, Oregon and Vermont, for 180 days. Supporting shipper: Butler Manufacturing Company, 900 S. E. Sixth Ave., Minneapolis, Minn. 55414. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 27817 (Sub-No. 126TA), filed January 19, 1977. Applicant: H. C. GABLER, INC., R.D. No. 3, P.O. Box 220, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graf, 407 N. Front St., Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail, wholesale and chain grocery and food business houses

[1] In order to expedite matters the carriers may register shipments prior to filing special docket applications.

(except commodities in bulk and frozen foods), from the facilities of Belt's Wharf Warehouses Incorporated, and its affiliates, at Elkridge, Md., to points in Delaware, New Jersey, New York and Pennsylvania, restricted to traffic originating at and destined to the above-named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Belt's Wharf Warehouses Incorporated, Baltimore, Md. 21230. Send protests to: Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Bldg., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 47583 (Sub-No. 38TA), filed January 17, 1977. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kans. 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite and storage facilities of Packaging Corporation of America, at or near Abilene, Tex. to Wichita, Kans. for 180 days. Supporting shipper: Packaging Corporation of America, 1603 Orrington, Evanston, Ill. 60204. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 61231 (Sub-No. 99TA), filed January 18, 1977. Applicant: ACE LINES, INC., 4143 E. 43rd 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: *Iron and steel articles*, from the plantsite of Southwest Ornamental Iron Co., at or near Bonner Springs, Kans., to the construction site of Marble Hill Generating Station near Paynesville, Ind., for 180 days. Supporting shipper: Southwest Ornamental Iron Co., P.O. Box 275, Bonner Springs, Kans. 66012. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 65802 (Sub-No. 61TA), filed January 17, 1977. Applicant: LYNDEN TRANSPORT, INC., P.O. Box 433, Lynden, Wash. 98264. Applicant's representative: James T. Johnson, 1610 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum rock*, in bulk, in hopper-type vehicles, from Ports of Entry on the United States-Canada International Boundary, at or near Blaine, Lynden and Sumas, Wash., to points in Whatcom County, Wash., restricted to traffic originating at Vancouver, B.C., Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Columbia Cement Corporation, a Subsidiary of Filtrol Corporation, P.O. Box 37, Belingham, Wash. 98225. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174.

No. MC 95540 (Sub-No. 967TA), filed January 17, 1977. Applicant: WATKINS MOTOR LINES, INC., 1144 W. Griffin Road, P.O. Box 1636, Lakeland, Fla. 33801. Applicant's representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), from the plantsite of Mid-Continent Underground Storage, located at or near Kansas City, Kans., to points in Georgia and Tennessee, for 180 days. Supporting shipper: The Kroger Co., 1014 Vine St., Cincinnati, Ohio 45201. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 95540 (Sub-No. 968TA), filed January 17, 1977. Applicant: WATKINS MOTOR LINES, INC., 1144 W. Griffin Road, P.O. Box 1636, Lakeland, Fla. 33801. Applicant's representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden pallets, wooden pallet parts and lumber*, from Ellijay and Loganville, Ga., to Austin, Minn.; Fremont, Nebr.; Beloit, Wis.; and Fort Dodge and Ottumwa, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Atlanta Southern Corporation, P.O. Box 872, Covington, Ga. 30209. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 105269 (Sub-No. 63TA), filed January 17, 1977. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St., P.O. Box 986, Kalamazoo, Mich. 49005. Applicant's representative: James W. Muldoon, Suite 1815, 50 W. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives*, when moving in mixed shipments with paper and paper products, from Chillicothe, Ohio, to points in Michigan on and south of M–21 from Port Huron, Mich., to Grand Rapids, Mich., and on and south of Interstate–96 from Grand Rapids, Mich., to Muskegon, Mich., for 180 days. Supporting shipper: The Mead Corporation, Talbott Tower, Dayton, Ohio 45402. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Bldg., Lansing, Mich. 48933.

No. MC 106195 (Sub-No. 10TA), filed January 14, 1977. Applicant: CLARK BROS. TRANSFER, INC., P.O. Box 388, 802 N. 1st St., Norfolk, Nebr. 68701. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in *Descriptions in Motor Carrier* Certificates, 61 M.C.C. 209 and 766, from Portage, Ind., to the facilities of the Vulcraft Division of Nucor Corporation, at or near Norfolk, Nebr., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: R. D. Bisping, Traffic Manager, Nucor Corp., Vulcraft Division, Box 59, Norfolk, Nebr. 68701. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 106398 (Sub-No. 765TA), filed January 17, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 S. Main, P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same addrss as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, cable, conduit, wire, and strip steel and attachments threfor*, from Glendale, Marshall County, W. Va., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin and the District of Columbia, for 180 days. Supporting shipper: Triangle PWC, Inc., Jersey Ave., New Brunswick, N.J. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 106644 (Sub-No. 231TA), filed January 17, 1977. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road, P.O. Box 916, Atlanta, Ga. 30321. Applicant's representative: Wilfred Rohling (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used motorized step van delivery vehicles*, each weighing less than 15,000 pounds transported on flatbed, lowboy or drop deck trailers, between points in the United States (except Alaska and Hawaii), restricted to movement for account of Frito-Lay, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Frito-Lay, Inc., P.O. Box 35034. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 546, Atlanta, Ga. 30309.

No. MC 107403 (Sub-No. 997TA), filed January 18, 1977. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *Adhesive cement*, noi, in bulk, in tank vehicles, from Decatur, Ala., to Knoxville, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Minnesota Mining and Manufacturing Co., 3M Center, St. Paul, Minn. 55101. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 107403 (Sub-No. 998TA), filed January 18, 1977. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium sulfate* (salt cake), in bulk in tank vehicles, from Nitro, W. Va., to Baltimore, Md., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Avtex Fibers, Inc., P.O. Box 880, Valley Forge, Pa. 19482. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 109708 (Sub-No. 68TA), filed January 13, 1977. Applicant: INDIAN RIVER TRANSPORT CO., doing business as INDIAN RIVER TRANSPORT, INC., P.O. Box 966, 908 North N.W. Park St., Okeechbee, Fla. 33472. Applicant's representative: James E. Wharton, Suite 811, Metcalf Bldg., 100 S. Orange Ave., Orlando, Fla. 32801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juices and fruit juice concentrate*, in bulk, in tank vehicles, from points in Florida, to points in Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Minnesota, North Dakota, South Dakota, Nebraska, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin and California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: The Coca Cola Company, Foods Division, P.O. Box 247, Auburndale, Fla. 33823. H. P. Hood, Inc., 427 San Christopher Drive, Dunedin, Fla. 33528. Lykes Pasco, Packing Co., P.O. Box 97, Dade City, Fla. 33525. Sunstar Foods, Citrus Division, P.O. Box 950, Lakeland, Fla. 33802. Alcoma Packing Co., Inc., P.O. Box 231, Lake Wales, Fla. 33853. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 117548 (Sub-No. 3TA), filed January 17, 1977. Applicant: M & M TANK LINES OF VIRGINA, INC., P.O. Box 30006, Washington, D.C. 20014. Applicant's representative: William P. Sullivan, Federal Bar Bldg. West, Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground, pulverized, and crushed limestone; silica sand materials and premixed building materials*, from Buchanan, Va., to points in Kentucky, Maryland, North Carolina, South Carolina, Tennessee, Virginia, West Virginia and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: James River Limestone Company, Inc., Drawer 617, Buchanan, Va. 24066. Send protests to: Interstate Commerce Commission, 12th & Constitution Ave., N.W., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 119619 (Sub-No. 97TA), filed January 18, 1977. Applicant: DISTRIBUTORS SERVICE CO., 2000 W. 43rd St., Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat*, fresh or frozen, suspended or in boxes, from Chicago, Ill., and its commercial zone, to Bedford and Manchester, N.H., and (2) *Returned, refused and rejected shipments* of the commodities described in (1) above, from the destinations to the origins specified in (1) above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M. M. Mades, Inc., Theodore T. Stopyra, Vice-President, Manufacturing & Plant Superintendent, 409 Elm St., Manchester, N.H. 03105. Send protetss to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 119626 (Sub-No. 10TA), filed January 18, 1977. Applicant: ILL.-PAC. COAST TRANSPORTATION CO., 1601 Market St., P.O. Box 128, Madison, Ill. 62060. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Exempt poultry products*, when transported in the same vehicle with meats and packinghouse products, as described in Docket No. MC-119626 Sub. Nos. 1, 2, 7 and 9, (1) from St. Louis, Mo., to Los Angeles, San Francisco and Stockton, Calif.; (2) from Springfield, Ill., to San Diego, Sacramento, Los Angeles and San Francisco, Calif.; (3) between Chicago, Ill., on the one hand, and, on the other, St. Louis, Mo.; (4) from Springfield, Ill., to Las Vegas, Nev., and (5) from St. Louis, Mo., Springfield, Ill.; and Chicago, Ill., to points in Arizona, Nevada and New Mexico, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Morris C. Hesner, President, Continental Meat Distributors, Inc., 3067 S. Throop St., Chicago, Ill. 60608. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 123887 (Sub-No. 10TA), filed January 17, 1977. Applicant: L. J. NAVY TRUCKING CO., 2300 Eighth Ave., Huntington, W. Va. 25703. Applicant's representative: John M. Friendman, 2930 Putnam Ave., Hurricane, W. Va. 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, *and used empty containers* on return, from Peoria, Ill., to Logan, W. Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Richard Trampe, General Traffic Manager, Pabst Brewing Company, 917 W. Juneau Ave., Milwaukee, Wis. 53201. Wilma J. Cook, Owner, Guyan Distributing Company, Box 1350, 301 Cole St., Logan, W. Va. 25601. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Bldg., 500 Quarrier St., Charleston, W. Va. 25301.

No. MC 124111 (Sub-No. 52TA), filed January 14, 1977. Applicant: OHIO EASTERN EXPRESS, INC., P.O. Box 2297, 300 W. Perkins Ave., Sandusky, Ohio 44870. Applicant's representative: John P. McMahon, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, and agricultural commodities* exempt, from economic regulation under Section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Norfolk, Va., to points in Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kansas, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, West Virginia and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dominican Import Company, 700 Boundary Ave., Chesapeake, Va. 23324. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43611.

No. MC 124878 (Sub-No. 10TA), filed January 17, 1977. Applicant: LAPADULA AIR FREIGHT TRANSFER, INC., 149-04 New York Blvd., Jamaica, N.Y. 11434. Applicant's representative: John L. Alfano, 550 Marmaroneck Ave., Harrison, N.Y. 10528. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives and commodities in bulk), restricted to shipments having a prior or subsequent movement by air, between John F. Kennedy International Airport, at New York, N.Y., on the one hand, and,

on the other, T. F. Green State Airport, at Warwick, R.I., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Air Express International, 151 Harvard Ave., Stamford, Conn. 06902. (2) Emery Air Freight Corporation, Cargo Bldg., State Airport, Warwick, R.I. 02888. (3) Delivery Service, Inc., 155 Bignall St., Warwick, R.I. 02888. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 124947 (Sub-No. 52 TA), filed January 14, 1977. Applicant: MACHINERY TRANSPORTS, INC., P.O. Box 417, 116 Allied Road, Stroud, Okla. 74079. Applicant's representative: T. M. Brown, 223 Ciudad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from lumber mill sites, at or near (1) Panguitch, Escalante, Vernal and Kamas, Utah; (2) Durango, Paradox, Montrose, Pagosa Springs, and South Fork, Colo.; and (3) Fredonia, Flagstaff, Williams, Winslow, Snowflake, Cutter, McNary, Eager, White River, Payson and Show Low, Ariz., to points in Texas and Oklahoma, restricted to traffic moving for the account of Southwestern Sales, Inc., on bills of lading issued for the account of Woughwestern Sales, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southwestern Sales, Inc., P.O. Box 14703, Albuquerque, N. Mex. 87111. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 129808 (Sub-No. 24 TA), filed January 18, 1977. Applicant: GRAND ISLAND CONTRACT CARRIER, INC., P.O. Box 2078, West Highway No. 30, Grand Island, Nebr. 68801. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Processed logs and wooden beams*, from Claremore, Okla., and Licking, Mo., to points in Kansas, Nebraska, Iowa and Colorado, under a continuing contract with Chisum Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lee O. Petersen, Marketing Manager, Chisum Industries, Inc., P.O. Box 1966, Grand Island, Nebr. 68801. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg., and Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 134676 (Sub-No. 4 TA), filed January 13, 1977. Applicant: H. H. MOORE, JR., P.O. Box 477, Appomattox, Va. 24522. Applicant's representative: Richard J. Lee, 4070 Falstone Road, Richmond, Va. 23234. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground level steel reservoirs and materials, supplies and equipment* used in the manufacture of ground level steel reservoirs, between the plantsite of Flippo's And Company, at or near Powhatan, Va., and points in Georgia, North Carolina, Pennsylvania and Alabama, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Flippo's And Company, P.O. Box 3305, Richmond, Va. 23235. Send protests to: Danny R. Beeler, District Supervisor, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 134755 (Sub-No. 88 TA), filed January 14, 1977. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner St., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. 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 packing plants*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, M.C.C. 209 and 766 (except hides and commodities in bulk), from Rockville, Mo., to points in Iowa, Illinois, Indiana, Kansas, Minnesota, Nebraska, Ohio, Oklahoma, Pennsylvania, South Dakota and Wisconsin, restricted to traffic originating at the named origin and destined to named points, for 180 days. Supporting shipper: Geo. A. Hormel and Co., P.O. Box 800, Austin, Minn. 55912. 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 134922 (Sub-No. 221 TA), filed January 17, 1977. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fluorescent lighting fixtures and accessories*, associated electrical compounds and homeowner improvement products, between points in Washington, Oregon, California, Nevada, Utah, Colorado, Arizona, Texas, Oklahoma, Louisiana, Wisconsin, Illinois, Michigan, Indiana, Ohio, New York, Pennsylvania, Massachusetts, New Jersey, Maryland, Connecticut, Virginia, North Carolina, South Carolina, Georgia, Florida and Minnesota, for 180 days. Supporting shipper: Acme Lighting and Mfg. Company, 18401 E. Arenth Ave., City of Industry, Calif. 91748. Send proteests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg. 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 138274 (Sub-No. 41 TA), filed January 14, 1977. Applicant: SHIPPERS BEST EXPRESS, INC., 2151 N. Redwood Road, Salt Lake City, Utah 84116. Applicant's representative: Chester Zyblut, 366 Executive Bldg., Suite 202, 1030 Fifteenth St., N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, 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 the plantsite of Joe Coctorman & Son, Inc., at or near Salt Lake City, Utah, to San Diego, San Francisco, Oakland, San Jose, Stockton, Fresno, Sacramento and Los Angeles, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Suppporting shipper: Joe Doctorman and Son, Inc., 2900 S. 300 West, Salt Lake City, Utah 84115. 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 139495 (Sub-No. 188TA), filed January 17, 1977. Applicant: NATIONAL CARRIERS, Inc., P.O. Box 1358, 1501 E. 8th St., Liberal, Kans. 67901. 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: *Cleaning, scouring and washing compounds; and water treating compounds* (except in bulk), from the plantsite and storage facilities of Calgon Corporation, located at or near Frisco, Pa., to Seattle, Wash., and Salt Lake City, Utah for 180 days. Supporting shipper: Calgon Corporation, P.O. Box 1346, Pittsburgh, Pa. 15230. Send protests to: M .E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101 Litwin Bldg., 110 N. Market, Wichita, Kans. 67202.

No. MC 139973 (Sub-No. 14TA), filed January 17, 1977. Applicant: J. H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. 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 packing plants*, 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 Rockville, Mo., to points in Iowa, Illinois, Indiana, Kansas, Minnesota, Nebraska, Ohio, Oklahoma, Pennsylvania, South Dakota and Wisconsin, restricted to traffic originating at the named origin and destined to named points, for 180 days. Supporting shipper: George A. Hormel and Co., P.O. Box 800, Austin, Minn. 55912. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 140033 (Sub-No. 22 TA), filed January 18, 1977. Applicant: COX RE-

FRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: Lawrence A. Winkle, 4645 N. Central Expressway, Dallas, Tex. 75205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packing plants, and foodstuffs* (except hides and commodities in bulk), from the plantsite and warehouse facilities of Geo. A. Hormel and Co., at Fremont, Nebr., and Ottumwa, Iowa, to points in Virginia, West Virginia and Ahoskie, N.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Geo. A. Hormel and Co., P.O. Box 800, Austin, Minn. 55912. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 140421 (Sub-No. 13 TA), filed January 14, 1977. Applicant: ACTION MOTOR EXPRESS, INC., P.O. Box 29102, 8303 Old Gentilly Road, New Orleans, La. 70126. Applicant's representative: Sandra H. Roberson (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fibre drums and components, supplies and materials* used in the manufacture of fibre drums, *fibre drums*, from the plantsite of the Continental Group, Inc., located at Van Wert, Ohio, to points in Illinois, Indiana, Kentucky, Michigan, Missouri, Pennsylvania, West Virginia and Wisconsin; *and drums, components, materials and supplies*, between the plantsites of the Continental Group, Inc., located at Midland, Mich.; Carteret, N.J.; Pittsburg, Calif.; Culloden, W. Va.; Windsor Locks, Conn.; Tonawanda, N.Y.; Van Wert, Ohio; Reading, Pa.; Overland, Mo.; Jacinto City, Tex.; Charlotte, N.C.; and Lithonia, Ga., under a continuing contract with The Continental Group, Inc., for 180 days. Supporting shipper: The Continental Group, Inc., Office Park II, Greenwich, Conn. 06830. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 9038 U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans, La. 70113

No. MC 140601 (Sub-No. 5 TA), filed January 17, 1977. Applicant: BILLY FRANK, doing business as FRANK BROS., 349 Abbott Ave., Hillsboro, Tex. 76645. Applicant's representative: James M. Doherty, P.O. Box 1945, Austin, Tex. 78767. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, and fittings and accessories* for plastic pipe, from Waco, Tex., to points in Arkansas, Louisiana, New Mexico, Oklahoma and Texas; and (2) *Materials, equipment and supplies* (except commodities in bulk), used in the manufacture of the commodities named in (1) above, from points in Arkansas, Louisiana, New Mexico, Oklahoma and Texas, to Waco, Tex., under a continuing contract with Certain-teed Products Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Certain-teed Products Corporation, P.O. Box 860, Valley Forge, Pa. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 142318 (Sub-No. 2 TA), filed January 14, 1977. Applicant: RICK MINNIS, doing business as RICK MINNIS TRUCKING, 1125 N. Main St., Milpitas, Calif. 95035. Applicant's representative: Thomas M. Loughran, 100 Bush St., 21st Floor, San Francisco, Calif. 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pozzolan*, in bulk, in tank trailers equipped with pneumatic unloading equipment, from the facilities of Lassenite Industries, Inc., on U.S. Highway 395, six miles north of Hallelujah Junction, Calif., to American Falls Dam, at or near American Falls, Idaho, under a continuing contract with Lassenite Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lassenite Industries, Inc., 445 Coney Island Drive South, Sparks, Nev. 89431. Send protests to: Claud W. Reeves, District Supervisor, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 142423 (Sub-No. 2TA), filed January 17, 1977. Applicant: BIG D CARTAGE, INC., 28091 Kingsberry Drive, Mt. Clemens, Mich. 48043. Applicant's representative: Robert E. McFarland, 999 W. Big Beaver Road, Suite 1002, Troy, Mich. 48084. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Fulton, N.Y., to points in Macomb County, Mich., with empty containers on return, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vic Wertz Distributing Co., Mitch Housey, General Manager, 40585 Production Drive, Mt. Clemens, Mich. 48083. 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 142706 (Sub-No. 1TA), filed January 17, 1977. Applicant: EARLY BIRD TRANSFER, INC., 210 Fourth Ave., International Falls, Minn. 56649. Applicant's representative: John B. Van de North, Jr., 4610 IDS Center, 80 S. Eighth St., Minneapolis, Minn. 55402. 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, (1) from Minneapolis and St. Paul, Minn., to Chicago, Ill., and Detroit, Mich., and (2) from Chicago and Forest Park, Ill., to Minneapolis, St. Paul, Fridley, Hopkins, St. Charles and Mantorville, Minn., and Eau Claire, Wis. Restriction: (2) above limited to the transportation of less-than-truckload shipments, maximum weight 25,000 pounds, for 180 days. Supporting shippers: There are approximately 14 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: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 142778 (Sub-No. 1 TA), filed January 18, 1977. Applicant: DON BAKER, R.F.D. No. 1, McLeansboro, Ill. 62859. Applicant's representative: Don Baker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from Coal Mine, at or near Waltonville and Carrier Mills, Ill., to Evansville, Ind., for 180 days. Supporting shipper: R. F. Sheets, Purchasing Manager, Arkla Industries, Inc., 819 E. Franklin St., Evansville, Ind. Send protests to: Harold C. Joliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 142789 (Sub-No. 1 TA), filed January 14, 1977. Applicant: WETCO, INCORPORATED, doing business as KEY LIMOUSINE, 3909 S. Airport Road, Ogden, Utah 84403. Applicant's representative: Frank S. Warner, No. 9 Bank of Utah Plaza, Ogden, Utah 84401. Autority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* having a prior or subsequent movement by aircraft (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, and commodities otherwise partially exempt from regulation as provided by Section 203 (b)(6) of the Interstate Commerce Act), to be transported in mixed loads with the previously described commodities; as follows: between Salt Lake City and Richmond, Utah; from Salt Lake City, Utah, over U.S. Highway 89 and 91 (Interstate 15) to Richmond, Utah, and return over the same route, serving Salt Lake City, Brigham City, Logan, Smithfield, and Richmond, Utah, and serving the off-route points of Hyrum and Providence, Utah; also between Salt Lake City and Provo, Utah; also from Salt Lake City, Utah; over U.S. Highway 89 and 91 (Interstate 15) to Provo, Utah, and return over the same route, serving Salt Lake City and Provo, Utah. The service authorized herein is subject to the following conditions: Said service is restricted (1) to the transportation of packages or articles each weighing not more than 100 lbs., and (2) against the transportation of packages or articles weighing more than 200 lbs. in the aggregate from one consignor at one location

to one consignee at one location during a single day, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 33 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 142820 TA, filed January 18, 1977. Applicant: ODEX EXPRESS, INC., 169 Avenue F, Bayonne, N.J. 07002. Applicant's representative: Bruce J. Robbins, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fat and trimmings* (except in bulk), in mechanically refrigerated vehicles, from Baltimore, Md.; Boston, Mass.; points in New York and New Jersey, and the District of Columbia, to Carteret, N.J.; and (2) *Shortening* (except in bulk), in mechanically refrigerated vehicles, from Carteret, N.J., to points in Connecticut, Delaware, New York, New Jersey, Maryland, Massachusetts, Rhode Island, and the District of Columbia; Kissimmee, Fla.; Collingswood, Pittsburgh and Saltsburg, Pa.; Roanoke, Va.; Clarksburgh, and New Cumberland, W. Va.; and all points within that part of the United States bounded generally on the east by the Atlantic Ocean; on the north by the Maryland-Virginia State line; and on the west, generally by a line beginning at the junction of U.S. Highway 15, and the Maryland-Virginia State line, and extending southerly along U.S. Highway 15 through the state of Virginia and across the Virginia-North Carolina State line to Oxford, N.C., thence southerly along U.S. Highway 85 to the North Carolina-South Carolina State line, thence westerly along the North Carolina-South Carolina and North Carolina-Georgia State line to its junction with U.S. Highway 75, thence southerly along U.S. 75 through the states of Georgia and across the Georgia-Florida State line to the junction of U.S. Highway 75 and U.S. Highway 95 in the state of Florida, thence southerly along U.S. Highway 95 to its junction with U.S. Highway 1, thence southerly along U.S. Highway 1 to the Atlantic Ocean, under a continuing contract with Intercon Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Intercon Company, Division of CFS Continental of Chicago, Ill., 351 Roosevelt Ave., Cartaret, N.J. 07008. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 142821 TA, filed January 19, 1977. Applicant: ROY M. BROWN, Rt. No. 2, Galatia, Ill. 62935. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Carrier Mills and Waltonville, Ill., to Evansville, Ind., for 180 days. Supporting shipper: W. A. Gallmeister, Director of Purchasing, Mead Johnson and Company, 2404 Pennsylvania St., Evansville, Ind. 47721. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 142822 TA, filed January 17, 1977. Applicant: GAIL DENNY TRUCKING., INC., Route No. 2, Harrisburg, Ill. 62946. Applicant's representative: Fred Denny, 10 Dogwood Place, Harrisburg, Ill. 62946. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from Uniontown, Ky., to Evansville, Ind., for 180 days. Supporting shipper: David L. Smith, Senior Buyer, Whirlpool Corporation, Hwy. 41 North, Evansville, Ind. 47727. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 142823TA, filed January 17, 1977. Applicant: R. H. CROSBY, JR., P.O. Box 25, Staunton, Va. 24426. Applicant's representative: Richard J. Lee, 4070 Falstone Road, Richmond, Va. 23234. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel sheet, steel plates and steel coils*, from the plantsite of Maphis Chapman Corp., at or near Harrisonburg, Va., to points in North Carolina, South Carolina and Maryland, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Maphis C. Chapman Corporation, P.O. Box 151, Harrisonburg, Va. 22801. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-3003 Filed 1-28-77;8:45 am]

[Notice No. 111]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76868, filed December 13, 1976. Transferee: SPECIAL D COURIERS, INC., 244 S. Bloomfield Ave., Windsor, Conn. 06095. Transferor: Dominic Cersosimo & Sons, Inc., 780 Silver Lane, East Hartford, Conn. 06118. Applicant's representative: Thomas W. Murrett, Attorney at Law, 342 No. Main St., West Hartford, Conn. 06117. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-104932, issued May 20, 1958, as follows: *Fertilizer*, over irregular routes, from Deerfield, Mass., to points in Hartford County, Conn., from points in Hartford County, Conn., to Hatfield, Hadley, and Deerfield, Mass., and *Cosmetics, toilet preparations, disinfectants*, and *insecticides; household waxes, polishes*, and *cleaning compounds; brushes, brooms, mops, and component parts therefor;* and *advertising material and sales promotion premiums* used in connection with the distribution and sale of the above-specified commodities, all in individual packages or containers not exceeding 55 pounds, from East Hartford, Conn., to points in Connecticut, and points in Washington County, R.I. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76877, filed December 20, 1976. Transferee: ZOGORSKI WAREHOUSE, INC., 416 Washington Ave., Hulmeville, Pa. 19047. Transferor: Joseph Zogorski, Swamp Rd., R.D. 2, Newtown, Pa. 18940. Applicants' representative: Robert Hallworth, 416 Washington Ave., Hulmeville, Pa. 19047. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 70833, issued April 24, 1976, as follows: Irregular routes: *Plush* and *plush yarns*, Between Hulmeville, Pa., and Mt. Holly, N.J. *Wallpaper* and *articles* used in or related to the manufacture of wall-

paper, between Philadelphia, Pa., and Beverly, N.J. *Wallpaper*, from South Langhorne and Hulmeville, Pa., to points in New York, Delaware, Maryland, and the District of Columbia, and Camden, N.J., and points in that part of New Jersey on and north of a straight line extending from Trenton, N.J., through Highlands, N.J., to the Atlantic Ocean, except Trenton and Highlands, N.J. *Damaged, refused and rejected shipments of wallpaper*, from the above-specified destination points to Hulmeville, Pa., *Agricultural commodities* and *livestock*, between points in Bucks County, Pa., other than incorporated municipalities, on the one hand, and, on the other, New York, N.Y., and points in New Jersey, Delaware, and Maryland. *Flowers*, from Richboro Pa., to Washington, D.C., and *agricultural commodities*, from Richboro, Pa., and points in Pennsylvania within 10 miles of Richboro, to Camden, N.J., Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76885, filed December 17, 1976. Transferee: DIERINGER TRUCKING SERVICE, INC., P.O. Box 550, Fairbanks, Alaska 99701. Transferor: James F. Dieringer, doing business as Dieringer Trucking Service, 1732 Hilton, Fairbanks, Alaska 99701. Applicant's representative: George L. Benesch, Attorney at Law, 213 West Sixth Avenue, Suite #1, Anchorage, Alaska 99501. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC–118513 (Sub-No. 2) issued October 24, 1963, as follows: General commodities with the usual exceptions between points in Valdez, Alaska and between Valdez, Alaska, on the one hand, and, on the other specified points on or near specified Alaska Highways. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76888, filed December 21, 1976. Transferee: CRIDER TRUCK LEASING, INC., R.D. #4, Burtner Road, Butler, Pa. 16001. Tranferor: R/T Trucking, Inc., (Stanley G. Makoroff, Receiver), 1124 Frick Building, Pittsburgh, Pa. 15219. Applicant's representative: Arthur J. Diskin, Esq., 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 138376, issued May 31, 1973, as follows: Such commodities as are dealt in by hardware, drug and department stores and by supermarkets from Philadelphia, Pa., to points in Allegheny County, Pa., restricted to the transportation of shipments having an immediately prior movement by water, and between points in Allegheny County, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Massachusetts, Maryland, Michigan, New Jersey, New York, Ohio, Rhode Island, Virginia, West Virginia, and Wisconsin, subject to various specified restrictions. Transferee is presently authorized to operate as a contract carrier under Permit No. MC 140431. Aplication has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76890 filed December 22, 1976. Transferee: Burlingame Truck Line, Inc., R.R. #2, Scranton, Kansas, 66537. Transferor: A. J. Flynn, P.O. Box 224, Perry, Kansas, 66073. Applicants' representative: Clyde N. Christey, 514 Capitol Federal Bldg., Topeka, Kansas, 66603. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC–37755, issued February 8, 1973, as follows: *Livestock, agricultural machinery, implements, and parts, feed, binder twine, building materials, household goods* as defined by the Commission, *petroleum products in containers, petroleum-products containers*, and *coal*, between Valley Falls, Kans., and points within 16 miles of Valley Falls, on the one hand, and, on the other, Kansas City, Kans., and Kansas City and St. Joseph, Mo.; *Livestock*, between Valley Falls, Kans., and points within 16 miles of Valley Falls, on the one hand, and, on the other, Auburn, Nebr.; *Fertilizer*, in containers, between Valley Falls, Kans., and points within 16 miles of Valley Falls, on the one hand, and, on the other, Kansas City and St. Joseph, Mo.; *Asphalt coated crushed stone*, Between Valley Falls, Kans., and points within 16 miles thereof, on the one hand, and, on the other, Kansas City and St. Joseph, Mo.; *Feed and fertilizer*, From Kansas City, Mo., to Perry, Kans.; *Emigrant movables*, From points in Jefferson, Atchison, and Jackson Counties, Kans., and that part of Shawnee County, Kans., North of the Kansas River, to points in Missouri and Nebraska; *Feed and feed ingredients*, From Kansas City and St. Joseph, Mo., to points in Leavenworth, Jackson, Jefferson, Shawnee, and Douglas Counties, Kans. Transferee is presently authorized to operate as a common carrier under Certificate No. MC–50866 issued August 23, 1974. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76891 filed December 22, 1976. Transferee: Wayne Plunske, Doing Business As Plunske's Garage, 915 North Colony Rd., Wallingford, Connecticut 06492. Transferor: Donald G. Gilletti, Jr., Doing Business As Gilletti's Garage & Auto Body Works, Main Street Extension, Middletown, Connecticut 06457. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC–138234, issued January 8, 1974, as follows: *Wrecked and disabled motor vehicles*, by use of wrecker equipment only, Between points in Connecticut, on the one hand, and, on the other, points in Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76892, filed December 22, 1976. Transferee: Ames Sand & Gravel, Inc., 2702 First Avenue North, Fargo, North Dakota 58102. Transferor: Materials Transport, Inc., 2702 First Avenue North, Fargo, North Dakota 58102. Applicant's representative: Richard A. Ames, Secretary-Treasurer, 2702 First Avenue North, Fargo, North Dakota 58102. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC–118894 (Sub-No. 1), issued February 16, 1960, as follows: Such commodities as are transported in dump vehicles and which can be unloaded by dumping, and ready-mixed concrete between 16 specified counties in North Dakota and 21 specified counties in Minnesota. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76898, filed December 27, 1976. Transferee: Fred Olson Motor Service Corporation, doing business as FOMS, 6022 West State St., Wauwatosa, Wis. 53213. Transferor: Fred Olson Motor Service Company, doing business as FOMS, 6022 West State St., Wauwatosa, Wis. 53213. Applicant's representative: Richard J. Bliss, Attorney-at-Law, 780 N. Water St., Milwaukee, Wis. 53202. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permit No. MC–135540, issued September 15, 1971, authorizing the transportation of kerosene and Numbers 1, 2, 3, 5, 5, and 6 heating oil, in bulk, in tank vehicles, from points in Cook and Will Counties, Ill., and Lake County, Ind., to points in Wisconsin, limited to a transportation service to be performed under a continuing contract, or contracts, with Quickflash Division of the Jacobus Company of Milwaukee, Wis.; and the operating rights set forth in Certificates Nos. MC–52673, MC–52673 (Sub-No. 14), MC–52673 (Sub-No. 17), MC–52673 (Sub-No. 26) and MC–42673 (Sub-No. 28), issued June 11, 1973, April 4, 1962, July 3, 1975, April 25, 1969, and October 10, 1969, respectively, authorizing the transportation of general commodities and various specified commodities, from, to, and between points in Illinois, Wisconsin, Indiana, Iowa, Missouri, and Nebraska. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC–FC–76902, filed December 28, 1976. Transferee: Worley's Asphalt & Paving Co., a corporation, Hunt Rd., P.O. Box 118, Burlington, Iowa 52601. Transferor: Fred B. Miller, doing business as Fred B. Miller & Co., 1605 South St., Burlington, Iowa 52601. Applicants' representative: Pryor, Riley, Jones & Walsh, Attorney at Law, 321 N. 3rd St., Burlington, Iowa 52601. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC–133113, issued March

20, 1969, as follows: *Sand, gravel, crushed stone,* and *asphaltic concrete,* in bulk, in dump trucks, over irregular routes, from points in Des Moines County, Iowa, to to points in Henderson, Mercer, Knox, Warren, Hancock, and McDonough Counties, Ill. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76903, filed December 28, 1976. Transferee: Kitchell Truck Lines, Inc., Ipswich, South Dakota 57451. Transferor: Porter Truck Service, Inc., 1217 W. Cherokee, P.O. Box 866, Sioux Falls, South Dakota 57101. Applicants' representative: F. H. Kroeger, 1745 University Ave., St. Paul, Minn. 55104. Authority sought for purchase by transferee that a portion of the operating rights of transferor, as set forth in Certificate No. MC–32213, issued August 17, 1965, as follows: *Petroleum products* in containers, over irregular routes, from Omaha, Nebr., Sioux City, Iowa, and Minneapolis, Minn., to points in South Dakota. From Minneapolis, Minn., to Mitchell, S. Dak., from Sioux City, Iowa, to Murdo and Mitchell, S. Dak. *Empty petroleum products containers,* over irregular routes, from points in South Dakota, to Omaha, Nebr. Sioux City, Iowa, and Minneapolis, Minn. Transferee is presently authorized to operate as a common carrier under Certificate No. MC–30045 and subs thereafter. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76910, filed January 3, 1977. Transferee: Star Enterprises, Inc., R 2 Monsees Lake, Sedalia, MO 65301. Transferor: Jordan Sand and Gravel Co., Inc., R 2 Monsees Lakes, Sedalia, MO 65301. Applicant's representative: James T. Tuckley, Attorney-at-Law, 309 East Fifth St., Sedalia, MO 65301. Authority sought for purchase by transferee of the operating rights set forth in Certificates Nos. MC–127944 and MC–127944 (Sub-No. 1), issued September 3, 1970 and July 9, 1975, respectively, to transferor as follows: Blacktop, lime, sand, crushed rock (filter rock), and gravel, between points in a described area in Kansas, Oklahoma, Arkansas, and Missouri; and barite ore, in bulk, in dump vehicles, from points in Missouri, to the plant site of Sherwin Williams Chemicals, a Division of the Sherwin-Williams Company, at or near Coffeyville, Kans. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 77-3005 Filed 1-28-77;8:45 am]

federal register

MONDAY, JANUARY 31, 1977

PART II

NATIONAL SCIENCE FOUNDATION

■

GRANT POLICY MANUAL

Proposed Implementation of OMB Circular A–110

NATIONAL SCIENCE FOUNDATION

GRANT POLICY MANUAL

Proposed Implementation of OMB Circular A–110

Notice is hereby given that the National Science Foundation intends to implement the provisions of OMB Circular A–110 and certain other directives by a new Grant Policy Manual (NSF Manual No. 15) replacing the existing Grant Administration Manual (NSF 73–26).

The proposed new Manual distinguishes between projects with minimal Federal involvement during performance and those with substantial involvement during performance. It prescribes that the traditional "grant" mechanism will be used for the former, and is intended to be definitive for them. It prescribes that "other agreements" will be awarded in support of the latter, and indicates how they differ from grants. It extends the provisions of OMB Circular A–110 to all types of organizations (both public and private, commercial and nonprofit). The Preface summarizes its contents and highlights proposed changes to current policies and procedures.

In the interests of reducing paperwork, the Table of Contents, Exhibits, Glossary, and Index are not reproduced herein. Most Exhibits are documents (or portions thereof) which currently are available to the public, including:

OMB Circular A–110: FR 41, No. 148, Part II—Friday, July 30, 1976;
FMC 73–3: 34 CFR Part 211
NSF Criteria for Selection of Research Projects: 39 FR 42954, Dec. 9, 1974 and NSF Guide to Programs (NSF 76–33)

Other Exhibits will be furnished to interested parties on request.

Comments are invited on or before March 15, 1977, and should be addressed to:

Director, Division of Grants and Contracts, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

To assist NSF in considering and acting on comments, it would be helpful if:

(1) They could be arranged in the Chapter and Section sequence of the proposed Manual, with any general comments or suggestions at the beginning; and

(2) Those from different segments of an organization could be consolidated on an organizational basis.

ELDON D. TAYLOR,
Assistant Director for Administration.

JANUARY 19, 1977.

PREFACE

This NSF "Grant Policy Manual" (NSF Manual No. 15) updates and replaces the NSF "Grant Administration Manual" (NSF 73–26) dated October 1973. It is applicable to all NSF grants and other agreements issued on and after July 1, 1977 under the authority of the NSF Act of 1950, as amended (42 U.S.C. 1861 et. seq). It is not applicable to procurement contracts issued in accordance with the Federal Procurement Regulations System (41 CFR Subtitle A) and the NSF Procurement Regulations (41 CFR Chapter 25).

Prior to January 1, 1974 NSF grants were made subject to the applicable terms and conditions of program announcements, such as "Grants for Scientific Research" and to the special provisions stated in the grant instrument. On and after that date NSF grants were made subject to a form letter, which referenced appropriate sections of the "Grant Administration Manual," and to the stated special provisions. On and after July 1, 1977 NSF grants will be subject to the general provisions in an Appendix to this "Manual" and to the stated special provisions. Other NSF agreements will be subject to comparable general provisions in other Appendices to this "Manual" and to the stated special provisions.

Subsequent to the issuance of the "Grant Administration Manual," a number of new laws, executive orders, and other directives have been issued. The most significant of these for non-procurement awards is OMB Circular A–110 (41 FR, No. 148—July 30, 1976), which promulgated uniform standards and requirements applicable to all Federal agencies for the administration of grants to, and other agreements with, public and private colleges, universities, and hospitals and other quasi-public and private nonprofit organizations. That Circular is analogous to FMC 74–7 (formerly OMB Circular A–102), which promulgated uniform standards applicable to all Federal agencies for the administration of grants-in-aid to State and local governments and federally recognized Indian tribal governments. OMB Circular A–110 also rescinds and replaces parts of FMC 73–7 (formerly OMB Circular A–101) which, until the issuance of A–110, was the principal source of policies and procedures applicable to Federal grants, contracts, or other agreements for research projects with colleges and universities.

The "Grant Administration Manual" implemented the provisions of A–101 for all NSF grants to all types of performing organizations, and implemented such of the provisions of A–102 as seemed appropriate to the kinds of research and other science projects as are supported by the National Science Foundation. This "Grant Policy Manual"—implements the provisions of A–110 and other OMB directives with certain minor exceptions. Although most OMB directives apply only to governmental and non-profit organizations, the provisions of this "Manual" are applicable to all nonprocurement awards including those made to commercial organizations.

This "Manual" has been prepared in loose-leaf form, and will be updated periodically by means of numbered transmittal notices. It is being distributed, under a controlled distribution list, in limited numbers of copies to:

a. Administrative and financial management officials of public and private organizations and institutions which now are or propose to be recipients of Federal financial assistance for the performance of research or other science projects of the types described in the NSF "Guide to Programs" or applicable program announcements or solicitations. Those institutions and organizations which are recipients of an NSF letter of credit will receive 10 copies; other awardees will receive fewer numbers, with a minimum of three.

b. Federal audit agencies and their offices in the ten Federal regions.

c. The NSF staff.

Such administrative and financial management information as individual scientists and educators need to know for the preparation of proposals for NSF support and for the performance and reporting of their projects will continue to be contained in appropriate program announcements and solicitations.

Major differences between the NSF requirements and procedures contained in this "Manual" and its predecessor are, in order of their appearance:

1. BASIC INFORMATION

a. In order to maintain the traditional flexibility of its grants for scientific research and related purposes, while accommodating the concerns of the Congress and the public for greater accountability, within the framework of the new OMB directives, NSF is giving explicit recognition to the fact that it supports different kinds of projects, with different degrees of Federal involvement during performance. Chapter I extends the FMC 73–7 concept of two basic types of research projects to the broader concept of two basic types of all projects.

b. It then differentiates between the terms "grants" and "other agreements" found in that document and in A–110, and defines them so that they become award instruments to support the two types of projects, along the general lines recommended by the ninety-fourth Congress in the proposed "Federal Grant and Cooperative Agreement Act of 1976."

2. PROPOSAL SUBMISSION, EVALUATION, AND AWARD

a. While maintaining its traditional policy of prescribing proposal procedures through program announcements and solicitations, NSF recognizes that OMB Circulars A–95, A–110, and A–111 and FMC 74–7 prescribe a standard Federal assistance multipurpose facesheet for certain purposes.

b. Chapter II prescribes a new award budget to replace the combination grant budget and fiscal report.

c. Since some of the Attachments to FMC 74–7 and OMB Circular A–110 distinguish between the Federal share and the non-Federal share of project costs, NSF is requiring estimates of total project costs, and distinguishing between the two shares, both in the proposal budget and in the award budget.

d. Chapter II contains additional provisions concerning proposals involving

consultant services or expensive special purpose equipment.

3. GRANTEE STANDARDS

a. In addition to continuing the financial management standards required by section 510 of NSF 73-26, Chapter III contains the new procurement standards required by A-110 and FMC 74-7.

b. It expands those standards to specifically include procurement of consultants, and prescribes a variant of the A-110 and FMC 74-7 property management standards to cover expensive research-related equipment.

c. It refines the provisions of section 140 of NSF 73-26 which requires certain data from prospective grantees, for greater consistency with both the new OMB standards and with the requirements of FPR Subpart 1-1.12, concerning responsible prospective contractors.

4. PAYMENT AND FINANCIAL REPORTING REQUIREMENTS

a. Chapter IV prescribes payment policy, methods and procedures contained in Treasury Circular 1075 (revised) and A-110. The new Treasury Department Regional Disbursing Office letter of credit system is included.

b. It prescribes a machine-formated version of the new Federal Cash Transactions Report prescribed by A-110 and FMC 74-7 to replace the traditional NSF Quarterly Expenditure Report.

5. ALLOWABILITY OF COSTS

a. NSF criteria as to the allowability of costs evolved over the last quarter century. Chapter V prescribes that their allowability shall be in accordance with the Federal cost principles in effect as of the date of the award.

b. It also delegates to awafdees certain prior approval authority.

6. PROJECT AND AWARD MANAGEMENT

a. Chapter VI implements the various Parts of FMC 73-7 concerning changes in project direction and management and expenditure approval procedures, and the various Attachments to A-110 and FMC 74-7 concerning those and other post-award administration matters.

b. It prescribes an organizational prior approval system to implement the monitoring requirements of A-110 and FMC 74-7 and the budget revision procedures of those Circulars and of FMC 73-7. It clarifies NSF lines of authority for such prior approvals as are not delegated to the performing organization (or awardee, as appropriate).

c. It distinguishes between various requirements under grants and other agreements.

d. It promulgates the new A-110 suspension and termination procedures to replace the traditional revocation procedures.

e. The new Financial Status Report is prescribed as a part of the award closeout procedures in lieu of the traditional NSF fiscal report. Because of its requirement to report cost sharing on an award-by-award basis, the NSF cost sharing procedures are revised. Its requirements for reporting project income are revised slightly to conform with the requirements of the Senate Committee on Appropriations with respect to royalty income generated by the sale of federally-supported education materials.

f. The provisions of Notice No. 62 are revised both to reflect the new Financial Status Report and to recognize the differences between grant and other agreement reporting requirements.

7. OTHER CONSIDERATIONS

Chapter VII summarizes various other policies and practices which do not necessarily apply to every award.

8. GENERAL PROVISIONS

Separate appendices contain the general provisions for grants and for various other agreements.

NOTE.—These will be published for comment in a subsequent issue of the FEDERAL REGISTER.

CHAPTER I—BASIC INFORMATION

This chapter provides basic information about the National Science Foundation, its organization, award policies, and this "Manual". It consists of the following topics:

100 The National Science Foundation
110 The NSF Grant Policy Manual
120 Types of NSF awards
130 NSF—awardee relationships
140 NSF organization

100 THE NATIONAL SCIENCE FOUNDATION

101 GENERAL

The National Science Foundation is an agency of the Federal Government established in 1950 to promote and advance scientific progress in the United States. The Foundation fulfills this responsibility primarily by sponsoring scientific research, encouraging and supporting improvements in science education, and fostering scientific information exchange. NSF does not itself conduct research or carry out education projects. Recipients of NSF support have full responsibility, in accordance with the terms of their grants or other agreements, for the conduct of their projects or activities and for the results achieved.

102 BASIC AUTHORITY

a. The basic authority of the National Science Foundation is contained in the National Science Foundation Act of 1950 (Pub. L. 81-507, as amended; 42 U.S.C. 1861 et. seq.).

b. Among other things, Sec. 3a of the NSF Act (42 U.S.C. 1862) authorizes and directs the Foundation to:

(1) Initiate and support basic scientific research and programs to strengthen scientific research potential by making contracts or other arrangements (including grants, loans, and other forms of assistance) to support such scientific activities, without restriction as to the type of performance;

(2) Award scholarships and graduate fellowships in the sciences; and

(3) Foster the interchange of scientific information among scientists in the United States and foreign countries.

c. Sec. 3c of the Act also authorizes NSF to initiate and support applied research at academic institutions and other nonprofit organizations, and, when so directed by the President, to support applied scientific research relevant to national problems involving the public interest through other appropriate organizations. By letter of April 13, 1972, the President implemented the extended authority of Sec. 3c in the following terms:

The Foundation, in making grants or contracts for applied scientific research relevant to national problems involving the public interest, may support such work at other than academic and nonprofit institutions when the Director of the National Science Foundation determines that it would be advantageous to use the capabilities of such other institutions to accomplish the program objectives.

d. Sec. 3e of the Act prescribes that one of the objectives of the Foundation shall be to strengthen research and education in the sciences throughout the United States and to avoid undue concentration of such research and education.

e. Sec. 11 of the Act (42 U.S.C. 1870) provides broad authority to the Foundation to, among other things:

(1) Enter into contracts or other arrangements for the performance by organizations or individuals in the United States and foreign countries (including other government agencies) of such scientific activities as the Foundation deems necessary, without legal consideration, without performance or other bonds, and without regard to Sec. 3709 of the Revised Statutes;

(2) Make advance, progress, or other payments which relate to scientific activities without regard to Sec. 3648 of the Revised Statutes (31 U.S.C. 529);

(3) Publish or arrange for the publication of scientific and technical information without regard to various statutes.

e. Sec. 14(c) of the Act (42 U.S.C. 1873) preclude the Foundation from operating any laboratories or pilot plants.

f. Unlike some other Federal agencies, NSF does not rely on the so-called Grant Act of 1958 (42 U.S.C. 1891-1983) for its authority to award grants in support of scientific research.

110 THE NSF GRANT POLICY MANUAL

111 PURPOSE, SCOPE, AND APPLICABILITY

a. This NSF "Grant Policy Manual" establishes uniform polices and procedures relating to the award and administration of NSF asistance and support through grants and other agreements awarded pursuant to the authority contained in the NSF Act. It is issued pursuant to the authority contained in section 11(a) of the Act (42 U.S.C. 1870).

b. It implements the Public Laws, Executive Orders, and other directives listed in Exhibit 1-1 insofar as they pertain to NSF nonprocurement awards.

c. In the event of discrepancy between any existing NSF publication and this "Manual", the provisions of the "Manual" shall govern on and after the effective date stated in the Preface. In the event of discrepancy between any future NSF publication and this "Manual", the provisions of the "Manual" shall govern unless the publication is a numbered NSF publication which specifically states that its provisions supersede specific sections of this Manual.

d. This "Manual" is applicable to all NSF grants, to all types of grantee institutions and organizations, awarded on and after the effective date stated in the Preface. The Grant General Provisions contained in the Appendix will be incorporated by reference in the grant instrument. Those general provisions may be modified only by a special provision in the grant instrument or numbered amendment thereto. This "Manual" is applicable to other nonprocurement agreements to the extent indicated in the award instrument. It is not applicable to procurement contracts.

112 GENERAL ORGANIZATION AND CITATION

a. This "Grant Policy Manual" is organized into chapters which correspond in general to the sequence of events from proposal submission through award closeout. Other considerations which either are not universally applicable or which do not necessarily follow the proposal-award cycle are contained in a separate Chapter VII. Chapters are subdivided into sections which cover single subjects within the scope of the chapter. Preceding the numbered chapters are a Preface, which summarizes changes from the predecessor "Grant Administration Manual" and states the effective date of this "Manual", and the Table of Contents. Following the numbered Chapters are the Glossary, General Provisions, and Index.

b. For purposes of brevity, the NSF "Grant Policy Manual" may be cited as "NSF GPM." Specific Sections may be cited by appending the Section number, e.g., "NSF GPM 112b."

113 CHANGES

Changes of this "Manual" will be issued under serially numbered Transmittal Notices, signed by the Assistant Director for Administration. Each such notice will describe the new material transmitted, the old material superseded, and the purpose of the change. New material will be printed in looseleaf form, containing revised or additional pages, bearing the change number and date. Approximately each three years or when required, the "Manual" will be reissued.

114 DEFINITIONS

The words and terms used in this "Manual" shall have the meanings set forth in the applicable chapter, if defined therein, or in the Glossary.

120 TYPES OF NSF AWARDS

121 BACKGROUND

a. The types of activities funded by the Foundation and the purposes of NSF funding are varied. Consequently, the degree of NSF responsibility for and management control of such activities also varies. NSF traditionally has used grants for its basic research and other support activities. These grants generally have not required significant NSF involvement in the conduct or management of the supported activity.

b. It is the policy of the Foundation, consistent with the general purposes and limitations specified in the NSF Act and other applicable authority, to use the most appropriate methods and arrangements, consistent with sound business and management practices, to achieve program objectives. Such methods and arrangements will be consistent with the purpose of NSF funding and the nature of the activity and will reflect the degree of NSF involvement in the activity.

c. The key factor in determining the terms and conditions appropriate to a particular award for scientific research or related activities is not the type of performing organization which will be the recipient of the award, and is not necessarily the NSF program recommending the award, but is the type of project which is to be conducted.

d. This Manual is based on the premise that, in furtherance of its basic mission to foster the health of science, NSF grant administration requirements should continue to be:

(a) As minimal as possible, consistent with the need to ensure that Federal funds made available to NSF by the Congress are wisely spent for the purposes intended;

(b) As flexible as possible, to permit optimum freedom for scientific inquiry; and

(c) As consistent as possible among both NSF Programs and categories of grantees to improve mutual understanding and administrative efficiency.

122 DEFINITIONS

The following basic terms pertaining to NSF awards have the indicated meanings.

Assistance. The provision of money, services, or property to a non-Federal recipient for the purpose of supporting or stimulating activities in the national interest.

Award. Grant or other agreement awarded by NSF under the authority of the NSF Act of 1950, as amended, and this "Manual" to any type of recipient to support a science-related project. Excludes contracts for the procurement of goods or services for Government use.

Awardee. The grantee or recipient of other assistance. See also "performing organization."

Award Instrument. The document by means of which Federal assistance is provided to a recipient. NSF award instruments consist of:

a. The award letter and any numbered amendments thereto (see Exhibit 2–7);

b. The award budget, which indicates the amounts, by categories of expense, on which NSF has based its support (see Exhibit 2–8);

c. The proposal referenced in the award letter;

d. The general provisions applicable to that type of NSF award (see Appendix); and

e. Such special provisions as are applicable to a specific award.

Grant. An award by which money, or property provided in lieu of money, is paid or furnished by the Federal Government to a recipient under a program that provides financial assistance, support, or stimulation to accomplish a public purpose where no substantial involvement is anticipated between NSF, acting for the Federal government, and the recipient during performance of the project.

Grantee. The institution, public or private nonprofit organization, or other legally accountable entity that receives a grant, and assumes legal and financial responsibility and accountability both for the awarded funds and for the performance of the grant-supported activity. In certain cases, a grantee may be an individual in the United States. See also "Awardee," "Performing Organization," or "Recipient."

Other Agreement. An award by which money, of property provided in lieu of money, is paid or furnished by the Federal Government to a recipient under a program that provides financial assistance, support, or stimulation to accomplish a public purpose where substantial involvement is anticipated between NSF, acting for the Federal government, and the recipient during performance of the project. The term "other agreement" does not include a contract which is required to be entered into and administered under procurement laws and regulations.

Performing organization. The organization or institution which conducts a science project supported by an NSF grant or other agreement. In most cases, same as awardee, although in some cases (e.g., some State colleges or universities) the "awardee" may be a legal entity related to but different from "performing organization."

Project. The activity outlined in the proposal and approved for NSF support.

Recipient. The institution or organization to which an NSF grant or other agreement is awarded. See also "awardee," "grantee," and "performing organization."

123 TYPES OF AWARD INSTRUMENTS

On and after the effective date of this Manual, non-procurement award instruments will be used by the Foundation as provided below:

123.1 *Grants.* Grants will be used to support performing organizations in carrying out activities for which only minimum NSF involvement is required during performance. The activities will be carried out by performing organizations in accordance with the grant instrument. NSF will monitor performance of the activities to the extent necessary to keep generally informed of progress and to assure compliance with the applicable standards as outlined in section 610, "Monitoring and Reporting Project Performance."

123.2 *Other Agreements.* Other agreements will be used by NSF for awards when NSF's purpose is to support or stimulate performing organizations to carry out activities which require substantial NSF technical or management involvement during performance. For example, they may be used if an activity is complex technically and managerially, requires extensive or close coordination with other Federally-supported work, is a new type of effort or is one in which NSF decides to be involved.

124 CATEGORIES OF NSF GRANTS

NSF awards two basic categories of grants, described in this Section. See also section 250, "Additional Funding Support."

124.1 *Standard Grants.* Standard grants will be awarded for support periods ranging from six months to three years. Support of up to five years may be awarded in exceptional cases where the project warrants and the award amount is modest. Funds for the whole award period of a standard grant are fully obligated by NSF in a single action.

124.2 *Continuing Grants.* a. Continuing grants are awarded to support long term projects of high scientific merit. Such grants provide initial support for one year and, subject to the availability of funds and satisfactory progress of the work, will provide additional annual increments not to exceed a total of five years' support for the entire project.

b. Normally the grant instrument will specify the full term to be supported and the dollar amounts for each future annual increment of support. For awards with annual levels exceeding $200,000, the grant letter may state an approximate support level with the provision that the actual level will be negotiated annually. See section 253, "Continuing Awards."

125 CATEGORIES OF OTHER NSF AGREEMENTS [RESERVED]

130 NSF-AWARDEE RELATIONSHIPS

131 BASIC REQUIREMENTS

An NSF award is made to an organization, known as the awardee, rather than to the individual principal investigator or project director who proposes to conduct the project. The award establishes a relationship between NSF and the recipient in which:

a. NSF agrees to provide full or partial financial support for the costs of the project to be performed under the provisions of the award instrument.

b. The official to whom the award letter is addressed agrees, on behalf of the recipient, to the performance of the project, to the prudent management of the funds provided by the award and to the provisions of the award instrument.

132 AWARD ACCEPTANCE

a. The awardee is free to accept or reject the award. However, in the absence of a specific acceptance, action to obtain Federal funds constitutes acceptance of an award. In some cases, NSF may require an awardee to formally accept an award in writing.

140 NSF ORGANIZATION

141 GENERAL

a. Reporting to the Director, National Science Foundation, are several staff Offices, the Directorate for Administration, and six scientific/technological Directorates. The current NSF organization chart is at Exhibit 1–2.

b. Of most direct concern to awardees are the Central Processing Section to which formal proposals are sent (section 200), the appropriate NSF Program Officer (section 132, below), the Grants and Contracts Office (section 133 below), and the Grantee and Cash Management Branch (section 134 below).

142 NSF PROGRAM OFFICERS

The NSF Program Officers are the principal operational personnel in the scientific/technological directorates. They review, evaluate and recommend proposals for award. In the event NSF makes an award, the scientific aspects will be monitored by the appropriate NSF Program Officer, whose name and telephone number are shown in award instruments issued on and after the effective date of this Manual (see Exhibit 2–7). Changes requiring NSF approval must be approved by the responsible program officer and, in some cases, by the grants officer as outlined in Chapter VI.

143 DIVISION OF GRANTS AND CONTRACTS

a. The NSF Division of Grants and Contracts has the responsibility for assuring that any proposed award is consistent with applicable policy, regulations, directives, and fund certifications. The Division of Grants and Contracts is the only NSF office authorized to issue award letters and to obligate NSF funds for expenditures under awards.

144 GRANTEE AND CASH MANAGEMENT BRANCH

The Grantee and Cash Management Branch of the Division of Financial and Administrative Management (telephone 202–632–4006) is available to assist the business officer in matters of payment and financial reporting discussed in Chapter IV.

Exhibits:

1–1 Public Laws, Executive Orders, and Other Directives
1–2 NSF Organization Chart

CHAPTER II.—PROPOSAL SUBMISSION, EVALUATION, AND AWARD

This chapter discusses the overall aspects of a proposal becoming an award and specifically highlights perspectives of the following topics:

200 Submission of Proposals
210 Project Notification and Review System
220 Joint Funding Simplification Act
230 Evaluation of Proposals
240 NSF Award Periods
250 Additional Funding Support

200 SUBMISSION OF PROPOSALS

201 GENERAL

a. NSF makes awards for the following general purposes: basic research; applied research; science education; studies, surveys and analyses; science information; equipment and facilities; ship operations and oceanographic facilities; science policy and technology assessment; intergovernmental science activities; international cooperative scientific activities; symposia, workshops and conferences; research initiation; dissertations; group travel, and individual travel.

b. The purpose of a proposal is to provide a statement establishing the objectives and the scientific significance of the proposed activity, the technical adequacy of the project director/principal investigator and of the institutional base, and the level of funding required. Excluding group travel and individual travel, the proposal should also establish the suitability of the methods or approach to be used.

c. The proposal is intended to persuade the Foundation's scientific and technical staff and members of the scientific community (who will review the proposal and advise the Foundation) that the proposed activity is both sound and worthy of support under the NSF criteria for the selection of research projects (Exhibit 2–1), or such other specific criteria as are specified in the applicable publication described in section 202. The proposal should be succinct, self contained and written with care and thoroughness.

d. Before submitting the proposal to NSF, the authorized organizational representative should determine that, among other things:

(1) The proposed project is consistent with the policies and goals of the submitting organization;

(2) The organization has, or can make available, the necessary facilities, general purpose equipment, most of the special purpose equipment, and services for the conduct of the project;

(3) The organization can make available the necessary personnel for the amounts of time estimated to be required;

(4) The organization has legal authority to accept awards and the requisite policies, procedures, and personnel to meet the standards shown in Chapter III;

(5) The total costs estimated to be required for the conduct of the project are reasonable and there is a plan for meeting such costs either from award funds or from some other source;

(6) If the proposal is for a research project which has not specifically been solicited by NSF, the submitting organization is willing to share in the costs of such project as outlined in section 642;

(7) The costs which NSF is being asked to support are allowable and the treatment of such costs as direct or indirect in the proposal budget is consistent with Federal cost principles and with the policies of the submitting organization (see Chapter V).

e. If the submitting organization does not already have an indirect cost base and rate recognized by NSF or by the Cognizant Federal Negotiating Agency, an indirect cost proposal should be separately submitted.

f. If not previously done, the submitting organization should also separately furnish the organization and management information described in section 340 and the Civil Rights Assurance described in section 700.

202 NSF MECHANISMS FOR GENERATING PROPOSALS

Program announcements will be used to generate unsolicited proposals for NSF support. Any resultant award will generally be in the form of a grant. Program Solicitations will be used to generate solicited proposals for NSF support in targeted areas. Any resultant award will either be a grant or other agreement. Requests for Proposals (RFP's) will be used to generate proposals for the procurement of products or services for NSF or the Government. Any resultant award will be in the form of a contract. Basic guidance for the use of each mechanism follows:

202.1 *Program Announcement.* Includes program brochures, announcements, guidelines for submission of proposals, published program plans, etc. Program Announcements are the primary mechanisms used by NSF to generate proposals. The information and general guidelines provided may be applicable to an entire program directorate or to a single program element. Program Announcements do not identify specific projects, generally do not contain proposal due dates and tend to have a greater life expectancy than other proposal generation mechanisms. Proposals submitted in response to program announcements are considered unsolicited and if for research, the resulting awards are subject to statutory cost sharing. (See section 640, "Cost Sharing and Matching.") Proposals are evaluated pursuant to general evaluation criteria (see Exhbit 2–1) and compete with each other but less directly than under solicitation mechanisms.

202.2 *Program Solicitation.* More definitive and specific than a program announcement, it generally describes types of projects the program wishes to fund and normally applies for a more limited period of time, with specific proposal due dates, as contrasted with the more open-ended program announcement. Competition among proposals is more focused, and special evaluation and selection procedures are identified and used. Statutory cost sharing is not required and awards may provide for full costs and fees where appropriate.

202.3 *Request for Proposals.* This is a procurement solicitation mechanism under the Federal Procurement Regulations (Title 41, Chapter 1, CFR) as amplified by the NSF procurement regulations (Title 41, Chapter 25, CFR). Proposals are usually generated for one specific award for that particular project. Statutory cost sharing is not required and awards may provide for full costs and fees where appropriate. This Manual is not aplicable to procurement transactions.

203 BASIC OUTLINE FOR PREPARING AND SUBMITTING PROPOSALS

203.1 *Categories of Applicants.* a. Proposals to NSF for nonprocurement support may be recived from and awards made to the following types of performing organizations, defined in section 340.1:

(1) NonProfit Academic Institutions (Colleges and Universities);

(2) Other Nonprofit Organizations (such as independent museums; observatories; research laboratories; hospitals; stock centers; consortia; professional, scientific and educational associations or societies; and similar organizations.

(3) Commercial firms (including profit making educational institutions);

(4) State and local governments and agencies thereunder;

(5) Foreign Institutions or Organizations;

a. The Foundation rarely provides dollar support to foreign institutions. However, support may be provided to foreign institutions utilizing U.S.-owned excess foreign currencies (See section 730, "International Considerations").

b. NSF rarely awards grants to unaffiliated scientists or other individuals who are not employed by any of the above organizations or institutions. However, NSF may provide support (i.e., airline tickets) for international travel (see section 734, "International Travel Support Awards") directly to individual scientists, regardless of organizational affiliation.

c. Proposals for NSF support may also be received from and interagency support agreements concluded with other Federal agencies.

203.2 *When To Submit Proposals.* Unsolicited proposals should be formally submitted to NSF at least six and preferably eight months prior to the requested effective date of the project activity. Proposals may be submitted at any time unless they are in response to:

a. A Program Solicitation (frequently used by NSF's Applied Research Directorate). Program Solicitations always have fixed deadlines for receipt of proposals by NSF (see section 202.2, "Program Solicitation").

b. Those "Program Announcements," "Guides for Preparation of Proposals," etc. that contain fixed deadlines for receipt of proposals by NSF (see section 202.1, "Program Announcement"). Most of the proposals received by NSF's Education Directorate are in response to "Guides for Preparation of Proposals" containing fixed deadline dates. Both the Applied Research Directorate and the Education Directorate as well as NSF's Division of Science Information frequently issue "Program Announcements" with fixed deadline dates.

203.3 *Where to Submit Proposals.* Unless stated otherwise in a Program Solicitation, Program Announcements, etc., 15 copies of each proposal should be forwarded to:

Central Processing Section, National Sience Foundation, Washington, D.C. 20550

The Foundation will acknowledge receipt of each proposal and assign an identification number which should be referred to in all future correspondence concerning the proposal.

203.4 *Standard Application Forms.* a. NSF does not have an "application kit" and does not prescribe the use of standard preapplication or application forms, except for proposals to programs covered by the Project Notification and Review System of OMB Circular A–95, and by Attachment M to OMB Circular A–110. See Section 210, "Project Notification and Review System."

203.5 *NSF Proposal Format.* a. Proposals consist of three parts: cover page, narrative, and budget. (Supplemental documents should be placed in one or more appendixes.)

b. Proposals being forwarded to a particular program in NSF in response to a "specific" NSF program issuance should follow instructions therein on what to submit.

c. Other proposals should follow the guidelines set forth in appropriate general NSF brochures, such as "Grants for Scientific Research" or "RANN Guidelines for the Preparation of Unsolicited Proposals and the Operation of Projects."

d. A brief synopsis of what to submit follows:

(1) Cover Page—Except for proposals to programs covered by A–95 (see section 210), the cover page should follow the general format of Exhibit 2–3, or the applicable program Announcement, Brochure, Solicitation, etc. (See section 203.6 on "Proposal Signatures.")

(2) Narrative—The Narrative contains a brief abstract (200–300 words), table of contents, what is being proposed, objectives and significance of the proposal, general plan of achieving these objectives, relation to the current status of the topic of the proposal addresses, outline (with pertinent references) of what has been done on the topic to date, plans for making the results of the project known and widely available, assurance that the proper facilities and equipment are available, justification for equipment (see section 204.2)and consultants (see section 204.1); the principal publications of senior personnel during the past five years, location of work to be performed if off campus or away from headquarters, and vitae of senior personnel. Included with the vitae should be information on *all* current awards or consultant arrangements to which time is committed (title of project, beginning and ending date of award, amount of time (man months) being devoted to the project and salary arrangements thereto, source of funds, annual budget level). In addition, the vitae should provide similar data on all proposed projects which are being considered by or which will be submitted in the near future to other possible sponsors, including other NSF programs.

(3) Proposal Budget—See Exhibit 2–4 for suggested format.

203.6 *Proposal Signatures.* NSF requires that the original of each proposal for NSF support be signed by the principal investigator (PI), and co-principal investigator if more than one principal investigator is involved in the project, or project director(s) (PD) who wishes to undertake the project, and be endorsed by the authorized organizational representative or his designee. Proposing organizations may have additional signature requirements. The principal investigator (PI)/project director (PD) is the individual designated by the performing organization and approved by NSF who will be responsible for the scientific or technical direction of the project. The term "principal investigator" generally is used in basic research projects, while the term "project director" generally is used in science education and other projects. The authorized organizational representative is the administrative official who is empowered to commit the proposing organization to the conduct of a project if NSF agrees to support it.

a. *PI Signature.* The signature of the principal investigator/project director signifies the agreement of the signer to assume responsibility for the scientific or technical direction of the project and for the preparation of required technical reports.

b. *Organizational Endorsement.* By endorsing the cover sheet, the authorized organizational representative affirms on behalf of the proposing organization that all the requirements outlined in this Manual for handling and managing awards can be met.

204 PROPOSALS INVOLVING CONSULTANT SERVICES OR EQUIPMENT

204.1 *Consultant Services.* (a) If the need for a particular consultant is anticipated, and is approved by the organization's prior approval system (section 613), the requirement should be shown in the proposal narrative and budget (see section 203.5d).

(b) Provision for funds in item j of the Award Budget (Exhibit 2–8) normally will constitute NSF approval for the expenditure of Federal funds for the services outlined in the proposal, subject to audit verification.

(c) Unless contemplated in the proposal and approved in the award, the use of consultant services is not authorized in grants.

(d) For other agreements, if consultant services not contemplated in the proposal subsequently are needed, the awardee must request such NSF approvals as are required by the terms of the agreement.

204.2 *Equipment.* If a proposal for NSF support involves the purchase or lease of "expensive special purpose equipment" (i.e., having a unit acquisition cost exceeding $25,000), the authorized organizational representative must certify on the proposal budget (Exhibit 2–4) that the equipment is (a) essential and not reasonably available and accessible to the project and, if funded by NSF will be subject to (b) reasonable inventory controls and maintenance procedures and (c) organizational policies designed to enhance multiple or shared use on other projects if such other use will not interfere with the work on the project for which the equipment is being acquired (see section 332, "Equipment Management Standards").

205 PROPOSALS FOR MASTER AWARDS

205.1 *Definition.* A proposal for a master award is a proposal from one institution or organization for support of a project which will be carried out through an ad hoc cooperative arrangement between or among the proposed awardee and one or more other extramural performers which are legally independent of the proposed awardee. Examples of such projects are:

a. Those in which investigators at two or more independent organizations carry on various phases of the principal activity of the project.

b. Those in which cooperating organizations provide essential services or common data information for the project.

205.2 *Tentative Agreements.* Prior to submission of a proposal for a master award, the proposing coordinating principal investigator or project director and the submitting organization and all cooperating organizations should reach tentative agreement on both the scientific and administrative aspects of the proposed cooperative project.

205.3 *Informal Proposal.* Submission of an informal proposal to the cognizant NSF Program is encouraged prior to formalizing the application for a Master award.

205.4 *What to Submit.* a. The formal proposal should contain the information requested in the proposal submission requirements of the applicable NSF Program (see section 203.5, "NSF Proposal Format"). It should clearly outline the prime awardee, the scope of the work to be undertaken by each of the cooperating institutions, identify the overall project director and the principal investigators at each cooperating organization, and outline procedures for monitoring and directing the project effort. In lieu of the single proposal budget required by other awards, it should contain separate proposed budgets, listing both direct and indirect costs, for each cooperating organization. The budget for the prospective awardee should show the budget line items for that institution, and, under the "other direct cost" category, the totals of the proposed award amounts for the cooperating institutions.

b. The formal proposal cover page should contain a certification, signed by the over-all Project Director and authorized organizational representative, indicating that appropriate scientists and administrative officials in each cooperating organization concur in the submission of this proposal and agree to conduct their part of the project, if approved.

205.5 *Formal Agreement Between Awardee and Cooperating Organizations*—a. *General.* Following receipt of an NSF master award, the awardee should formalize by contract or other agreement, the tentative agreement previously negotiated with each cooperating organization. The agreement will set out the operational guidelines for control and direction of the project effort to facilitate a smoothly functioning cooperative venture. Each contract or other agreement should provide for the provisions summarized in b through i below.

b. *Scientific Considerations.* The agreement should identify the coordinating principal investigator or project director and the responsible persons at each cooperating organization and describe their responsibilities in the project. Specific procedures for monitoring and directing the project effort, and for required technical reports, should also be delineated.

c. *Fiscal Considerations.* The agreement should cite specific procedures to be followed in funding cooperating organizations for their effort and should include dollar ceilings, the time schedule and method of payment, the type of supporting documents required, and procedures for review and approval of expenditure of award funds at each organization. (See Chapters V, "Allowability of Costs," and IV, "Payment and Financial Reporting Requirements."

d. *Project Changes.* The agreement should provide for awardee approval of the types of project changes by cooperating institutions which Chapter VI requires be approved by NSF.

e. *Equipment.* The agreement should provide for the management of equipment acquired with funds made available through the award. Unless otherwise specified by the NSF award letter, the agreement may provide that title will vest either in the awardee or the cooperating organization, (if an academic institution or other public or private nonprofit organization) with disposition to be consistent with the provisions of section 770, "Equipment Title, Use, and Disposition."

f. *Award-related Income.* Unless otherwise specified, the agreement should provide for the management of any income generated as a result of the award, in a manner consistent with section 650, "Project Income."

g. *Patents and Copyrights.* Unless otherwise specified, the agreement should provide for publication and copyrights, rights in data, and patents and inventions in a manner consistent with section 750, "Intangible Property."

h. *Records Retention and Audit.* The agreement should contain provisions analogous to those in section 680, "Records Retention and Audit."

i. *Civil Rights Assurance—Subrecipient.* The agreement should contain necessary subrecipient civil rights language. See section 704, "Civil Rights Assurance—Subrecipient."

206 SALARY INFORMATION AND DISCLOSURE SURE

a. Proposals for NSF support are normally reviewed not only by Foundation staff but also by selected outside review-

ers chosen for their knowledge in the subject areas of proposed projects. An integral part of most proposals is a budget which includes the proposed commitment to the project by named senior personnel of a specified amount of time or effort for which the proposal requests NSF support and the corresponding salary amounts. Unless the proposing organization itemizes these salary amounts in a separate statement, rather than in the budget itself, this information is available to outside reviewers as part of the evaluation process.

b. Any organization submitting a proposal for support under any NSF program has the option of listing in a separate schedule the salary amounts for named senior project personnel which it proposes be reimbursed through an NSF award. If this option is selected, the proposal budget may substitute asterisks for the expressions of both the time or effort for which NSF support is requested and the corresponding salary amounts. In this event, the omitted information is to be furnished in a separate salary schedule with the legend, "It is requested that the following salary information not be released to persons outside the Government," two copies of which should be attached to the original proposal budget only. Whether or not the option is exercised, the proposal budget should continue to list the names of senior project personnel; the total senior personnel salaries for which NSF funding is requested; and other totals called for in the budget format.

c. Proposals resulting in NSF awards, including the budget, become part of the award instrument and will be made available to the public, upon request, pursuant to NSF procedures under the Freedom of Information Act of 1974 (see § 722.4, "Freedom of Information Act.") However, any separate salary schedule bearing the legend described in the preceeding paragraph will be considered confidential and withheld from release to the extent permitted by law.

207 ENVIRONMENTAL IMPACT STATEMENT

a. The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332) requires that Federal agencies add environmental considerations to those criteria which are traditionally used to decide on: (1) New (proposed) actions to be taken, and (2) the continued funding of ongoing actions. "Environmental" encompasses all actions that affect the quality of the human environment.

b. Identificaiton of actual and/or potential environmental impacts requires the continuous analysis of ongoing actions. Awardees must provide information in the proposal on such impacts (and any changes that occur during the course of the award) sufficient to assist Foundation officials in assessing the environmental consequences of ongoing actions. NSF will determine (1) the adequacy of the information submitted; (2) whether or not additional information is needed; and (3) whether or not a full scale environmental impact statement will be necessary.

c. The NSF regulation is contained in 45 CFR Part 640.

208 FLOOD DISASTER PROTECTION ACT

a. The Flood Disaster Protection Act of 1973 (28 U.S.C. 4001 et. seq.) provides that no Federal agency shall approve any financial assistance for "acquisition or construction" purposes for use in any area identified by the Department of Housing and Urban Development (HUD) as an area having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968 unless the building and any related equipment is covered by adequate flood insurance.

b. NSF awardees located in special flood hazard areas identified by HUD and where the sale of flood insurance has been made available under the National Flood Insurance Act, will:

(1) With respect to NSF awards for the construction of a building or facility, furnish the necessary proof of compliance with the Act before an award can be made, regardless of the dollar amount of the award.

(2) With respect to NSF research awards, and any other award where assistance for repair, alteration, or improvement of a building or facility is incidental, proof of compliance with the Act will be necessary only where the line item amount budgeted for repair, construction or improvement exceeds $10,000.

c. In the above cases where insurance is required, the proposal should contain either a certification that (a) the facilities or equipment are not located in an identified special flood hazard area or (b) adequate flood insurance under this Act has been obtained.

d. Applicants requiring flood insurance coverage should contact their local government or local federally insured financial institutions to determine areas identified as having special flood hazards and the availability of flood insurance in their community.

209 PROTECTION OF PROPERTIES IN THE NATIONAL REGISTER OF HISTORIC PLACES

The National Historic Preservation Act of 1966 (16 U.S.C. 470) requires that Federal Agencies institute procedures to assure that where as a result of Federal action or assistance a property listed on the National Register of Historic Places (by the Federal Advisory Council on Historic Preservation) is to be substantially altered or demolished, timely steps be taken to make or have made records, including measured drawings, photographs and maps, of the property, and that copy of such records then be deposited in the Library of Congress for future use and reference.

Proposed awardees must provide such information in the proposal on such alterations or demolishments (and any changes that occur during the course of the award) in order that NSF, in conjunction with the Advisory Council on Historic Preservation, may determine what steps need to be taken by the awardee to protect or establish and preserve the record of the property.

210 PROJECT NOTIFICATION AND REVIEW SYSTEM (PNRS)

211 BACKGROUND

a. OMB Circular A-95 (Revised January 2, 1976) implements section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, Title IV of the Intergovernmental Cooperation Act of 1968, and section 102(2)(c) of the National Environmental Policy Act of 1969 by establishing requirements relating to:

(1) A Project Notification and Review System (PNRS) (Part I),

(2) Direct Federal development (Part II),

(3) State plans (Part III), and

(4) Coordination of planning in multijurisdictional areas (Part IV).

b. Attachment M to OMB Circular A-110 promulgates a standard form (SF 424) to be used as a face sheet for applications for support under programs covered by Part I of Attachment A to A-95, as an optional notification of intent by applicants, and as a Federal report form of actions taken on such applications.

c. NSF has no programs involving the use of land or the construction of public works in metropolitan areas, no development assistance programs, no programs requiring State plans as a condition of assistance, none involving coordination of planning in multijurisdictional areas, and no programs of grants-in-aid to State and local governments as defined in Section 106 of the Intergovernmental Cooperation Act.

d. Therefore, except for environmental aspects, covered in section 207 of this "Manual," OMB Circular A-95 would not normally be applicable to NSF. However, since our Intergovernmental Science Program is related to certain aspects of the afore cited programs, it is included among the list of those programs covered by the PNRS requirements of A-95 (listed in the "Catalog of Federal Domestic Assistance" as number 47.036) as of the date of the Manual.

e. Treasury Circular 1082 provides procedures for the notification to States of award information. In view of d, above, NSF uses the supplemental reporting procedures of subparagraph 6B of TC 1082, summarized in section 212d, below.

f. The NSF regulations to implement OMB Circular A-95 and Treasury Circular 1082 are contained in 45 CFR Part 660.

212 PNRS PROCEDURES

a. Any organization desiring to submit a proposal for support under the Intergovernmental Science Program must (1) notify the appropriate State clearinghouse in Exhibit 2-5 of intent to apply for NSF support, using the notification form and procedures prescribed by the clearinghouse; and (2) use the standard Federal Assistance Application Form (SF 424), reproduced in Exhibit 2-6, as the "face sheet" for the proposal, in lieu of the NSF "cover page" format illustrated in Exhibit 2-3.

b. NSF will return to the originator any formal proposal to the Intergovernmental Science Program which does not contain the State Application Identifier (SAI) number and certification. However, unless the proposal is for support under the Intergovernmental Science Program, such State clearinghouse forms are neither required nor desired by NSF. They constitute unnecessary paperwork which serves no useful purpose for NSF.

c. Within seven days of taking action (declination or award) on the proposal, NSF will complete the SF 424 and return it to the State clearinghouse.

d. To implement the related requirements of Treasury Circular 1082, NSF will furnish to each State Central Information Reception Agency (SCIRA) listed in Exhibit 2–5 a quarterly "Statewide Award Report," summarizing basic data on each award to any institution or organization within the State, under any NSF program.

220 JOINT FUNDING SIMPLIFICATION ACT

a. The Joint Funding Simplification Act of 1974 (42 U.S.C. 4251 et seq.) provides for State and local governments and nonprofit organizations to combine State and Federal resources in support of projects of common interest to the governments and organizations concerned.

b. OMB Circular A–111 has established procedures for the submission of applications for joint funding through State and areawide clearinghouses and Federal Regional Councils.

c. NSF has been unable to identify any of its programs which are particularly suitable or appropriate for funding under the A–111 procedures. Prospective applicants should make preliminary inquiries to the Foundation before initiating formal applications.

230 EVALUATION OF PROPOSALS

231 PEER REVIEW AND MERIT SELECTION

The National Science Foundation's scientists, engineers and other program experts evaluate all proposals submitted to the Foundation. To assist them in the evaluation process they generally obtain the advice of scientists and others who are specialists in the fields covered in the proposals. The guidelines for NSF Program Officers on selection of reviewers is shown in Exhibit 2–2. Proposals must contain pertinent information in sufficient detail to define the nature and merit of the proposed project. In general, proposals will be supported in order of merit to the extent permitted by available funds. In cases of proposals of substantially equal merit, consideration is given to such factors as geographic distribution and general subject-matter coverage of awards made in that program.

232 CRITERIA

The general criteria used in the selection by NSF of projects to support is shown in Exhibit 2–1.

Other and more specific criteria may be contained in the various Program Solicitations, Program Announcements, Guidebooks for the Preparation of Proposals, etc., which are applicable to certain types of projects, proposals, or programs.

233 REVISIONS TO PROPOSALS MADE DURING REVIEW PROCESS

233.1 *Revised Budgets.* Whenever the annual rate requested has been deduced or increased by NSF by 10 percent or $10,000 (whichever is less), NSF will obtain revised budgets, signed by the principal investigator/project director and countersigned by the authorized organizational representative.

233.2 *Other Changes.* If a significant change is made to the proposal for policy reasons (e.g., restriction of human experimentation) or for other reasons which affect the scope, objectives, or methodology of the proposed project, NSF will obtain a letter of concurrence from the principal investigator/project director countersigned by the authorized organizational representative.

234 NSF ACTION TIME ON PROPOSALS

Although more expeditious handling is possible in some instances, normally action on proposals is taken within six to nine months and will continue on that timetable.

235 RECONSIDERATION OF PROPOSAL DECLINATIONS

A formal procedure for reconsideration of declination actions on proposal was established by NSF Important Notice No. 61 of January 27, 1976 (see Exhibit 2–9).

236 RELEASE OF PEER REVIEW INFORMATION

NSF Notice No. 59 of June 30, 1976 (see Exhibit 2–10), provided that verbatim copies of reviews requested by NSF after January 1, 1976, not including the identity of the reviewer, will be made available to the principal investigator/project director upon request.

240 NSF AWARD PERIODS

241 BACKGROUND

a. Most NSF grants show an effective date, an approximate support period (e.g., one year or two years), and an expiration date. The expiration date encompasses both the approximate period of support and an additional period of up to six months to allow for flexibility in the performance of the project and completion of technical reports and publication arrangements.

242 DEFINITIONS

The following basic terms pertaining to NSF award periods have the indicated meanings:

Effective Date. The date specified in the award letter after which expenditures may be changed to the grant. If no effective date is specified, then the date shown in the upper right corner of the award letter is the effective date. This date remains constant except under exceptional circumstances justifying a formal amendment.

Expiration Date. The date specified in the award letter after which expenditures may not be charged against the award except to satisfy obligations of funds to pay allowable project costs committed on or before that date. The expiration date is normally the last day of the month.

Award Period. The period of time between the effective date and the expiration date of an NSF award shown as a number of months. In many cases the award period includes up to six months of additional time to provide flexibility in the performance of the project and completion of technical reports and publications arrangements.

243 SIGNIFICANCE OF AWARD PERIOD

a. An NSF award gives authority to the recipient to commit and expend funds for allowable costs (see Chapter V) in support of the project, up to the award amount specified in the award letter, at any time during the award period. The amount of the award is calculated to provide support for the number of months requested in the proposal (e.g., 12 or 24 months) or such lesser period as may be funded at the time of the award.

b. Except as provided in §§ 504.3 and 504.4, expenditures may not be charged against an NSF award prior to the effective date or subsequent to the expiration date.

244 CHANGES IN AWARD PERIODS

244.1 *Effective Date.* The effective date of an award will not be changed except under exceptional circumstances. Any request to change the effective date must contain justification of such circumstances, and be signed by the principal investigator and endorsed by the authorized organizational representative. The request should be transmitted to the cognizant NSF program officer for scientific recommendation. If approved, the change will be made by numbered amendment to the award.

244.2 *Expiration Date.* The expiration date may be changed as a result of approval of a request for continued support of a continuing award, for a no-fund award extension, or, in some cases, by renewed support of a standard award or supplemental support. Such approval will be furnished by numbered amendment to the award.

244.3 *No-Fund Extension.* If additional time beyond the established expiration date is required to assure adequate completion of the original scope of work within the funds already made available, a request for no-fund award extension should be received by NSF at least 30 days prior to that date. Such request must contain the signatures both of the principal investigator/project director or his designee and of the authorized organizational representative and should include summaries of progress, funds remaining, and plans to complete that part of the project for which the extension is being requested. The need for an extension of time should be justified. Normally, no single extension may exceed 12 months and only in exceptional cases will more than one extension be allowed. If approved, the extension will be in the form of a numbered amendment to

the award, specifying a new expiration date.

250 ADDITIONAL FUNDING SUPPORT

251 TYPES OF ADDITIONAL FUNDING SUPPORT

Additional funding of a project beyond the original award period will be in the form of "renewed" support, "continued" support, or "Supplemental" support.

252 STANDARD AWARDS

252.1 *Renewed Support.* a. Standard awards will normally be made for durations up to three years (five years in exceptional cases) with the full award amount obligated by NSF at the time of the award. They may be renewed one time by amendment of the original award instrument: *Provided,* That the cumulative duration does not exceed five years.

b. Proposals for renewed support of a project during a subsequent period of time are evaluated in competition with all other pending proposals. Unless there is an explicit provision in the award instrument or in applicable guidelines or program announcements for a modified format or content, a proposal for renewed support should be documented and endorsed as fully as though the proposer were applying for the first time, with all the information required in a proposal for a new project. In addition, a summary of progress to date should be included indicating its relation to the proposed work. In order that awards may be made in time to provide an uninterrupted flow of Federal funding, proposals normally should be submitted to the NSF Central Processing Section (see § 203.3, "Where to Submit Proposals") well in advance of the intended effective date. In the absence of a different submission date prescribed by the award instrument or applicable guidelines, renewal proposals should be submitted at least six months prior to either:

(1) The time additional Federal funding will be required or

(2) The expiration date of the current award, whichever occurs first. In this situation, the proposed budget should estimate the amount of Federal funding authorization which will remain (i.e., the estimated unobligated balance) as of the expiration date.

252.2 *Supplemental Support.* a. If funds provided by an award are insufficient to complete the original scope of work, a request for supplemental funding support may be submitted, with justification of need. If approved, the award will be amended to provide additional funding for the current support period. The amendment letter will specify both the amount of supplemental funding and the cumulative amount awarded through the expiration date, which normally will remain unchanged. In some cases, the expiration date may be advanced, but no more than six months.

b. Normally NSF will not favorably consider requests for supplemental support for such purposes as defraying the costs of increases in salaries, wages or staff benefits or for additional indirect cost reimbursement, whether caused by a change in the indirect cost rate or by changes in direct cost expenditures which affect the indirect cost base.

c. Only in exceptional cases will more than one supplement be approved.

253 CONTINUING AWARDS

253.1 *Request for Continued Support.* a. Requests for funding increments for projects being supported under a continuing award receive high priority within NSF and normally are not considered in competition with proposals for renewed support of standard award projects.

b. In order to ensure continuity of Federal funding, each request for further support within the overall period of the continuing award should be received by NSF at least three months prior to the time additional Federal funding will be required. The letter of request must be signed by the principal investigator(s) and by the authorized organizational representative. Unless otherwise specified by the award or applicable program guidelines, requests for each increment of funds under a continuing award need only include the following in lieu of the detailed proposal data required for other types of awards:

(1) A brief summary of scientific progress;

(2) A statement of funds estimated to remain unobligated at the end of the period for which NSF currently is providing support; and

(3) A proposed budget for the ensuing year.

c. A request for further support beyond the final increment of the continuing grant should be in the form of a new proposal for a new grant.

253.2 *Funding Adjustments*—a. *Insufficient Funds.* If the funding allocated in any incremental award of a continuing award is insufficient to fund the project through the end of the support period, a request for continued support should be initiated far enough in advance so that, if approved, the amendment providing additional funding authorization may be awarded in a timely manner. Any approved supplemental funding normally would be provided at the same time as the next conditionally assured annual funding increment.

b. *Residual Funds.* If the funding allocated in any increment to a continuing award is more than enough to continue the project through the current support period, the awardee must notify NSF. NSF will adjust the succeeding incremental award either by (1) reducing the funding for the next interim period by any residual amount over $1,000 or (2) advancing the expiration date of the next interim period by a maximum of 6 months with no decrease in the planned funding. See also section 635, "Overbudgeted Expenditures."

Exhibits:

2-1 NSF Criteria for the Selection of Research Proposals (39 FR 42954, Dec. 9, 1974).

2-2 NSF Guidelines for Program Officers on Selection of Reviewers (O/D 76-11).

2-3 Cover Page Format.

2-4 Proposal Budget Format.

2-5 Directory of State Clearinghouses (A-95) and SCIRA (TC 1082).

2-6 Standard Form 424, "Federal Assistance".

2-7 Sample NSF Award Letters (a. Grant; b. Other Agreement-Reserved).

2-8 NSF Award Budget.

2-9 Reconsiderations of Proposals Declined by NSF (NSF Notice No. 61).

2-10 National Science Board Resolution on Peer Review Information (NSF Notice No. 59).

CHAPTER III—AWARDEE STANDARDS

300 BACKGROUND

a. OMB Circular A-110 prescribes three sets of standards for academic and other nonprofit recipients of Federal grants or other agreements. These govern financial management systems, procurement policies and procedures and property management. They are analogous to comparable standards prescribed by FMC 74-7 (formerly OMB Circular A-102) for State of local government recipients of Federal grants-in-aid.

b. Subpart 1-1.12 of the Federal Procurement Regulations (FPR) establishes the policy that purchases shall be made only from, and contracts shall be awarded only to, responsible prospective contractors. It prescribes minimum standards and requires acceptable evidence of a contractor's ability to obtain equipment, facilities, and personnel.

c. NSF long as required prospective awardees to furnish basic organization and management information to assist the grants officer in assessing their financial and managerial responsibility.

d. Succeeding sections 310-330 prescribe the OMB standards for all types of recipients of NSF grants or other agreements, including commercial firms and others to whom neither FMC 74-7 nor A-110 is directly applicable. Section 340 prescribes revised NSF requirements for organization and management information for greater consistency with both the FPR and the OMB directives.

310 STANDARDS FOR FINANCIAL MANAGEMENT SYSTEMS

NSF grantees, and recipients of other management systems which meet the requirements of Attachment F to OMB Circular A-110, reproduced as Exhibit 3-1 at the end of this chapter. The succeeding Chapter IV describes how to obtain, manage, and report Federal funds authorized by NSF grants or other agreements to be expended for costs which are allowable under the criteria of Chapter V.

320 PROCUREMENT STANDARDS

321 BACKGROUND

a. Attachment O to OMB Circular A-110, reproduced as Exhibit 3-2, prescribes standards for use by recipients in establishing procedures for the procurement of supplies, equipment, construction, and services with Federal

funds. In addition, Attachment J to OMB Circular A–110 requires recipients to obtain prior approvals before expending Federal funds for certain kinds of equipment, construction, and services.

b. NSF awardees are assumed to be established organizations (or, in unusual cases, unaffiliated scientists), with the necessary skills and other resources to conduct the projects proposed for NSF support and the necessary organizational and financial resources to manage them effectively. Awardees normally are expected to utilize the services of their own officers or employees to the maximum feasible extent in managing and performing the activities supported by NSF awards. Where it is necessary for an awardee to contract for the services of persons who are not its officers or employees, it is expected to do so in accordance with written organizational standards which provide for consideration of the factors outlined in the governing Federal cost principles and for an organizational system of justification, approval, and documentation. (See § 516, "Consultant Services" and § 613, "Organizational Prior Approval Systems.")

322 NSF REQUIREMENT

a. NSF grantees, and recipients of other NSF agreements, shall procure in a fashion which meets the requirements of Exhibit 3–2. In addition, such procurements must provide for the following:

(1) Prior NSF approval before any of the research or other substantive project effort supported by an NSF award is contracted, granted, or otherwise transfered. (See section 623, "Subcontracting or Transferring the Project Effort.")

(2) Prior NSF approval before procurement action is initiated to acquire any of the following services or capital items to be charged as a direct cost to the grant or other treatment:

Alterations and Renovation (see section 521);
General purpose equipment (see section 512.3);
Special purpose equipment with a unit acquisition cost of $1,000 or more (see section 512.4);
Tickets for Foreign Travel (see section section 731.2).

(3) Procurement of consultant services only after compliance with the factors specified in the governing cost principles (see section 516) has been verified by an appropriate official of the organization (see section 613).

(4) Arangements for commercial production and/or distribution of books, films, or similar materials, developed with the support of an NSF award specifically for such purpose, only as prescribed in section 761, "Production or Distribution as a Specific Purpose."

b. Unless otherwise specified in a particular award instrument, NSF does not require

(1) That proposed sole source contracts be subject to prior approval (subparagraph 3c(6) of Exhibit 3–2) or

(2) Adherence to the Davis Bacon Act (subparagraph 4f of Exhibit 3–2).

330 PROPERTY MANAGEMENT STANDARDS

331 BACKGROUND

a. Attachment N to OMB Circular A–110 prescribes uniform standards governing the management of tangible and intangible property furnished by the Federal government or whose cost was charged to a project supported by a Federal grant or other agreement.

b. Since NSF grants and other agreements do not involve the acquisition of real property, the standards in paragraph 3 of Attachment N are not applicable to NSF awards.

c. Paragraphs 4 through 7 of Attachment N prescribe (1) policies with respect to title to and disposition of Federally-owned nonexpendable personal property, exempt property, other nonexpendable property, and expendable property and (2) property management standards. Paragraph 2 defines those and other terms, which differ from the terms prescribed by the Federal cost principles described in section 501 of this Manual.

d. NSF is exercising the authority contained in subsection 11e of its Act (42 U.S.C. 1870) to prescribe equipment policies and property management standards which are comparable to those contained in Attachment N to A–110.

e. The various NSF requirements with respect to equipment are contained in the following sections of this Manual:

(1) Proposal submission—section 204.2;
(2) Equipment management standards—section 332;
(3) Definition for and allowability of equipment costs—section 512, and
(4) Equipment title, use and disposition—section 772.

f. Subparagraph 8a of Attachment N prescribes that recipients of Federal grants or other agreements shall report inventions or other patentable items or processes to the sponsoring agency which will determine how the rights shall be allocated and administered. The NSF policies, procedures, and requirements with respect to rights in inventions made in the course of or under grants, fellowships, or other agreements are contained in 45 CFR Part 650 and are summarized in section 750 of this Manual. Subparagraph 8b of Attachment N prescribes OMB policies with respect to copyrights. NSF implementation of that subparagraph with respect to Type 1 projects supported by NSF grants, and alternative provisions with rspect to Type 2 projects supported by other agreements, are contained in section 753 of this Manual.

332 EQUIPMENT MANAGEMENT STANDARDS

332.1 *Applicability.* a. NSF grantees, and recipients of other NSF agreements, shall have equipment management standards which include the procedural requirements in § 332.2 with respect to:

(1) Special purpose equipment with a unit acquisition cost of $10,000 or more,

(2) Special purpose equipment, with a unit acquisition cost of $1,000 or more, for which the grant or other agreement specifically reserves to NSF the right to transfer title to the Federal Government or to a third party as prescribed in section 772 of this Manual, and

(3) Federally-owned equipment furnished by NSF.

b. For the purposes of this § 332, the terms "equipment," "special purpose equipment," and "unit acquisition cost" shall have the meanings prescribed in § 512.2. The term "Federally-owned equipment" does not include excess government property obtained by organizations in accordance with the procedures described in section 740.

332.2 *Awardee Standards.* a. For the types of special purpose equipment described in § 332.1.a.(1) above, such standards shall include provisions for:

(1) Determining the need for, and the nonavailability or nonaccessibility under reasonable circumstances of, any such equipment for which the proposal requests NSF funding support.

(2) Enhancing the multiple or shared use of any such equipment on other projects as prescribed in § 332.3, below.

b. For all types of equipment described in section 332.1 above, such standards shall include provisions for:

(1) Appropriate property records which contain

(a) A description of the equipment, including manufacturer's serial number, model number, or other identification; and whether it is general purpose or special purpose equipment;

(b) Source of the equipment, including grant or other agreement number;

(c) Acquisition date or date received, if furnished by NSF, and cost;

(d) Whether title vests in the awardee or in the Federal Government; and in the latter event, the equipment must be marked to indicate Federal ownership;

(e) Location, use and condition of the equipment and the date the information was reported.

(f) Ultimate disposition date and sales price or fair market value.

(2) A physical inventory and records reconciliation at least once every two years, to include verification of condition and of continued need for the equipment.

(3) A control system to ensure adequate safeguards to prevent loss, damage, or theft. Any loss, damage, or theft of equipment owned by the Federal Government shall be promptly reported.

(4) Adequate maintenance procedures to keep the equipment in good condition.

(5) Procedures for sale or other disposition of unneeded equipment.

332.3 *Shared Use of Equipment.* During the time that (1) special purpose equipment with a unit acquisition cost of $10,000 or more or (2) Federally-owned equipment furnished by NSF is held for use on the project for which it was acquired, the awardee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the property was originally acquired. First preference for such other use shall be given to other projects sponsored by NSF; second preference shall be given to projects sponsored by other Federal agencies. If the property is owned by

the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible unless the award instrument prescribes otherwise.

340 PROSPECTIVE AWARDEE ORGANIZATION AND MANAGEMENT DATA

340.1 *General.* a. Each proposing institution or organization which has not been the recipient of an NSF contract, grant, or other agreement within the previous 2 years must submit basic organization and management information and certifications to the Foundation at the time it submits its formal proposal. A public or private institution of higher education, hospital or other nonprofit organization should send the prescribed material to:

Grants Officer, MPE/BBS/SE Branch, Division of Grants and Contracts.

A commercial firm or State or local government agency should address the information to:

Grants Officer, RA/STIA Branch, Division of Grants and Contracts.

b. For the purposes of this requirement, the following terms have the indicated meanings:

(1) *College or university.* A public or private institution of postsecondary education which, if a U.S. college or university, is listed in the current edition of the "Education Director, Colleges and Universities," published by the U.S. Department of Health, Education, and Welfare and available from the Superintendant of Documents, U.S. Government Printing Office.

(2) *Other nonprofit organization.* Any corporation, trust, association, cooperative, or other organization which (1) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; (2) is not organized primarily for profit; and (3) uses all income exceeding costs to maintain, improve, and/or expand its operations. For this purpose, the term "nonprofit organization" excludes (1) educational institutions, (2) hospitals, and (3) State, local, and Indian tribal governments. An organization which has tax exemption as a nonprofit organization from the U.S. Internal Revenue Service shall be considered to have met the criteria of this definition.

(3) *Small Business.* A concern, including its affiliates, which is independently owned and operated, is not a "nonprofit organization," is not dominant in the field of operation in which it is transacting business, and can further qualify under the criteria concerning the number of employees, average annual receipts, or other criteria, currently prescribed by the Small Business Administration (SBA).

(4) *Other commercial firm.* Any corporation, trust, or other organization which is organized primarily for profit and does not meet the SBA criteria of a "small business."

(5) *State.* Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of State institutions of higher education and hospitals.

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

340.2 *Required Information.* The following information is to be submitted:

a. The commonly-used name of the organization, together with the legal (registered) name, if different, and mailing address.

b. *Organization type.* Indicate the appropriate organizational type defined in section 340.1, above, or, if some other type, so indicate. If a U.S. college or university, show the Federal Interagency Committee on Education (FICE) code and category of control or affiliation as shown in the most recent "Education Directory."

c. *Federal Employee Identification No.* Employer identification number as assigned by Internal Revenue Service (U.S. organizations only).

d. *Congressional District.* (U.S. organizations only.)

e. *Organizational Affiliations.* Describe relationship of the organization to a parent organization or to subsidiaries or other affiliates. If the organization is a successor in interest to a predecessor or if changes in organization affiliation are anticipated, describe briefly.

f. *Statement of Purposes and Powers.* Enclose an official or published statement of the major purposes of the organization and of the powers which have been granted to it to enter into contractual relationships and/or to accept grants (e.g., articles of incorporation, terms of reference, or by-laws). (See section 340.3a, below.)

g. *Key Officials.* List the name, title, address, and telephone number of the following officials and their alternatives (if any):

(1) Chief Executive Officer. (NSF award letters normally are addressed to the Chief Executive Officer unless another appropriate addressee, such as the authorized organizational representative is designated by him.)

(2) Authorized Organizational Representative (see Glossary); and

h. *Affiliations of Key Officials.* If the organization is other than a college or university, a State or local government, or an international organization, indicate whether or not each official listed in (g) above is affiliated with any international, Federal, or State or local agency or with any college or university. If so, describe such affiliation. NSF reserves the right to consult with such affiliated organizations.

i. A representative listing of current or recent Federal awards to the organization indicating agency, award number, award amount, and title of project.

j. A copy of the most recent indirect cost agreement negotiated between the organization and some Federal agency or, if lacking such an agreement, an indirect cost rate proposal.

k. If other than a college or university or a state or local government, also submit the following:

(1) A certified statement of financial condition covering at least the preceeding two years; and

(2) Bank or other references.

340.3 *Required Certifications.* In addition to the basic information described in section 340.2, above, NSF requires that an organization described in section 340.1 a, above, submit a certification substantially as follows, signed by the Chief Executive Officer or authorized organizational representative:

a. I certify that

(Name of institution or organization)

has legal authority to accept grants, contracts or other agreements, as evidenced by the attached

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(Describe document)

and the requisite policies, procedures, and personnel to ensure stewardship of Federal funds and management of Federally supported projects, specifically including standards for financial management, procurement, and equipment management which meet those prescribed by sections 310, 322, and 332 of the NSF Grant Policy Manual.

NOTE.—In the event this is not the case, list exceptions and provide a realistic estimate of when such standards might be met.

b. Any proposals to the National Science Foundation will be consistent with the policies and goals of

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and will be submitted in accordance with its procedures and pursuant to appropriate authority.

NOTE.—See Chapter II of this Manual regarding proposal submission.

c. In the event the National Science Foundation awards grants, contracts, or other agreements as a result of any such proposals, I agree that_____ will:

(1) Make available the necessary facilities, equipment, services, and personnel to conduct the project substantially as outlined in the proposal or such modifications thereof as may be mutually agreed;

(2) Conduct such project oversight as may be appropriate, manage the Federal funding with probity and prudence, and comply with the terms and conditions of the NSF award; and

(3) Comply with applicable laws and regulations.

d. I further affirm that the "Assurance of Compliance with National Science Foundation Regulations under Title VI of the Civil Rights Act of 1964," attached (or, previously executed by _____

(Title of officer)

on _____ will be fully applicable to

(Date)

any such awards.

NOTE: See section 700.

e. If the organization meets SBA criteria and wishes to be considered by NSF as a small business, add a certification that the

organization is a small business concern as defined in the appropriate SBA regulations.

(Signature)

(Typed name and title)

(Date)

Exhibits:
3-1 Attachment F to OMB Circular A-110: Standards for financial management systems.
3-2 Attachment O to OMB Circular A-110: Procurement standards.

CHAPTER IV—PAYMENT AND FINANCIAL REPORTING REQUIREMENTS

400 INTRODUCTION

401 GENERAL

The acceptance of a grant or other agreement from the NSF creates a legal duty on the part of the recipient organization (hereafter referred to as "recipient") to use the funds or property made available in accordance with the conditions of the grant or other agreement. Payments may be made in advance of work performed or as a reimbursement for work performed or costs incurred by the recipient. The NSF has a reversionary interest in the unused balance of advance payments, in any funds improperly applied, whether received as an advance or reimbursable payment, and in property acquired through the grant or other agreement, to which the NSF specifically either retains title or reserves the right to require title transfer as prescribed in section 770, "Equipment Title, Use, and Disposition".

402 BASIC AUTHORITIES

The procedures prescribed in this chapter are based largely on selected portions of the uniform administrative requirements contained in Attachments A, G, and I to OMB Circular A-110 and Treasury Circular 1075.

403 SCOPE AND APPLICABILITY

The provisions of this chapter cover all NSF awards, except grants awarded from Special Foreign Currency Program appropriations. Graduate Fellowship agreements with domestic colleges and universities are included, but contracts are excluded. In this chapter "awards" will be used to include grants and other agreements. All categories of recipients (academic, nonacademic, profit, and nonprofit) are covered by this chapter. The procedures in this chapter apply primarily to the comptroller or business officer and his staff.

404 DEFINITIONS

The following definitions are either not included elsewhere in the manual or are repeated in this section because of their special applicability to this chapter.

a. *Business Officer.* The financial official of the recipient institution or organization who has primary responsibility for the accountability for and reporting on NSF award funds.

b. *Cash on Hand.* NSF funds on deposit, imprest funds, and undeposited Treasury checks.

c. *Disbursements.* Payments in cash or by check.

d. *Expenditures (Outlays).* Charges made to the project during a given period for (1) goods and other tangible property received, (2) services performed by employees, subcontractors, and other payees, and (3) amounts becoming owed for which no current services or performance is required.

e. *Obligations.* The amounts of orders placed, contracts awarded, services received, and similar transactions during a given period that will require payment by the recipient during the same or a future period.

f. *Recipient.* The institution or organization to which an NSF grant or other agreement is awarded.

g. *Unobligated Balance.* The portion of the funds authorized by the grant or other agreement that has not been obligated by the recipient. It is determined by deducting outlays and unliquidated obligations from the cumulative funds authorized.

h. *Unliquidated Obligations.* For reports prepared on a cash basis, unliquidated obligations represent the amount of obligations incurred by the recipient that have not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.

410 STANDARDS FOR FINANCIAL MANAGEMENT SYSTEMS

Recipients of NSF awards shall have financial management systems which, at a minimum, meet the requirements of Attachment F to OMB Circular A-110, reproduced as Exhibit 3-1 at the end of Chapter III.

420 PAYMENT REQUIREMENTS

421 GENERAL

Federal grant and other programs involving advances to various organizations outside the Federal Government constitute a significant portion of the Federal Budget. Advances of cash from the Treasury to such organizations for the purpose of financing current operations under Federal programs have a substantial impact on Treasury financing costs and the level of the public debt. The purpose of this section is to prescribe the timing of such advances and the procedures to be observed to assure that cash withdrawals from the Treasury occur only when essential to meet the needs of a recipient for its actual disbursements.

422 PAYMENT METHODS

a. *Letter of Credit.* A letter of credit is a commitment, certified by an authorized official of the NSF, specifying a dollar limit available to a designated payee. A letter of credit is the equivalent of cash available to the recipient and is irrevocable to the extent that the recipient has obligated funds in good faith thereunder for the execution of its authorized NSF programs.

Letter of credit funding is used where all of the following conditions exist:

(1) When there is, or will be, a continuing relationship between a recipient and the NSF for at least a 12-month period and the total amount of advances expected to be received within that period is $120,000, or more, and

(2) When the recipient has established or demonstrated to the NSF the willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds from the Treasury and their disbursement by the recipient, and

(3) When the recipient's financial management system meets the standards for fund control and accountability prescribed in Attachment F to OMB Circular A-110 (Exhibit 3-1).

b. *Request for Advance.* When a recipient meets all of the requirements specified in section 422a, above, except those in section 422a(1), payments will be made in advance of costs incurred by the submission of a Request for Advance, SF 270, to the NSF on a monthly, biweekly, or any other regular cycle. (See section 425 and Exhibit 4-6.)

c. *Request for Reimbursement.* When a recipient does not meet the requirements specified in either or both of section 422a (2) and section 422a(3), or when otherwise considered appropriate by the NSF, the recipient shall be required to finance its operations with its own working capital, and payments shall be made to reimburse the recipient for actual cash disbursements based on the submission of a Request for Reimbursement, SF 270, to the NSF. (See section 426 and Exhibit 4-6.)

d. *Working Capital Advance.* In those cases where the reimbursement method described in section 422c above, is not feasible, arrangements may be made whereby the operations of the recipient are financed on a working capital advance basis. On this basis, funds may be advanced to the recipient to cover its estimated disbursement needs for a given initial period. Thereafter, the recipient would be reimbursed for the amount of its actual cash disbursements. The amount of the initial advance shall be geared to the reimbursement cycle so that after the initial period, the advance approximately equals the average amount of the recipient's unreimbursed program disbursements.

423 PAYMENT POLICIES

a. *Timing of Payments.* Regardless of the particular method used, advances to a recipient shall be limited to the minimum amounts needed and shall be timed to be in accord with the actual, immediate cash requirements of the recipient in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to actual disbursements for direct program costs and the proportionate share of any allowable indirect costs.

Cash advances made by primary recipients (those which receive advances

directly from the NSF) to secondary recipients shall conform to the same standards of timing and amount as apply to advances by the NSF to primary recipients, including the furnishing of reports of cash disbursements and balances.

b. *Withholding Payments.* The NSF reserves the right, upon written notice, to withhold future payments after a specified date if the recipient:

(1) Fails to comply with the conditions of an NSF award, including the reporting requirements, or

(2) Is indebted to the U.S. Government.

c. *Safeguarding Funds* In no case will NSF furnished funds be comingled with the personal funds of, or be used for personal purposes by, any officer, employee, or agent of the grantee; nor will any of these funds be deposited in personal bank accounts for disbursement by personal check.

424 LETTER OF CREDIT

a. *Summary* The following is a brief outline of the letter of credit procedures under the Treasury Regional Disbursing Office (RDO) System:

(1) The NSF makes a determination that a recipient will be funded through a letter of credit and sends the recipient SF 1194, Authorized Signature Card for Payment Vouchers on Letter of Credit, and NSF Form 931, Designation of Depositary for Direct Deposit of Grant and/or Contract Funds. (See Exhibits 4–1 and 4–2.)

(2) The recipient completes SF 1194 and NSF Form 931 and returns them to the NSF.

(3) The NSF approves the completed SF 1194 and forwards one copy to the designated Treasury Regional Disbursing Office or Center.

(4) The NSF prepares a Letter of Credit, TFS 7577 (SF1193A). Copies are transmitted to the designated Treasury Regional Disbursing Office or Center and to the recipient. (See Exhibit 4–3.)

(5) The NSF furnishes the recipient a supply of SF 183, Request for Payment on Letter of Credit and Status of Funds Report.

(6) Following the effective date of the Letter of Credit, the recipient completes Requests for Payment, SF 183, and submits them to the designated Treasury Regional Disbursing Office or Center in order to receive funds to meet immediate cash disbursement needs. (See Exhibit 4–4.)

(7) The Treasury Regional Disbursing Office or Center then mails a Treasury check directly to the recipient's designated depositary (for credit to its account) or directly to the recipient.

b. *Authorized Signature Card* The Authorized Signature Card for Payment Vouchers on Letter of Credit, SF 1194, must contain the signature(s) of the official(s) authorized by the recipient to sign Request for Payment on Letter of Credit and Status of Funds Report, SF 183. The Treasury Regional Disbursing Office or Center will accept only the signature(s) of the official(s) named on the current signature card; the number of officials named should be limited to a practical number. A designation must be made, in the blocks provided, as to whether one or two signatures are required on Requests for Payment. New signature cards shall be submitted whenever there is a change, including additions or deletions of the officials authorized to sign Requests for Payment. Change in the title or position does not require a superseding signature card if the official's authority to sign Requests for Payment remains unchanged. SF 1194 and preparation instructions are shown in Exhibit 4–1.

c. *Designation of Depositary* The direct deposit procedures are for optional use by NSF recipients funded by letter of credit. Recipients electing to utilize the direct deposit procedures must make such election by submitting NSF Form 931, Designation of Depositary for Direct Deposit of Grant and/or Contract Funds, to the NSF.

Under direct deposit procedures, Treasury checks will be mailed directly to the designated depositary for credit to the recipient's bank account. Recipients electing to use the direct deposit procedures shall complete Section I of NSF Form 931 and forward it to the depositary for completion of Section II. After the form is completed, the recipient shall forward it to the NSF. A recipient will execute a power of attorney only where the depositary requires such an authorization in order to receive checks directly from the Treasury Regional Disbursing Office or Center for credit to the recipient's bank account. Recipients shall execute a new NSF Form 931 whenever changes to the depositary are necessary. NSF Form 931 and preparation instructions are shown in Exhibit 4–2.

d. *Letter of Credit* Upon determination by the NSF that a recipient shall be funded by a letter of credit (based on the criteria stated in section 422a, above) and after receipt of the completed signature and depositary forms (described in sections 424b and 424c, respectively) the NSF will issue a Letter of Credit, TFS 7577 (SF 1193A), in favor of the recipient.

The "Amount Authorized" is based on the recipient's anticipated cash requirements for the fiscal year and the NSF's cash outlay ceiling imposed by the Office of Management and Budget. The recipient's anticipated cash requirements for the fiscal year are reported to the NSF, in item 22, "Remarks", of SF 272, Federal Cash Transactions Report, which is described in Exhibit 4–7. Cash outlay projections are reported on the second and third quarter FCTR in the manner described in Exhibit 4–10. The combination of total recipient requirements and the NSF's cash outlay ceiling will determine the percentage of anticipated recipient requirements to be provided (percentage funding level). When 100 percent coverage cannot be provided by the NSF, the recipient has four alternatives:

(1) Defer outlays until the next fiscal year (to the extent possible), or

(2) Use funds from other sources until the next fiscal year, or

(3) Request the NSF to defer new project awards until the next fiscal year, or

(4) Use any combination of alternatives (1), (2), and (3).

The Letter of Credit, TFS 7577 (SF 1193A), is illustrated in Exhibit 4–3.

e. *Request for Payment on Letter of Credit.*—(1) *Preparation* The recipient shall submit a Request for Payment each time funds are needed to meet current expenses. Recipients are expected to exercise sound financial judgment and planning to insure that the requirements for maintaining minimum cash balances are met. In preparing the Request for Payment, careful consideration of such key factors as payroll dates, payments to subgrantees or contractors, and major fixed costs will be required in order to determine when funds will be needed. Careful consideration of mail time required for transmission of the Request for Payment to the Treasury Regional Disbursing Office or Center and for transmission of the Treasury check to the recipient or recipient's bank will also be necessary. For example, if $20,000 will be needed on the fifteenth of the month in order to meet payroll expenses, pay bills on hand, and provide funds to subgrantees to meet their current disbursement needs, and normal mail time from the date the Request for Payment is submitted to the date the Treasury check is received by the recipient is seven days, then these funds should be requested on approximately the eighth of the month. Once the letter of credit system has been in operation a short time, it is expected that the recipient will have determined its disbursing pattern and calculated mail time so that withdrawals will be timed as close as is administratively feasible to actual cash disbursements. Controls should be maintained on a current basis so that cash balances do not exceed the recipient's immediate disbursements needs. An illustration of SF 183 and instructions for completing it are shown in Exhibit 4–4.

(2) *Conditions for Rejection* The following is a list of conditions which will cause a Request for Payment, SF 183, to be rejected by the Treasury Regional Disbursing Office or Center.

(a) Unauthorized signature(s).

(b) Insufficient balance available under the Letter of Credit.

(c) The name of the drawer and/or the name of the payee to whom the Treasury check is to be issued is not identical to that shown on the related Letter of Credit.

(d) Incorrect Letter of Credit number. However, before rejecting, the Treasury Disbursing Office shall attempt to relate the request to the specific Letter of Credit, and if successful, correct the erroneous Letter of Credit number, and honor the Request for Payment.

(e) A written request from the NSF to withhold payments.

(f) The Status of Federal Funds Section is incomplete or incorrect.

(g) Excessive NSF cash in the hands of the recipient, as determined by Treasury.

(h) The classification section (Section III) is incomplete or the sum of the amounts is not in agreement with the "Amount Requested".

A Rejection Notice stating the reason(s) for rejection shall be furnished by the Treasury Disbursing Office to the recipient. A copy of the Rejection Notice shall be sent to the NSF and the Special Financing Staff, Banking and Cash management (Department of the Treasury in Washington, D.C.) along with a copy of the rejected Request for Payment.

(3) *Distribution of Copies.* Copies of the Request for Payment shall be distributed as follows:

(a) *Original.* To the Treasury Regional Disbursing Office or Center indicated on the Letter of Credit, TFS 7577 (SF 1193A).

(b) *Duplicate.* To the Treasury Regional Disbursing Office or Center for transmission to the NSF after payment or rejection.

(c) *Triplicate.* To the National Science Foundation, Division of Financial and Administrative Management, 1800 G Street, NW., Washington, D.C. 20550.

(d) *Quadruplicate.* Retained by the recipient.

(e) *Quintuplicate.* To the Treasury Regional Disbursing Office or Center for transmission to the Special Financing Staff, Banking and Cash Management (the Department of Treasury in Washington, D.C.)

(4) *Emergency payments.* In the event that a recipient did not receive a Treasury check, the recipient should request the NSF to contact the Treasury Regional Disbursing Office to determine the status of the payment.

(a) *Lost or delayed Treasury checks.* If the Treasury Regional Disbursing Office finds that a Treasury check was mailed to the recipient, but less than the normal number of days mail time has lapsed since the date the check was mailed, the recipient should wait a few days to see if the check arrives. If several days have lapsed since the check was mailed and the recipient needs the funds to meet immediate disbursements, the NSF will request the Treasury Regional Disbursing Office to issue a substitute check. If a substitute check is issued, a stop payment order will be placed on the first check. In the event the first check is received before the substitute check arrives, the original check can be negotiated only if the Treasury Regional Disbursing Office is requested to remove the stop payment order.

(b) *Lost or delayed Request for Payment.* If the Treasury Regional Disbursing Office finds that it never received the request for Payment, the NSF will determine whether sufficient mail time has been allowed for the Request for Payment to reach the Treasury Regional Disbursing Office. If there is an immediate need for the funds and the recipient cannot wait for a few days to see if the Request for Payment will be received by the Treasury Regional Disbursing Office, the recipient should prepare and submit another Request for Payment. The second Request for Payment should be boldly marked "SECOND ORIGINAL" across the top of the form. If the need is extremely critical and the recipient cannot wait the length of time it would take for the Request for Payment and the Treasury check to travel in the mails, the recipient should telephone the Chief, Grantee and Cash Management Branch (NSF) 202-632-4006, and arrangements will be made with the Treasury Department to wire-transfer funds to the recipient's bank. The recipient must return duplicate checks to the Treasury Regional Disbursing Office when, and if, received.

425 REQUEST FOR ADVANCE

The Request for Advance, SF 270, enables a recipient which meets all of the requirements specified in section 422a, except those in section 422a(1), to obtain cash in advance to meet current disbursement needs. The recipient's designated official (Accounting Officer, Business Officer, Treasurer, etc.) must submit Requests for Advance to the NSF on a periodic basis (monthly, biweekly), or other regular cycle) depending on normal disbursement patterns. Such requests should be limited to the minimum amounts needed and be timed to meet the anticipated cash requirements for allowable charges to active NSF projects. Recipients not qualifying for funding by letter of credit but are otherwise qualified to receive advance payments are instructed to use the "Alternate Computation for Advance", item 12, instead of lines 11a through j. A copy of SF 270 along with preparation instructions is included in Exhibit 4-6.

426 REQUEST FOR REIMBURSEMENTS

When a recipient fails to meet the requirements specified in either or both of sections 422a(2) and 422a(3), or when otherwise considered appropriate by the NSF, the recipient will be required to finance NSF projects with its own working capital. Reimbursement will be made upon submission of a Request for Reimbursement, SF 270. The amount requested as reimbursement will be reported on line 111. All other lines in item 11 and the "Alternate Computation for Advances", item 12, will be left blank. A SF 270, with instructions, is included in Exhibit 4-6.

427 WORKING CAPITAL ADVANCE

In those cases when the reimbursement method described in section 426 is not feasible, arrangements may be made whereby NSF projects are financed on a working capital advance basis. On this basis, funds may be advanced to cover estimated disbursement needs for a given initial period. Thereafter, reimbursement would be made for the amount of the recipient's disbursements. The amount of the initial advance will be geared to the reimbursement cycle so that after the initial period the advance approximately equals the average amount of unreimbursed program disbursements. Under this method of payment, SF 270, item 12, will be used for the initial advance; thereafter, reimbursements will be requested on SF 270, line 111. SF 270, with instructions is included in Exhibit 4-6.

430 FEDERAL CASH TRANSACTIONS REPORT

a. *General.* Shortly after the end of each calendar quarter, the NSF will mail to each recipient a Federal Cash Transactions Report (FCTR) (SF 272 and SF 272A) to be updated and returned to the NSF. This report is required whether funds are provided on an advance or a reimbursable basis. The Federal Cash Transactions Report is basically a modification of the traditional NSF Grantees Quarterly Expenditure Report (QER). The new name and the new report elements are in compliance with the new uniform Federal standards applicable to financial reporting by recipients. The FCTR with instructions is shown in Exhibit 4-7 (SF 272) and 4-8 (SF 272A.)

A Status of Final Reports has been added to the FCTR as a means of notifying recipients of due or past due Technical Reports, Financial Status Reports, and Summaries of Completed Projects. The Status of Final Reports and instructions are shown in Exhibit 4-9.

b. *Purpose.* In compliance with the new uniform Federal standards and other NSF requirements, the Federal Cash Transactions Report will be used for the following purposes:

(1) To monitor the balances of undisbursed NSF cash advances;

(2) To provide data which will enable the NSF to record on a reasonably current basis the recipient's actual disbursements against individual awards in order to liquidate obligations and advances;

(3) To provide data which can be translated into internal NSF reports to assist program officers and the Division of Grants and Contracts in determining the funding needs of recipients (See "Additional Funding Support", Chapter II, Section 250);

(4) To report recipient's forecasts of cash requirements to the NSF when funds are advanced by letter of credit;

(5) To report the NSF share of project income which was used in projects supported by the NSF (see "Project Income", Section 640);

(6) To report interest income to the NSF; and

(7) To report recipients advances to subgrantees or subcontractors.

c. *Distribution and Due Date.* The original and copy 1 of the Federal Cash Transactions Report (SF 272 and SF 272A) and the Status of Final Reports must be completed and returned to the NSF by not later than 15 working days after it is mailed to the recipient. The due date will be printed on the bottom of SF 272.

440 CASH REFUNDS AND CREDITS TO NSF

441 FINAL UNOBLIGATED BALANCE

The NSF has a reversionary interest in the unobligated balance of an award upon expiration or completion of the

award. The unobligated balance of Federal funds as reported on the Financial Status Report (see "Award Closeout", Chapter VI, § 670) will be deducted from the award amount and reported on SFA 272A of the Federal Cash Transactions Report at the end of the quarter in which the Financial Status Report was approved by the Division of Grants and Contracts. The entry reduces the recipient's "Balance Authorized" as computed on line 21 of SF 272 of the Federal Cash Transactions Report. (See Exhibit 4–7.)

If the recipient's "Balance Authorized" has been fully advanced and the unobligated balance deduction results in a negative "Balance Authorized", the recipient must refund by check (payable to the National Science Foundation) the amount of the negative "Balance Authorized".

442 ERRONEOUS PAYMENTS

Advances or reimbursements made in error must be refunded by check (payable to the National Science Foundation) if the erroneous payment creates an excess cash on hand condition or a negative "Balance Authorized" as computed on line 21 of SF 272. (See Exhibit 4–7.)

443 INTEREST EARNED ON ADVANCE PAYMENTS

Interest earned on advance payments to other than State agencies must be reported to the NSF on the Federal Cash Transaction Report, SF 272, (Exhibit 4–7) and remitted by check payable to the National Science Foundation.

444 PROJECT INCOME

In accordance with section 653, project income designated for credit to award costs up to the amount of the award will be recovered by the NSF by crediting costs otherwise chargeable against the award on the Federal Cash Transactions Report, SF 272 and SF 272A, (Exhibit 4–7 and 4–8). Income in excess of the award will be remitted to NSF by check payable to the National Science Foundation. Section 653 also requires that royalties and other income from curriculum development projects be added to funds committed to the project with any excess income over project cost remitted by check payable to the National Science Foundation.

445 OTHER COST CREDITS

Purchase discounts, rebates, allowances, credits resulting from overhead rate adjustments, and other credits relating to any allowable cost received by or accruing to the recipient shall be credited to the NSF award costs if the award has not been closed out. An award is closed out if the three final reports (Financial Status Report, SF 269, Technical Report, and the Summary of Completed Project, NSF Form 98A) have been submitted to and accepted by the NSF. If the award has been closed out, cost credits will be accepted only if the amount is $100 or more. Such credits will be accomplished by the submission of a revised Financial Status Report, SF 269. See section 675e.

Exhibits:

4–1 Authorized Signature Card for Payment Vouchers on Letter of Credit (SF 1194).
4–2 Designation of Depositary for Direct Deposit of Grant and/or Contract Funds (NSF Form 931).
4–3 Letter of Credit (TFS Form 7577).
4–4 Request for Payment on Letter of Credit (TFS Form 7578).
4–5 Treasury Disbursement Centers and Regional Offices.
4–6 Request for Advance or Reimbursement (SF 270).
4–7 Federal Cash Transactions Report (SF 272, machine formatted version).
4–8 Federal Cash Transactions Report (SF 272A), Federal Share of Net Disbursement.
4–9 Status of Final Reports.
4–10 Cash Outlay Report.

CHAPTER V—ALLOWABILITY OF COSTS

500 BASIC CONSIDERATIONS

501 FEDERAL COST PRINCIPLES

501.1 *Applicability to Primary Awardees.* Expenditures under NSF awards (grants, other agreements, and contracts) are governed by the Federal cost principles applicable to specific types of grantees/contractors, as follows:

a. *Institutions of Higher Education.* FMC 73–8 (formerly OMB Circular A–21) provides principles for determining the costs applicable to research and development and to training and other educational services performed by colleges and universities under grants from and contracts with the Federal government. That circular, which is applicable to all NSF awards to both public and private institutions of higher education, is codified in the Code of Federal Regulations as 34 CFR Part 254. It is also reproduced as 41 CFR Subparts 1–15.3 and 1–15.8. FMC 73–6 (formerly OMB Circular A–88) assigned to the Department of Health, Education, and Welfare (DHEW) the responsibility for coordinating the establishment of indirect cost rates and the auditing of Federal grants and contracts with most colleges and universities.

b. *Other Nonprofit Organizations.* A proposed set of government-wide cost principles for certain other nonprofit organizations is being prepared under the aegis of the Director, Federal Procurement Regulations, to be incorporated as Subpart 1–15.9 of the Federal Procurement Regulations (FPR). Pending the promulgation of such government-wide cost principles, expenditures under NSF grants or other agreements will be governed either by Subpart 1–15.2 of the FPR (41 CFR Subpart 1–15.2) or by the cost principles contained in DHEW publication "Guide for Nonprofit Institutions," OSAC–5, or DHEW publication, "Guide for Hospitals," OASC–3, as appropriate, in accordance with the following criteria:

1. Any independent nonacademic research organization shown in the current edition of the NSF Surveys of Science Resources Series Federal Support to "Universities, Colleges, and Selected Nonprofit Institutions," to have been a recipient of Federal R&D funds totalling 5 million dollars or more during the listed fiscal year will be governed by Subpart 1–15.2 of the FPR.

2. Any other nonacademic nonprofit organization will be governed by the appropriate DHEW cost principles unless it formally requests the NSF Division of Grants and Contracts to make the provisions of Subpart 1–15.2 applicable to it and such request is approved.

c. *Commercial Firms.* The government-wide cost principles and procedures for use in cost-reimbursement type supply and research contracts with commercial organizations, contained in 41 CFR Subpart 1–15.2, are applicable to NSF grants to or other agreements with commercial firms.

d. *State and Local Governments.* FMC 74–4 (formerly OMB Circular A–87) provides principles and standards for determining costs applicable to grants and contracts with State and local governments. That circular, which is applicable to all NSF awards to State and local government entities (excluding publicly financed colleges and universities and hospitals), is codified in the Code of Federal Regulations as 34 CFR Part 255. It also is reproduced as 41 CFR Subpart 1–15.7. Section J of FMC 74–4 assigned to DHEW the primary responsibility for negotiation, approval, and audit of cost allocation plans to cover central support service costs of the States and of indirect cost proposals at departmental levels.

501.2 *Applicability to subcontracts.* Costs of all subcontracts and subgrants under NSF nonprocurement awards are subject to those cost principles and procedures appropriate to the subcontract/subgrant type and subcontractor/subgrantee concern, organization, or institution involved. For example, if the subcontract is for supplies or services with a commercial concern, Subpart 1–15.2 would apply; if the subcontract is for experimental, developmental, or research work with an educational institution, Subpart 1–15.3 would apply. The extent of applicability will vary depending on the type of subcontract, as the several subparts vary in applicability as to type of prime contract, grant, or other agreement.

501.3 *Conflicting Guidelines.* In the event of any discrepancy between the summary information contained in this chapter and any specific provision of the applicable Federal cost principles, the cost principles in effect as of the effective date of the NSF award will govern. In the case of a discrepancy between the special provisions of an NSF award and the standards of the applicable cost principles, the special provisions of the award shall govern.

502 TYPES OF COSTS

502.1 *Direct Costs.* A direct cost is any cost which is identified specifically with a particular final cost objective. Costs identified specifically with the NSF-supported project are direct costs of the

project and may be charged to the award if allowable. Section 503 contains considerations as to the allowability of costs. Sections 510 and 520 summarize the standards of the various Federal cost principles for establishing the allowability of the items of cost most frequently charged as direct costs to NSF awards.

502.2 *Indirect Costs.* An indirect cost is one which, because of its incurrence for common or joint objectives, is not readily subject to treatment as a direct cost. Minor direct cost items may be considered to be indirect costs for reasons of practicality. After direct costs have been determined and charged directly to the grant-supported project or other work as appropriate, indirect costs are those remaining to be allocated to the several classes of work. That allocation process and the determination of indirect cost rates are as specified in the governing set of Federal cost principles. Section 530 contains NSF policy and procedures with respect to indirect costs.

502.3 *Composition of Total Cost.* The total cost of an NSF award is the sum of the allowable direct and indirect costs allocable to the project, less any applicable credits. The total cost of the award generally is less than the total cost of the project because of cost sharing or matching by the awardee institution or organization. (See section 640, "Cost Sharing and Matching.")

503 CONSIDERATIONS AS TO ALLOWABILITY OF COSTS

Each of the Federal cost principles described in section 501 provides basic tests of allowability of costs which, in summary, are that they must:

(a) Be necessary and reasonable for the performance of the contract or grant and be allocable thereto under the cost principles;

(b) Conform to any limitations or exclusions set forth in the cost principles and procedures, applicable Federal laws, or other governing limitations as to types or amounts of cost items;

(c) Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the organization;

(d) Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances; and

(e) Not be allocable to or included as a cost of any other federally financed program in either the current or a prior period.

504 OTHER FACTORS

In addition to the basic considerations regarding allowability of costs, contained in section 503, above, the following apply to NSF awards:

504.1 *Maximum Obligation.* The maximum obligation of NSF for support of the project will not exceed the amount specified in the award instrument, as amended. NSF does not amend grants to provide additional funds for such purposes as reimbursement for unrecovered indirect costs resulting from the establishment of final negotiated rates or for increases in salaries, fringe benefits, and other costs. (See General Provision 2.)

504.2 *Applicable Credits.* Purchase discounts, rebates, allowances, and other credits relating to any allowable cost, received by or accruing to the awardee shall be credited to the Government either as a cost reduction or by cash refund, as appropriate. (See also section 440, "Refunds to NSF"; section 653 "NSF Project Income Provisions"; and section 675, "Financial Status Report and Summary."

504.3 *Pre-award Costs.* Expenditures may not be charged against NSF funds prior to the effective date of the award. However, commitments requiring long lead times, such as for major items of equipment, may be initiated prior to that date, at the risk of the awardee, for delivery subsequent to that date but in time for use in the project being supported. If an award is made and such items are approved, Federal funds may be expended for them on or after the effective date of the award.

504.4 *Post-expiration Costs.* NSF funds may not be expended subsequent to the expiration date of the award except to liquidate valid commitments which were made on or before the expiration date.

504.5 *Uniform Application.* a. Exhibit 5–1 contains a table which shows where the general criteria as to allowability of selected items of cost may be found in the cost principles described in section 501. The cost principles applicable to awards to one type of organization do not always cover an item of cost covered by the cost principles governing a different type of organization. Further, the various cost principles do not all contain the same limitations or exclusions.

b. For uniform treatment of those items of cost most frequently listed as direct cost items in proposal budgets (Exhibit 2–2) and in award budgets (Exhibit 2–8), succeeding sections 510 and 520 summarize their allowability under NSF grants and other agreements. For ease of referral to the source, both those sections and Exhibit 5–1 identify the governing cost principles by CFR section number, since those relating to commercial firms are contained in the FPR and those relating to institutions of higher education and to State and local governments are reproduced there. Since Governmentwide cost principles for other nonprofit organizations have not yet been promulgated, they are not referenced herein.

504.6 *Prior Approval.* a. Some of the cost principles require prior agency approval before certain expenditures may be charged as a direct cost to the grant or other agreement; others do not. In the interests of uniformity of treatment among various types of grantees, NSF requires prior agency approval, as outlined in section 630, "Changes in the Award Budget" for expenditures of Federal funds for the direct costs of any of the following not specifically approved in the award instrument:

(i) Alterations and renovations.
(ii) General purpose equipment.
(iii) Special purpose equipment with a unit acquisition cost of $1,000 or more.
(v) Each foreign trip.

b. NSF hereby delegates to awardee organizations its authority for approval, as outlined in section 613, for either of the following which require approval under the provisions of FMC 73–8:

(i) Cumulative equipment expenditures which exceed the budgeted amount by 25 percent; or
(ii) Cumulative domestic travel expenditures which exceed the budgeted amount by $500 or 25 percent, whichever is greater.

504.7 *Advance Understandings.* a. As indicated in FPR 1–15.107, the extent of allowability of the selected items of cost covered in the various cost principles is stated to apply broadly to many accounting systems in varying situations. In some cases (e.g., professional and consultant services costs) the various cost principles prescribe specific factors or conditions to be considered in determining the allowability of such costs in specific situations. In such cases, it is important that the stated conditions or factors be adhered to and documented in order to avoid possible subsequent disallowance or dispute based no unreasonableness or nonallocability.

b. In the event an awardee organization anticipates charging the NSF grant or other agreement for an item of direct cost which, in light of the above, might subsequently be disputed, the authorized organizational representative may negotiate an advance agreement with the cognizant NSF grants officer.

510 ITEMIZED DIRECT COSTS

The following subsections summarize the allowability of frequently encountered direct cost items in the order in which they appear in the standard NSF Award Budget (Exhibit 2–8). Exhibit 5–1 shows the specific subparts of the various cost principles which govern the allowability of these and other costs.

511 SALARIES, WAGES, AND FRINGE BENEFITS

511.1 *Salaries and Wages.*—a. *All Awardees.* All remuneration paid currently or accrued by the organization for employees working on the NSF supported project during the grant period are allowable to the extent that (1) total compensation to individual employees is reasonable for the work performed and conforms to the established policy of the organization consistently applied to both Government and non-Government activities; *And* (2) *provided,* That the charges for work performed directly under NSF awards and for other work allocable as indirect costs are determined as provided in the applicable Federal cost principles. The NSF share of estimated salaries and wages is shown in items A and B of the Award Budget (Exhibit 2–8).

b. *Colleges and Universities.* Section J.7 of FMC 73–8 (FPR Subpart 1–15.309–7) establishes special criteria for work performed on Government projects by faculty members during and outside the

academic year. In summary these are (as of December 19, 1973):

(1) *Academic Year Salaries.* To be based on the individual faculty member's regular compensation for the continuous period which, under the practice of the institution concerned, constitutes the basis of his salary. In no event will the charge to Federal awards, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period. (J.7.i)

(2) *Periods Outside the Academic Year.* During the summer months or other periods not included in the base salary period, to be at a monthly rate not in excess of that which would be applicable under the base salary. (J.7.j)

511.2 *Fringe Benefits.* Fringe benefits are allowable as a direct cost (if not included as an indirect cost) in proportion to the salary charged to the award to the extent that such payments are made under formally established and consistently applied organizational policies. The NSF share of the estimated fringe benefits is shown in item C of the Award Budget.

512 EQUIPMENT

512.1 *Background.* The current Federal cost principles have slightly different provisions concerning the allowability of capital expenditures, equipment and other facilities, and depreciation and use allowances thereon. Pending changes will conform them to the provisions of Attachment N to OMB Circular A–110. For consistency of treatment of equipment costs in awards to all types of organizations, the following subsections are applicable to all NSF nonprocurement awards issued on and after the effective date of this Manual.

512.2 *Definitions.* The following definitions, derived from Attachment N to OMB Circular A–110 and from the pending FPR 1–15.911–14 apply to all NSF awards (or amendments thereto) issued on and after the effective date of this Manual. Note that they are different from terms previously used.

a. *Acquisition cost.* The net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is required. Ancillary charges, such as taxes, duty, protective intransit insurance, freight, and installtaion shall be included in or excluded from acquisition cost in accordance with the organization's regular accounting practices.

b. *Equipment.* An article of nonexpendable tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. An organization may use its own definition: *Provided,* That it at least includes all nonexpendable tangible personal property as defined herein.

c. *General purpose equipment.* Equipment which is usable for other than research, medical, scientific, or technical activities, whether or not special modifications are needed to make them suitable for a particular purpose. Examples of general purpose equipment include office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment.

d. *Special purpose equipment.* Equipment which is usable only for research, medical, scientific, or technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers.

e. *Nonexpendable tangible personal property.* Any property (except land, structures, and appurtenances thereto) having physical existence.

512.3 *General Purpose Equipment.* Capital expenditures for general purpose equipment are unallowable except where such expenditures are justified in the proposal and specifically approved by NSF as an authorized direct cost. If approved by NSF, the NSF share of general purpose equipment costs will be shown in item D of the Award Budget (Exhibit 2–8).

512.4 *Special Purpose Equipment.* Capital expenditures for special purpose equipment are allowable as direct costs provided that the acquisition of items with a unit cost of $1,000 or more are justified in the proposal and approved in the award. See also percent 204, "Proposals with Consultant Services or Equipment." The NSF share of estimated equipment costs is shown in item E of the Award Budget.

512.5 *Expenditure Limitations.* Expenditures for equipment from the NSF share may not be increased by more than 25 percent of items D and E without prior approval. (See section 504.6 b)

513 MATERIALS AND SUPPLIES

The costs of materials and supplies (expendable equipment) necessary to carry out the project are allowable as prescribed in the governing cost principles. The NSF share of such estimated costs is shown in item F of the Award Budget.

514 TRAVEL COSTS

a. Expenses for transportation, lodging, subsistence, and related items incurred by project personnel who are in travel status on business incident to an NSF-supported project are allowable as prescribed in the governing cost principles.

b. Except as provided in the governing cost principles, the difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable. A train, bus, or other surface carrier may be used in lieu of or as a supplement to air travel at the lowest first-class rate by the transportation facility used. However, if such travel could have been performed by air, the allowance will not normally exceed that for jet economy air fare.

c. The NSF share of estimated domestic travel costs is shown in item G of the Award Budget. Expenditures from the NSF share for domestic travel during any budget period may not be increased by more than 25 percent of the amount allotted in item G or $500, whichever is greater, without prior approval. (See section 504.6 b.)

d. The NSF share of estimated foreign travel costs is shown in item H of the Award Budget. Expenditures are allowable only as prescribed in section 731, "Travel to Foreign Countries."

e. Travel costs of dependents of project personnel are not allowed without prior NSF approval, which will be granted only under the following circumstances:

(1) The individual scientist is a key person whose full-time presence is essential to the effective performance of the project;

(2) His residence in a foreign country for a continuous period of at least six months is essential to the effective performance of the project; and

(3) The payment of a travel allowance for dependents is consistent with the policies of the awardee organization.

515 COMPUTER (ADPE) COSTS

515.1 *Automatic Data Processing Equipment (ADPE) Leasing—Costs.* The costs of leasing ADPE are allowable, up to the amount that the awardee would be allowed had he purchased the ADPE, and to the extent that the rates are reasonable in light of factors such as those described in 1–15.205–34(c)(1).

515.2 *Awardee-owned ADPE Facilities.* The costs of services involving the use of highly complex or specialized facilities operated by the organization, such as electronic computers, are allowable provided the charges therefor meet the conditions of 1–15.309–37 or comparable section of other governing cost principles and otherwise take into account any items of income or Federal financing that qualify as applicable credits under the governing cost principles (see section 504.2, "Applicable Credits" and section 650, "Project Income").

516 CONSULTANT SERVICES

516.1 *Outside Consultants.* (a) Costs of professional and consultant services provided by persons who are members of a particular profession or possess a special skill and who are not officers or employees of the grantee organization are allowable when approved by the organizational prior approval system (see section 613), subject to paragraphs (b), (c), and (d), when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government.

(b) In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors among others are relevant:

(1) The nature and scope of the service rendered in relation to the service required;

(2) The necessity of contracting for the service considering the organization's capability in the particular area;

(3) The past pattern of such costs, particularly in the years prior to the award of Government contracts; grants, or other agreements;

(4) The impact of government awards on the organization's total activity (i.e., what new problems have arisen);

(5) Whether the proportion of Government work to the organization's total activity is such as to influence the organization in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government contracts, grants, or other agreements;

(6) Whether the service can be performed more economically by employment rather than by contracting;

(7) The qualifications of the individual or concern providing the service and the customary fees charged, especially on non-government contracts;

(8) Adequacy of the contractual agreement for the service (e.g., description of the service; estimate of time required, rate of compensation; termination provisions).

(c) In addition, retainer fees to be allowable must be supported by evidence of bona fide services available or rendered.

(d) Costs of legal, accounting, and consulting services, and related costs, incurred in connection with organization and reorganization, defense of antitrust suits, and the prosecution of claims against the Government, are unallowable. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the award.

(e) See also section 204, "Proposals with Consultant Services or Equipment;" section 320, "Procurement Standards"; and section 632, "Unbudgeted Expenditures."

(f) The NSF share of the estimated consultant costs is shown in item J of the Award Budget.

516.2 *Intra-University Consulting.* Since intra-university consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full-time salary, the principle (see section 511.1b(1)), above) also applies to those who function as consultants or otherwise contribute to a project conducted by another faculty member of the same institution. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular appointment, any charges for such work representing extra compensation above the salary are allowable provided such consulting arrangement is specifically provided for in the NSF award or otherwise approved in writing by NSF (1-15.309)7(1)).

516.3 *Federal Employees.* Employees of the Federal government (other than NSF) may be utilized as lecturers or staff members in a science education project and may receive compensation and/or expenses if they obtain prior approval from their agencies to participate and if services to the project are performed outside their regular working hours or while they are on leave status from official duties. Under no circumstances may NSF employees receive compensation from an NSF-supported project.

517 PAGE CHARGES IN SCIENTIFIC JOURNALS

(a. As indicated in section 752.2, NSF encourages and sometimes requires publication and distribution of the results of research conducted with the support of its awards.

b. Costs of page charges in non-profit scientific journals to report the results of NSF-supported projects are allowable where the charges are levied impartially on all research papers published by the journal.

c. NSF support for such page charges is shown in item K of the Award Budget.

518 PUBLICATION COSTS

a. As indicated in section 674, NSF requires both a final technical report and a summary for each project supported by an NSF award.

b. Specific provisions for funds to cover the costs of such project reports and, where appropriate, other publication costs, are contained in item L of the Award Budget. Portions of such costs properly allocable to other budget categories (e.g., salaries, wages, and fringe benefits) should be shown under the appropriate ones of those categories rather than under publication costs.

519 PARTICIPANT SUPPORT COSTS

519.1 *General.* a. Participant support costs are direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia, or training projects.

b. When appropriate to a particular activity, they may be requested in the proposal budget (Exhibit 2-2). If approved, funds will be provided in the award budget (Exhibit 2-8) under line item M. But see section 532.2 for NSF indirect cost policy.

c. Funds provided for participant support may not be used by awardees for other categories of expense without the specific prior approval of the cognizant NSF program officer. (OMB Circular A-110, Attachment J., 3e)

d. Participant support allowances may not be paid to trainees who are receiving compensation, either directly or indirectly, from other Federal government sources while participating in the project. Educational benefits from the Veterans Administration and retirement or disability compensation are exempt from this restriction. A Federal employee may receive participant support allowances from award funds provided there is no duplication of funding of items and provided no single item of participant cost is divided between his parent agency and NSF award funds.

519.2 *Stipends or Subsistence Allowances.* a. To help defray the costs of personal maintenance while participating in a conference or training activity, participants may be paid a stipend, per diem, or subsistence allowance, based on the type and duration of the activity, as outlined in the pertinent program announcement and in the award instrument. Such allowances must be reasonable, in conformance to the usual policy of the awardee organization, and limited to the days of attendance at the conference plus the actual travel time required to reach the conference location by the most direct route available. Where meals and/or lodgings are furnished without charge or at a nominal cost (e.g., as part of the registration fee), the per diem or subsistence allowance will be correspondingly reduced. Award funds may not be used to pay per diem or similar expenses for local participants in the conference.

b. Costs of amusement, diversion, social activities, ceremonials, and incidental costs related thereto, such as bar charges, and personal telephone calls of participants or guests are unallowable.

519.3 *Travel Allowances.* a. Travel costs of participants may be allowable as outlined in the pertinent program announcement and in the award instrument. If so, the restrictions regarding class of accomodations (see section 514 b) and use of U.S. flag carriers (see section 731.3) are applicable.

b. In training activities which involve field trips, costs of transportation of individuals may be allowable.

520 OTHER DIRECT COSTS

Following summarizes the allowability of certain other items of cost concerning which questions frequently arise:

521 ALTERATIONS AND RENOVATION

Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special rearrangement and alteration costs incurred specifically for the project are allowable when such work has been approved in advance by NSF.

522 MEETINGS AND CONFERENCES

Because of the frequency with which similar questions are raised regarding the phrase "facilities for meetings and costs incidental thereto", contained in the various sets of Federal cost principles, the following summarizes the allowability of various items of cost associated with conferences, symposia, workshops or other meetings supported by NSF awards.

a. *Conference Facilities.* Rental of facilities and necessary equipment is allowable. (See section 523, "Rental or Lease of Facilities or Equipment.")

b. *Supplies.* Purchase of expendable materials and supplies necessary for the meeting is allowable. (See section 513, "Materials and Supplies.")

c. *Conference Services.* Costs of translation services, and of recording and transcribing the proceedings, are allowable.

d. *Publication* Costs. Cost of publishing the proceedings are allowable only if approved in the award instrument.

e. *Salaries.* Salaries of professional personnel, editorial and clerical assistants, and other staff members are allowable in accordance with section 511 above, in proportion to the time or effort devoted to the preparation and conduct of the conference and summarizing its results.

f. *Consultant Services and Speakers Fees.* Reasonable fees and travel allowances are allowable as prescribed in sections 514 and 516, above.

g. *Meals and Coffee Breaks.* When certain meals are an integral and necessary part of a conference (i.e., working meals where business is transacted), award funds may be used for such meals. Award funds may also be used for furnishing a reasonable amount of coffee and/or soft drinks to conference participants and attendees during periodic "coffee breaks."

h. *Participant Support Costs.* Allowable as prescribed in section 519, above.

523 RENTAL OR LEASE OF FACILITIES OR SPECIAL PURPOSE EQUIPMENT

a. Normally the awardee is expected to make available appropriate facilities without direct charge to award funds. However, on occasion, it is necessary to utilize facilities not under the control of the awardee. Rental of space off-site may be allowed, for example, for a science education project where for the benefit of the participants, the project must be held at locations other than the campus or, for a research project, if laboratory facilities or other work areas of a type or coverage not normally available within the holdings of the grantee are required. If justification for the rental of space is given in the proposal, and space rental costs are included in the award budget, rental charges may be made in conformance with the organization's policies and in the same manner that similar charges are made to any account, provided that such rental costs are reasonable and otherwise conform to the governing cost principles.

b. Rental of special purpose equipment is allowable. See also section 515.1, "ADPE Leasing Costs."

524 STIPENDS OF SUBSISTENCE ALLOWANCES

a. Stipends or subsistence allowances are authorized in some grants in support of international science activities. Such stipends are treated as "Other Costs," not as "Salaries and Wages."

b. Graduate students actually employed as research assistants may not be paid "stipends" but may be compensated for their service to the project as prescribed in section 511.1, "Salaries and Wages." See also section 525, "Tuition Remission."

c. Stipends or subsistence allowances also may be allowable to participants in meetings, conferences, symposia, or training activities. See section 519, "Participant Support Costs."

525 TUITION REMISSION

a. Tuition remission, tuition waiver and other forms of compensation by universities as, or in lieu of, salaries or wages to students performing necessary work on NSF supported projects is allowable: *Provided*, That (1) there is a bona fide employer/employee relationship between the student and the institution for the work performed, (2) the tuition remitted or other payment is reasonable compensation for the work performed and conditioned explicitly upon the performance of necessary work, and (3) it is the institution's practice to similarly compensate students in non-Federal as well as federally supported work.

b. Tuition remission, tuition waiver and other forms of compensation to students shall be considered as salaries and wages, not as a fringe benefit or other direct cost.

530 INDIRECT COSTS

531 BASIC PRINCIPLES

531.1 *Federal Cost Principles.* Most of the Federal cost principles described in section 501, above, are designed to provide recognition of the full allocated costs of federally supported projects but make no attempt to identify the circumstances or dictate the extent of agency and grantee or contractor participation in the financing of a particular project. They recognize that such arrangements properly are matters for agreement between the supporting agency and the performing organization in accordance with such Governmentwide criteria as may be applicable.

531.2 *Predetermined Fixed Rate* Principle. In order to simplify the administration of cost-type research and development contracts and grants with educational institutions and to permit more expeditious close-out of awards than is possible under a system of provisional overhead rates for billing purposes subject to post-audit adjustment, Pub. L. 87–638 (76 Stat. 437) authorized payment of reimbursable indirect costs on the basis of predetermined fixed-percentage rates applied to a portion of the reimbursable costs incurred.

In 1965, the Comptroller General (B–15784) authorized NSF to extend the principles of Pub. L. 87–638 to other nonprofit organizations for grants which are fixed in amount with NSF having no responsibility to make additional funds available regardless of what the total cost may be. In providing for the determination and application of indirect cost rates, the Federal cost principles (less those governing commercial organizations) recommend that consideration be given to the use of predetermined fixed rates where the cost experience and other pertinent facts are sufficient to produce an informed judgement as to the probable level of indirect costs during the ensuing accounting period.

532 NSF "FULL REIMBURSEMENT" POLICY

532.1 *Basic Policy.* a. It is NSF policy that a U.S. awardee is entitled to "full reimbursement" from award funds for the indirect costs allocable to the NSF share of allowable direct costs of a project except where specifically excluded by section 532.2, below.

b. If the awardee institution or organization has executed an indirect cost negotiation agreement with a cognizant Federal negotiating agency or otherwise has agreed to an indirect cost rate and base with some Federal department or agency, NSF will utilize the negotiation agreement as the basis for calculating the indirect cost amount in order to approximate "full reimbursement" for the indirect costs allocable to the anticipated direct costs of the project. Indirect cost rates established subsequent to the submission of a proposal for NSF support of a specific project will be used by NSF in calculating the indirect cost reimbursement for that project: *Provided*, That the new rates have been accepted by NSF for use prior to the final stages of processing the award.

c. NSF recognizes that the costs of a proposed project, the anticipated period of performance, and the progress to be made are estimates. Nevertheless, the indirect cost rate(s) specified in the NSF award will not be altered during the support period funded by that award (grant or amendment). NSF will neither amend an award solely to provide additional funds for subsequent indirect cost rate changes, nor settle indirect costs on a post audit basis except for awards with maximum provisional rates. NSF awards are, in effect, cost reimbursement awards with ceilings.

d. Within the framework of section 531, above, NSF implements its "full reimbursement" policy by: (1) Application of the predetermined fixed rate principle to awards to universities and colleges and to those nonprofit organizations where the cost experience and other pertinent facts available are deemed sufficient to determine the probable level of indirect costs during the ensuing accounting period as described in section 534, below, and (2) utilization of the latest available rate based on actual past cost experience or, when appropriate, on cost projections, as a maximum provisional rate, in awards to other nonprofit organizations and to profit-making firms.

e. In furtherance of section 531.1, above, any negotiations with respect to business and financial matters, including the amount of indirect cost reimbursement, are conducted by the NSF grants manager with the authorized organizational representative, not by the program officer with the prospective principal investigator.

f. NSF does not provide for the indirect costs of foreign grantees.

532.2 *Exceptions to Basic Policy.* a. NSF provides no amounts for indirect costs for the following:

(1) Awards to individuals;

(2) Awards solely for the support of travel, equipment, construction of facilities, or doctoral dissertation research; and

(3) Awards in which NSF support is exclusively in the form of fellowships, traineeships, or other fixed amounts such as cost-of-education allowances.

(4) Participant support costs.

b. In some projects NSF provides a lump sum allowance for administrative expenses in lieu of reimbursement for in-

direct costs. An award to a U.S. organization in support of U.S. personnel on leave of absence to conduct research and/or teach abroad during the segment of the U.S. academic year may provide for such administrative expenses. This is standard procedure in certain types of NSF awards as stated in the applicable program announcement.

533 INDIRECT COSTS IN PROPOSALS FOR NFS SUPPORT

533.1 *Proposal Budgets.* Each proposal for NSF support of a project should include a budget indicating the total amount requested from NSF, with subtotals for direct and indirect costs. The amounts shown opposite the various line items should be the amounts requested from NSF. The amount shown for indirect costs should be calculated by applying the indirect cost rate(s), approved by the cognizant Federal negotiating agency for the time period of the proposed project to the proposed direct cost items contained in the approved indirect cost base.

533.2 *Off-Campus (Off-Site) Activities.* If the proposed project contemplates work to be performed in an environment or in a manner which would generate a significantly different level of indirect costs than the normal work of the organization, such as off-campus (off-site) projects, the proposed budget should calculate the indirect cost portion of the award on the basis of where the preponderance of effort supported by NSF will occur during the period of support unless the organization and the cognizant Federal negotiating agency have negotiated some different arrangement. If so, the proposed budget should so state.

533.3 *Projects Performed by More Than One Organization.* If the proposal is for a master award (see section 205) indirect costs requested by the awardee should be as in any other proposal. Similarly, individual indirect cost amounts for cooperating institutions or organizations should be computed using the approved rates for those institutions or organizations and shown in the proposed budget(s) for each such organization. In addition, the totals of each organization's costs to be funded through the award should appear as separate line items under the "Other Direct Costs" category of the awardee's composite proposal budget.

534 INDIRECT COSTS IN NSF AWARD

534.1 *General.* Each award letter specifies NSF's maximum obligation for its share of the total costs of a project (see section 504.1, above). The award budget attached to the award letter summarizes the categories of costs itemized in the final proposal budget, on which NSF based its level of support. The amount for indirect costs will be based on the most recent "Federally negotiated" rate(s) accepted by NSF for use prior to the final stage of processing the award. Normally these will be the same as those shown in the proposal budget, as revised if necessary (see section 532.1, above).

534.2 *NSF Calculation of Indirect Cost Amount*—a. *Most Organizations.* In accordance with section 532.1, above, NSF implements its indirect cost policy for universities, colleges, and other appropriate nonprofit organizations by application of the predetermined fixed rate principle to the indirect cost rate(s) contained in the current indirect cost negotiation agreement. Such "Federally negotiated" rate(s) will be applied to the support period of each award and extended through the expiration date as follows:

(1) If the negotiation agreement specifies: (1) A "final" rate which becomes the provisional rate for a later period or (2) a single "predetermined" or "fixed" rate, such rate will be the "predetermined fixed rate" used by NSF in calculating the indirect cost portion of the NSF award.

(2) If the negotiation agreement provides two or more "predetermined" or "fixed" rates for two or more successive time frames within the NSF grant period, each such rate will be applied to appropriate direct cost expenditures anticipated to be made during each time frame. If the effective period of the negotiation agreement ends prior to the expiration date of the award, NSF will extend the last of the two or more rates through the expiration date of the award under preparation.

b. *Other Organizations.* Each NSF grant to a commercial firm or nonprofit organization which does not meet the criteria of § 532.1.d, above will contain an indirect cost ceiling based on a maximum provisional rate for the specific project.

534.3 *Off-Campus (Off-Site) Activities*—a. *General.* When a project involves off-campus (off-site) activities, NSF normally will compute the indirect cost amount on the basis of the off-campus rate. When a project involves both on and off campus activities, NSF normally will compute the indirect cost amount on the basis of where the preponderance of NSF-supported effort will occur during the period of support unless the organization and the cognizant Federal agency have negotiated some different arrangement. In that event, NSF will follow the provisions of the negotiated agreement.

b. *Special Foreign Currency (SFC) Awards.* Where an award involving SFC is made to a U.S. organization, the amount for indirect costs will be calculated by applying the appropriate approved rate(s) to the appropriate base as in a, above, whether in dollars or SFC. The resultant indirect cost amount will be payable in dollars, unless the organization specifically requests that some or all of it be payable in SFC, which can be obtained and expended only in the participating SFC country.

534.4 *Amendment for Additional Funding Support.* As indicated in section 250, NSF may award additional funding support either (a) during the originally contemplated support period or (b) for a subsequent support period. An amendment for "supplemental support" to provide funds for unforeseen expenditures during the originally contemplated support period, will contain the same indirect cost rate as the award being amended. An amendment for either (a) "renewed support" of a project originally supported for a limited period), or (b) "continued support" of a long-term project will contain the appropriate indirect cost rate for the new support period.

535 AWARDEE REIMBURSEMENT FOR INDIRECT COSTS

535.1 *Predetermined Fixed Rate.* a. Awardees should charge NSF awards at the predetermined rate(s) stipulated in the award or amendment budget unless the award letter states that the indirect cost amount is based on a maximum provisional rate. However, should negotiations between the organization and the cognizant Federal agency result in changes in the approved indirect cost rate not reflected in the NSF award, the organization may charge NSF projects at the newly negotiated rate in effect at the time direct cost expenditures are made: *Provided,* That this method of charging indirect costs is consistently applied and meets generally accepted accounting principles; and provided further that, to do so would not:

(1) Reduce the scientific scope of the project;

(2) Result in increased cost to NSF during the award period; or

(3) Decrease the period of support as contemplated in the award instrument.

b. Organizations electing to use this method rather than using the rate stipulated in the award budget must advise the NSF Division of Grants and Contracts in writing, and furnish a copy of this advice to the cognizant audit agency. Any subsequent change of method will require prior approval of the Division of Grants and Contracts.

535.2 *Maximum Provisional Rate.* Commercial organizations, or others whose awards specify a maximum provisional rate, should charge NSF awards at the lesser of: (1) The maximum provisional rate stated in the award budget, or (2) the audited rate. In the event the audited rate is lower than the maximum provisional rate, the difference must be reported and credited to NSF as prescribed in section 440, "Refunds to NSF."

535.3 *Under-recoveries of Indirect Cost.* NSF recognizes that any inability to obtain "full reimbursement" for indirect costs at the prevailing negotiated rate means the awardee must absorb the shortfall. Any such shortfall may be allocated as part of the organization's required cost-sharing. See section 640, "Cost-Sharing and Matching."

5–1 Selected Items of Cost.
Exhibits:

CHAPTER VI—PROJECT AND AWARD MANAGEMENT

600 BACKGROUND

a. Parts I and II of Attachment A to FMC 73–7 (formerly OMB Circular A–101) contain OMB policies on the review and direction of the research effort in, and expenditure approval procedures for, projects supported by Federal grants, contracts, and other agreements with

educational institutions in the United States.

b. Various attachments to OMB Circular A–110 provide OMB policies, criteria, and procedures affecting those and related aspects of post-award administration and management of grants and other agreements (excluding contracts) to educational institutions and to other nonprofit organizations. They are comparable to various attachments to FMC 74–7 (formerly OMB Circular A–102) concerning grants-in-aid to State and local governments.

c. Federal Management Circular 73–3 (formerly OMB Circular A–100) provides basic guidelines for Federal agencies concerning cost participation by all types of performing organizations (including commercial firms) in the cost of research supported by Federal agencies.

d. This chapter implements the directives cited in a through c, above, and extends their applicability to all nonprocurement awards to all types of performing organizations. It contains the following principal topics:

610 Monitoring and Reporting Project Performance.
620 Changes in Project Direction or Management.
630 Changes in the Award Budget.
640 Cost Sharing and Matching.
650 Project Income.
660 Suspension and Termination Procedures.
670 Award Close-out Procedures.
680 Records Retention and Audit.

e. Where the requirements for grants differ from those for other agreements, succeeding sections suggest those differences.

610 MONITORING AND REPORTING PROJECT PERFORMANCE

611 BACKGROUND

Succeeding sections 612 through 615 implement the monitoring and reporting requirements of Attachment H to OMB Circular A–110 (and of Attachment I to FMC 74–7) and prescribe guidelines for organizational and NSF approval systems to effectuate them.

612 MONITORING PROJECT PERFORMANCE

612.1 *Performing Organizations.* In implementation of paragraph 2 of Attachment H to OMB Circular A–110, NSF requires that performing organizations monitor grants and other agreements substantially as follows:

(1) *Grants.* The performing organization shall monitor the performance of the project as appropriate to assure adherence to the requirements of this chapter and shall conduct such other project oversight as may be required by the policies of the performing organization and sound management practices.

(2) *Other Agreements.* The performing organization shall monitor the performance of the project as appropriate to assure adherence to (1) the requirements of this chapter, (2) such performance goals, time schedules, or other requirements as may be appropriate to the project and the terms of the award instrument, and (3) sound management practices and organizational policies.

612.2 *NSF.* a. In implementation of paragraph 7 of Attachment H to OMB Circular A–110, NSF intends to conduct site visits essentially as follows:

(1) *Grants.* The cognizant NSF program officer will make site visits, as appropriate, to keep informed of the progress of the work. Similarly, the cognizant NSF grants manager may make site visits, as appropriate to review grantee management control systems.

(2) *Other Agreements.* The cognizant NSF program officer and the NSF administrative staff will make site visits deemed necessary to review project management, keep informed of the progress of the work, and provide such technical assistance as may be required. The NSF staff also may make site visits to review grantee management control systems and provide appropriate advice.

b. Additionally the NSF program officer will take apropriate action on the progress reports prescribed by section 615 and the final technical report prescribed by section 674.

613 ORGANIZATIONAL PRIOR APPROVAL SYSTEM

613.1 *Purpose.* In order to carry out its project monitoring responsibilities (see section 612.1), each performing organization should have a system to ensure that authorized officials provide necessary organizational approvals in advance of any section that would result in either (a) the performance or modification of an NSF-supported activity where such approval is required by this chapter or (b) the obligation or expenditure of funds where the governing cost principles prescribe conditions or prior approvals as summarized in Chapter V. Where such action also requires prior agency approval, as stated in sections 620 and 630, the organizational prior approval system is the framework for obtaining NSF approvals as outlined in section 614.

613.2 *Implementing Guidelines.* Performing organizations may utilize whatever system and organizational structure meets their own internal policies and procedures provided they conform in general to the following guidelines:

a. *Approving Official.* The organization must designate an appropriate official or officials, such as the authorized organizational representative (see Glossary), to review and approve, for the organization, the types of actions described in section 613.1, above. The designated official(s) may not be the principal investigator or project director or other personnel involved in the conduct of the project.

b. *Approval Documentation.* Decisions requiring prior approval must be documented and retained in records available for inspection or audit for a period consistent with the records retention requirements of section 680. Specific documented actions include:

(1) Justfiication of the action by the principal investigator/project director (for grants) or other appropriate employee (for other agreements);

(2) Review for scientific propriety, project relevance, and effective utilization of resources by appropriate official(s) at an administrative level above that of the initiator of the request;

(3) Review for policy permissibility and funds availability; and

(4) Final approval, by the designated organizational official.

614 NSF PRIOR APPROVAL SYSTEM

In order to carry out that portion of its project monitoring responsibilities which involves furnishing required approvals, NSF utilizes its program and grants management staffs in the following manner on NSF grants:

614.1 *Program Officers.* The cognizant NSF program officer will review grantee requests for changes in project direction or management (section 620) or for rebudgeting (section 630) and either provide NSF approval or disapproval or forward his recommendation to the cognizant NSF grants officer.

614.2 *Grants Officer.* Where the action proposed by the grantee requires grants officer approval, he will furnish the NSF decision to the grantee, with copies to the cognizant NSF program officer and principal investigator/project director. NSF approvals in other agreements will be governed by the terms of the agreement.

615 REPORTING PROJECT PERFORMANCE

In implementation of paragraphs 3 through 5 of Attachment H to OMB Circular A–110, principal investigators/project directors shall submit progress reports as required by §§ 615.1 through 615.3, below. Such reports shall be submitted to the NSF program officer specified in the award instrument in accordance with such procedures as the performing organization may prescribe. See section 674 for final technical report requirements.

615.1 *Content of Progress Reports—*

a. *Grants*—Brief progress reports should include:

(1) A summary of overall progress, including results obtained to date, and comparisons of actual accomplishments with proposed goals for the period;

(2) An indication of any current problems or favorable or unusual developments;

(3) A summary of work to be performed during the succeeding budget period, if any; and

(4) Other information pertinent to the type of project being supported or as specified in the program announcement or solicitation.

b. *Other Agreements*—Same as in a, above, plus whatever additional information is required by the terms of the agreement.

615.2 *Timing of Progress Reports—*

a. *Grants*—Unless otherwise specified in the award instrument, progress reports shall be submitted in the following frequency:

(1) For Standard Grants, the first report should be submitted no later than

90 days after the anniversary of the effective date of the grant, with succeeding reports annually thereafter, less the final year.

(2) For Continuing Grants, the progress report should be attached to the annual request for continued support.

b. *Other Agreements*—Progress reports should be submitted as required by the terms of the award instrument.

615.3 *Significant Changes or Delays*—In the event the principal investigator/project director encounters problems, delays, or adverse conditions that will materially affect the ability to attain the objectives of the project or to meet such time schedules as may have been proposed, he should advise appropriate officials of his parent organiaztion and the cognizant NSF Program Officer.

620 CHANGES IN PROJECT DIRECTION AND MANAGEMENT

Sections 621 through 623 implement the policies contained in Part I of Attachment A to FMC 73-7 regarding the direction of projects.

621 CHANGES IN OBJECTIVES, SCOPE, OR METHODOLOGY

621.1 *Background.* a. Subpart I.B.1 of FMC 73-7 prescribes restrictions on changes in research methods, procedures, objectives, or phenomena under study. It recognizes that the degree of Government review or direction exercised may vary from project to project. Subparagraph 3a of Attachment J to OMB Circular A-110 also requires prior agency approvals before changes may be made in scope or objectives of the project.

b. A key factor in the NSF decision to support a project involves the broad objectives of the proposal in terms of the areas of scientific knowledge to be advanced or other aims to be achieved. The methods and procedures employed in reaching those goals and the specific early objectives also are of importance in many program areas. These factors are inherent in the criteria for the selection of research projects (Exhibit 2-1) but are somewhat different for grants, as distinct from other agreements.

621.2 *Change in Objectives or Scope*—a. *Grants.* Neither the phenomenon or phenomena under study (i.e., the broad category of the research) nor the objectives of the project stated in the proposal or agreed modification thereto shall be changed without prior NSF approval. For grants, such changes should be made the subject of a revised proposal, submitted about three months in advance of the proposed changes, to allow time for consideration and recommendation by the NSF program officer and amendment to the grant instrument.

b. *Other Agreements.* Such changes should be proposed in a fashion consistent with the terms of the award instrument.

621.3 *Changes in Methodology*—a. *Grants.* NSF believes that the principal investigator, operating within the established policies of his parent organization, should feel free to pursue interesting and important leads which may arise during the conduct of a scientific research (or other grant-supported) project or to adopt an alternative approach which appears to be a more promising means of achieving the objectives of the project. Significant changes in methods or procedures shall be reported to appropriate grantee official(s) and to the cognizant NSF program officer.

b. *Other Agreements.* Changes in basic methodology or procedures may require advance coordination with, and specific approval of NSF.

622 CHANGES IN SENIOR PERSONNEL OR THEIR LEVEL OF EFFORT

622.1 *Background.* a. The NSF decision as to whether or not to support a proposed project is based to a considerable extent upon its evaluation of the proposed principal investigator's knowledge of the field of study and his capabilities to conduct the project in an efficient and productive manner. This is reflected in Category A of the NSF criteria for the selection of research projects, Exhibit 2-1. NSF desires that the named principal investigator or project leader be continuously responsible for the conduct of the project and be closely involved with the effort. Succeeding §§ 622.2 through 622.7 translate the general FMC 73-7 requirements into NSF requirements for grants. Other agreements will be governed by the specific terms of the award instrument.

622.2 *Basic Requirements.*—If a named principal investigator or project director plans to, or becomes aware that he will, (1) devote substantially less effort to the work than anticipated in the approved proposal, (2) sever his connection with the grantee organization, or (3) otherwise relinquish active direction of the project, he shall advise both the NSF program officer and his organization's authorized organizational represenative. They shall initiate action appropriate to the situation, under the guidelines which follow.

622.3 *Short-term Absence of Senior Personnel.* If a named principal investigator or project director will be absent from the project for a period of three months or less, he shall notify appropriate officials of his parent organization and the cognizant NSF program officer of arrangements for conduct of the project during his temporary absence.

622.4 *Long Term Absence of Senior Personnel.* In the event the PI/PD will be away from the project for a period greater than three months (up to twelve months, as on sabbatical leave) but intends to return, he shall provide the cognizant program officer with a written statement, endorsed by the authorized organizational representative, of arrangements for oversight of the project and for authorizing charges against the grant. The program officer will provide written approval if the arrangements are satisfactory, but no formal amendment to the grant will be made. If the PI/PD's temporary activities might constitute a conflict of interest (e.g., working for a Federal agency), a substitute PI/PD must be appointed as described in section 622.7 below.

622.5 *Change in Level of Effort.* a. If the PI/PD will devote substantially less effort to the work than anticipated in the proposal, he shall consult with appropriate officials of his organization and with the NSF program officer.

b. If either determines that the reduction of effort would be substantial enough to impair the successful prosecution of the project, he will consult the cognizant NSF grants officer. The grants officer may (1) request the grantee to nominate a replacement principal investigator or project director acceptable to the cognizant NSF program officer, (2) initiate the termination procedures described in section 660, or (3) negotiate other appropriate modification to the award.

622.6 *Withdrawal of Senior Personnel.* In the event the named principal investigator or project director severs his connection with the grantee organization or otherwise relinquishes active direction of the project, the authorized organizational representative shall notify the NSF program officer and the NSF grants officer and either:

(a) initiate the award close-out procedures prescribed by section 670 or

(b) nominate a substitute project leader as prescribed in section 622.7.

622.7 *Substitute PI/PD.* In the event the grantee desires to continue the project with a substitute PI/PD, the authorized organizational representative shall advise the cognizant NSF program officer and the cognizant NSF grants officer of the name and qualifications of the proposed substitute. If approved by NSF, the grant will be appropriately amended. If not, the termination procedures described in section 660 will be initiated.

623 SUBCONTRACTING OR TRANSFERRING THE PROJECT EFFORT

In implementation of Subpart I.B.3 of Attachment A to FMC 73-7 and paragraph 4 of Attachment J to OMB Circular A-110, the following will be observed:

a. Excluding the purchase of commercially available supplies, materials, equipment or general support services allowable under the award, none of the research or substantive effort under an NSF award may be contracted, granted or otherwise transferred to another organization without prior NSF approval. Normally, the intent to so contract is fully disclosed in the proposal submission, and evidence of NSF prior approval appears in the grant letter and accompanying budget. Other agreements will be governed by specific approval requirements in the award instrument.

b. In the event the need arises to so contract after a grant has been awarded, the grantee must submit to the NSF program officer, with a copy to the appropriate NSF grants officer, the proposed performance statement and budget, a statement indicating the basis for selection of the subrecipient, and a justification of the proposed arrangement. NSF approval will be indicated by letter from the grants officer.

630 CHANGES IN THE AWARD BUDGET

631 BACKGROUND

a. Part II of Attachment A to FMC 73–7 restricts the extent of Government controls and limitations on expenditures for specific items under research projects at educational institutions to those prescribed by the Federal cost principles contained in FMC 73–8 (i.e., Subparts 1–15.3 and 1–15.8 of the Federal Procurement Regulations).

b. Attachment J to OMB Circular A–110 contains related criteria and procedures to be followed by Federal agencies in requiring nonacademic nonprofit organizations, as well as educational institutions, to request approvals for changes in grants and other agreements supporting any type of project. Those criteria and procedures are similar to the budget deviation procedures prescribed by Attachment K to FMC 74–7 for grants-in-aid to State and local governments.

c. Succeeding sections 632 through 636 translate the criteria and procedures of those OMB directives and of the Federal cost principles described in section 501 into operational requirements for changes in the grant budget during performance of grant projects by any category of performing organization. Other agreements will be governed by the specific time of the award instrument. See also section 504.6, "Prior Approval."

632 BUDGETED EXPENDITURES

Expenditures from Federally furnished funds for goods, services, and capital items contemplated in the proposal and its budget may be made as prescribed in Chapter V up to the amount specified in the appropriate line item of the award budget (Exhibit 2–8): *Provided*, That neither the grant letter nor its budget precludes such expenditure. Note, however, that, whether or not the grant budget provides funds for them,

a. Each foreign trip requires specific approval, in writing, by the NSF program officer (see sections 514d and 731), and

b. The hiring of consultants requires organizational approval (see section 613) and documentation of the factors specified in the applicable Federal cost principles (see section 516).

633 UNBUDGETED EXPENDITURES

a. Expenditures from Federally furnished funds for items not covered by the grant budget may not be made unless approved both by the organizational prior approval system (section 613) and by NSF (section 614).

b. Written approval by the NSF program officer constitutes NSF approval except for the following, which require the specific approval of the grants officer:

(1) General purpose equipment (see section 512.2)

(2) Consultant services (see sections 204.1 and 516)

(3) Subcontracting or transferring the project effort (see section 623)

(4) Special alterations and renovations (see section 519.1)

(5) Commercial production or distribution of materials (see section 760)

634 UNDERBUDGETED EXPENDITURES

a. If funds are budgeted for a category of expense, but the amount indicated is insufficient, the budgeted amount may be exceeded: *Provided*, That

(1) The budget adjustments are approved by the organizational prior approval system (section 613)

(2) The amount charged against the NSF award will not exceed the amount specified in the award instrument, as amended (see section 504.1, "Maximum Obligation") and

(3) The budget adjustments receive prior NSF approval if required by the succeeding section 635.

b. See section 525, "Grantee Reimbursement for Indirect Costs."

635 OVERBUDGETED EXPENDITURE

Whenever the amount of Federal funds authorized by an NSF award is expected to exceed the needs of the recipient by more than $5,000 or five percent of the award, whichever is greater, the recipient shall promptly notify the NSF program officer.

636 BUDGET CHANGES REQUIRING PRIOR NSF APPROVAL

a. In implementation of subpart II C. of FMC 73–7 and of paragraphs 3 and 6 of Attachment J to OMB Circular A–110, only the following budget changes require specific NSF approval in most awards:

(1) Unbudgeted expenditures (see section 633, above);

(2) Any transfer of funds from the participant support category (see section 518.1) to any other direct cost category or to indirect costs without the express written approval of the cognizant NSF program officer;

b. In projects for which NSF support exceeds $100,000 in any support period, transfers between budget line items exceeding five percent of the NSF share require approval of the cognizant NSF program officer as provided in paragraph 5 of Attachment J to A–110.

640 COST SHARING AND MATCHING

641 BASES FOR NSF REQUIREMENTS

641.1 *Statutory Requirement.* a. The Appropriation Acts of the Congress providing funds to NSF and other independent agencies contain the following language:

SEC. 508. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals for projects not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

b. It should be noted that this requirement distinguishes between solicited and unsolicited proposals, regardless of the type of instrument used in research awards to successful proposers. The statutory requirements applicable to some other Federal departments and agencies are based on the type of award instrument (grant or contract), rather than on whether or not the proposal was solicited by the awarding agency. Section 642 defines terms for NSF purposes.

641.2 *OMB Directives.* a. Federal Management Circular 73–3 (formerly OMB Circular A–100) provides basic guidance to Federal agencies for determining:

(1) The amount of cost sharing to be obtained when cost sharing is required by statute; and

(2) Whether performing organizations should be requested to participate in the cost of the research even though cost sharing is not required by statute, and, if so, in what amount. It is applicable to all awards to all kinds of organizations (except other Federal agencies) for all kinds of research, both basic and applied. It is reproduced as Exhibit 6–1.

b. FMC 73–3 also prescribes (7.c.(2)) that the amount of cost participation by a performer may be determined by either of two methods: (1) For each individual research project, or (2) if the supporting agency desires, for the aggregate of all or some of the research projects supported by an agency at a given organization. However, the standard Financial Status Report prescribed by Attachment G to OMB Circular A–110 requires that the "non-Federal share of outlays" be reported for each grant or other agreement. (That report is reproduced as Exhibit 6–4.)

c. When the amount of cost sharing is determined for individual projects, OMB authorizes the supporting agency to consider the organization's participation over the total term of the project so that a relatively high contribution in one year may be offset by a relatively low contribution in another year. It also authorizes the Federal agency and the performer to agree that relatively high contributions on some projects may be offset by relatively low contributions on other projects.

d. Attachment E to OMB Circular A–110 supplements FMC 73–3 by prescribing criteria and procedures for the allowability of cash and in-kind contributions in satisfying cost sharing and matching requirements. It is reproduced as Exhibit 6–2.

642 DEFINITIONS

For the purposes of interpreting the statutory cost sharing requirement (§ 641.1) and the two OMB directives (§ 641.2), the definitions which follow are used by NSF. Since most of these terms are not contained either in those directives or in standard glossaries, such as the Library of Congress' "Science Policy—A Working Glossary," their source is indicated in parenthesis.

a. *Cost participation.* A generic term denoting any situation where the Government does not fully reimburse the performer for all allowable costs, profits, or fees associated with the specified effort. The term encompasses cost sharing,

cost matching, cost limitation (direct or indirect), and similar phrases. Cost participation may be in any form, including but not limited to cash, personal property or services, or real property or interest therein, needed for the project, the value of which shall be established by mutual agreement between the agency and the performer. (Source: Special Task Group Report on COGP Recommendation B–8.)

b. *Cost sharing.* Participation by the performing organization in more than a token amount of project costs. (Derived from FMC 73–3 and NSF Notice No. 31 of September 3, 1970, "Cost Sharing on Research Projects.")

c. *Federal share.* That portion of project costs that is borne by the Federal government. (Derived from Attachment E to OMB Circular A–110, subparagraph 2b.)

d. *Awardee share.* That portion of verifiable project costs that is borne by the awardee from its own resources or from those of third parties. *Provided,* That such costs are (1) not included as contributions for any other Federally-assisted project and (2) not paid by the Federal Government under another assistance agreement (unless the agreement is authorized by Federal law to be used for cost sharing or matching). (Derived from Attachment E to OMB Circular A–110, subparagraph 3b.)

e. *Matching share.* Cost participation by the awardee in a substantial amount of project costs as required by a specific program announcement or solicitation. (Derived from Attachment E to OMB Circular A–110, subparagraph 2b.)

f. *Project costs.* All allowable costs (as set forth in the applicable Federal cost principles) incurred by the performing organization, including the value of any in-kind contributions by that organization or non-Federal third parties in accomplishing the objectives of the grant or other agreement during the project period. (Derived from Attachment E to OMB Circular A–110, subparagraph 2a.)

g. *Research.* Systematic, intensive study directed toward fuller scientific knowledge or understanding of the subject studied. (Source: Technical Notes to NSF series "Federal Funds for Research, Development, and Other Scientific Activities".)

h. *Solicited proposal.* A proposal resulting from a document issued by the Foundation which specifically states that proposals are being solicited. Such a document usually is either: (a) A Request for Proposals (RFP) or Invitation for Bids (IFB), issued pursuant to the NSF Procurement Regulations (Chapter 25, Title 41, CFR) or (b) an NSF Program Solicitation, issued as a non-procurement action under the authority of Sec. 11(c) of the NSF Act (42 U.S.C. 1870). (See section 202, "NSF Mechanisms for Generating Proposals.")

i. *Token participation.* Cost participation equal to at least 1 percent of project costs. (Derived from NSF Notice No. 31 of September 3, 1970, subject "Cost-sharing on Research Projects.")

j. *Unsolicited proposal.* A proposal not specifically solicited by a Request for Proposals (RFP), Invitation for Bids (IFB), or an NSF Program Solicitation (see section 202, "NSF Mechanisms for Generating Proposals.")

643 NSF COST SHARING REQUIREMENTS

643.1 *Unsolicited Research Projects.* In accordance with its statutory directive § 641.1, above) NSF requires that each awardee share in the costs of each research project for which the NSF grant or other agreement results from an unsolicited proposal. NSF awards which provide funds solely for the following purposes are not considered to be in support of "research" for statutory cost-sharing purposes:

a. International travel;
b. Construction, improvement, or operation of facilities;
c. Acquisition of research equipment;
d. Ship operations;
e. Education and training;
f. Publication, distribution, and translation of scientific data and information;
g. Symposia, conferences, and workshops;
h. Special studies authorized or required by Subsections 3a(5) through 3a(7) of the NSF Act, as amended.

As a matter of policy, NSF does not reimburse grantees for the indirect costs associated with doctoral dissertation research and considers this as satisfaction of the cost-sharing requirement.

The NSF requirement is contained in General Provision "Cost Sharing", and is further described in succeeding parts of this section 643.

643.2 *Solicited Research Projects.* NSF encourages organizations responding to program solicitations to contribute to the cost of performing the research unless that would be inappropriate because of the circumstances described in subparagraph 7a(2) of Exhibit 6–1. However, unless otherwise specified in a particular program solicitation, cost sharing is not a prerequisite to the award of a grant or other agreement to support a project resulting from such a program solicitation.

643.3 *Cost Sharing Amount.* On each NSF-supported project requiring cost-sharing, the awardee must share in the costs on more than a token participation basis. However, NSF expects that awardees will share in the costs at a level which reflects their interest in the research, the potential benefits they may derive, and their ability to cost-share. Institutions and organizations have a great deal of flexibility with regard to their approach to cost-sharing under NSF-supported projects, and thus must assume and exercise considerable responsibility in determining appropriate levels of cost-sharing.

643.4 *Cost Sharing Method*—a. *Background.* For many years, NSF required that proposal budgets show both the NSF (i.e., Federal) share and the grantee share of estimated project cost being proposed for NSF support; both were reflected in the summary budget attached to the grant letter. In May, 1970 (Important Notice No. 28), NSF combined its research grant budget and fiscal report forms into a single form, and eliminated the item-by-item cost sharing report. In September, 1970 (Important Notice No. 31), NSF eliminated cost sharing data from proposal budgets, grant budgets, and fiscal reports. In July, 1971 (Important Notice No. 40), NSF initiated a requirement for annual cost sharing reports covering all awards made during the preceding fiscal year. As a result of Congressional concern with the amount of cost sharing actually being made by grantees, and to conform with the financial reporting requirements of Attachment G to OMB Circular A–110, NSF is revising its cost sharing requirements for all proposals submitted on and after May 1, 1977 as described in succeeding parts of this section 643.

b. *Proposals for NSF Support.* The proposal budget (Exhibit 2–4) should show both the proposed NSF and awardee shares of the total estimated costs of the project and a figure indicating the ratio which the proposed awardee share bears to the estimated total project costs. Whereas the proposal budget must allocate the NSF share to specific line items, to arrive at the total amount requested from NSF, it need show the proposed awardee share only as a lump sum figure, included in the total project cost figure.

c. *Cost Sharing Negotiations.* (1) NSF does not utilize "institutional cost sharing agreements," such as those used by some granting agencies to provide for aggregated cost sharing. NSF requires that cost sharing be offered on each individual unsolicited research project, utilizing the proposal budget as the basis for negotiation, rather than a separate "cost sharing proposal," such as that used by some granting agencies.

(2) Prior to recommending whether or not NSF should support a particular project, the NSF program officer may engage in preliminary discussions with the proposing principal investigator/project director. Should such discussions result in changes in the basic objectives or scope of the project, a revised proposal must be submitted (see section 621, "Changes in Objectives, Scope, or Methodology.") Should such preliminary discussions result in changes of 10 percent or more in any of the line items of the proposed budget a new proposal budget, with new NSF share, awardee share, and percentage figures, must be submitted. (See section 630, "Changes in the Award Budget.") Such revised proposals or budgets must be approved by the authorized organizational representative (see Glossary).

(3) The cost sharing amount and percentage shown on the (revised) proposal budget will be shown in item S of the Award Budget (Exhibit 2–8), and will affect the respective income shares of NSF and the awardee in income producing awards. See section 650, "Project Income."

643.5 *Cost Sharing Records and Reports*—a. *Awardee Records.* (1) Awardees must maintain records of all research project costs which distinguish between those to be paid from funds furnished by the Government and those claimed as

the awardee contribution to cost participation. Such records are subject to audit (Exhibit 6–1, subparagraph 7(c)(3)).

(2) If the awardee's cost participation includes in-kind contributions, the basis for determining the valuation for volunteer services and donated property must be documented (Exhibit 6–2, paragraph 6).

b. *Awardee Reports.* (1) The actual cost participation by the awardee will be reported to NSF in line 10f of SF 269, Financial Status Report (Exhibit 6–4). The actual amount need not be the same as the proposed amount, but must be more than a token amount, as defined in section 642.3, above.

(2) In a cooperative project, awarded under a master grant (section 205) the grantee is responsible to NSF for cost-sharing on the entire project but may require cooperating institutions to contribute in proportion to their participation.

644 NSF MATCHING REQUIREMENT

Some NSF programs have a requirement for awardees to match the Federal support in whole or part, as outlined in the specific program announcement. Procedural requirements are as in section 643, above.

650 PROJECT INCOME

651 BACKGROUND

a. Attachment D to OMB Circular A–110 and Attachment E to FMC 74–7 provide somewhat different standards regarding grantee accountability for income related to projects financed in whole or in part with Federal funds.

b. The Report of Federal Cash Transactions and the Financial Status Report prescribed by Attachment G to A–110 and by Attachment H to FMC 74–7 provide somewhat different instructions as to how such income is to be reported by the different types of organizations.

c. The Senate Committee on Appropriations, in its report on the fiscal year 1976 NSF appropriation, stated that the NSF policy of allowing grantees to retain royalty income generated (subsequent to commercial release) by the sale of federally-developed education materials was improper and should be terminated and also directed NSF to collect all moneys being held in such accounts.

d. In order to continue to carry out the Congressional directive cited in c, above, and to provide equitable treatment both to the Government and to the various types of organizations to which NSF awards grants and other agreements, NSF will adapt the program income and income reporting provisions of those two directives to its awards, as of the effective date of this Manual. Section 652 defines terms; section 653 prescribes the new NSF project income provisions; Exhibit 6–6 summarizes both the project income provisions of section 653 and the reporting and refund requirements of sections 430, 440, and section 675.

652 DEFINITIONS

The following terms have the indicated meanings, derived from paragraph 1 of Attachment D to OMB Circular A–110 and from paragraph 5 of Attachment E to FMC 74–7.

a. *Project income.* Gross income earned by the awardee from a project financed in whole or in part with Federal funds. Such earnings include, but are not limited to, income from service fees, sale of commodities, usage or rental fees, and royalties received as a result of patents or copyrights. Project income includes royalty income and other income as defined below. It excludes interest earned on advance payments (see section 423 "Payment Policies").

b. *Royalty income.* Project income earned by the awardee for the right to manufacture, sell or distribute materials developed or produced with NSF support, including payments to the awardee based on sales and any interest earned thereon.

c. *Other income.* Project income other than royalty income.

d. *Federal share.* That portion of project income which accrues to the Federal government. Unless otherwise mutually agreed prior to the expiration of the award, the Federal share shall be computed on the same ratio basis as the Federal share of the total project cost as reflected in the Award Budget (Exhibit 2–8).

e. *Awardee share.* That portion of project income which accrues to the awardee. Unless mutually agreed prior to the expiration of the award, the awardee share of project income shall be computed on the same ratio basis as the awardee share of total project costs as reflected in the award budget, Exhibit 2–8. (See section 643.4, "Cost Sharing Method.")

f. *Total project costs.* The sum of the Federal and awardee shares of all costs (both direct and indirect) of a project, which are allowable as set forth in the applicable Federal cost principles.

653 NSF PROJECT INCOME PROVISIONS

653.1 *Grants*—a. *Royalty income.* Unless otherwise specified in the award instrument, the awardee will have no obligation to the Federal government with respect to the Federal share of royalties received as a result of copyrights or patents produced under the award except to satisfy the reporting requirements of section 675, summarized in Exhibit 6–6.

b. *Other income.* Unless otherwise specified in the award instrument, the Federal share of other project income shall be retained by the awardee and added to the funds committed to the project by NSF and the awardee and be used to further eligible project objectives. The awardee share may be used as desired by the awardee, including financing the non-Federal share of the project.

653.2 *Curriculum Development Agreements*—a. *Royalty income.* Unless otherwise specified in the award instrument, the Federal share of royalty income earned from a publisher or distributor under a curriculum development award, and any interest thereon, must be reported to NSF semi-annually in the special income report prescribed by the terms and conditions of the award, and credited or returned to NSF as prescribed in section 430, "Federal Cash Transactions Report." Unless otherwise specified in the award instrument, the awardee share is to be (1) added to funds committed to the project up to the total project cost and used to further eligible project objectives, and (2) any amount in excess of total project cost is to be returned to NSF.

b. *Other income.* Unless otherwise specified in the award instrument, the Federal and grantee shares of other income are to be reported and credited as in a(1), above.

653.3 *Other Agreements*—a. *Royalty income.* Unless otherwise specified in the award instrument, the Federal share of royalty income up to the total project cost is to be added to funds committed to the project and used to further eligible project objectives, but the awardee will have no obligation to the Federal government with respect to either its share or the Federal share in excess of total project costs except to satisfy the reporting requirements of section 675.

b. *Other income.* The award instrument may specify that the Federal share up to total project cost is to be used for either of the following purposes:

(a) Added to funds committed to the project and be used to further eligible project objectives, or

(b) Deducted from the total project costs in determining the net costs on which the Federal share of costs will be based.

Both the awardee share and the Federal share in excess of total project costs may be used as desired by the awardee, including financing the non-Federal share of the project.

660 SUSPENSION AND TERMINATION PROCEDURES

661 BACKGROUND

a. Succeeding sections 662 through 664 implement the suspension and termination procedures of Attachment L to OMB Circular A–110, which are substantially the same as those of Attachment L to FMC 74–7. Those procedures are analogous to but different from the revocation procedures used for many years in NSB grants.

b. Many NSF grantees are familiar with the general principles applicable to termination for convenience, contained in Subpart 1–8.2 of the Federal Procurement Regulations, which differ substantially from the similarly named procedures of A–110 and FMC 74–7. To avoid misunderstanding, NSF will use the phrase "termination by mutual agreement" vice "termination for convenience" to implement the procedures prescribed by subparagraph 4.b. of Attach-

ment L to A–110 and subparagraph 5.b. of FMC 74–7.

662 DEFINITIONS

The following terms have the indicated meanings:

a. *Suspension.* An action by NSF that temporarily withholds further Federal support of a project pending corrective action by the awardee or a decision by NSF to terminate the award.

b. *Termination.* The cancellation of an award, in whole or in part, at any time prior to its expiration.

c. *Terms and Conditions.* The general and special provisions of the award instrument.

663 SUSPENSION OR TERMINATION FOR CAUSE

663.1 *NSF Policy.* a. When a awardee has materially failed to comply with the terms and conditions of a grant or other agreement, NSF may (1) suspend the award or (2) terminate the award for cause as prescribed in the General Provisions for Suspension or Termination (Appendices A or B).

b. NSF prefers that deficiencies be corrected whenever practicable. Therefore, action to suspend or terminate an award normally will be taken only after the awardee has been informed of the deficiency and given sufficient time to correct it, in accordance with the procedures in section 663.2. However, this policy does not preclude immediate suspension or termination when such action is reasonable in the circumstances and necessary to protect the interests of the Government.

c. If an award is suspended pursuant to this section, no obligations incurred by the awardee during the period of suspension shall be allowable under the suspended award. However, NSF will allow necessary and proper costs which the awardee could not reasonably avoid during the period of suspension; provided that such costs would otherwise be allowable under the applicable Federal cost principles.

d. If an award is terminated pursuant to this section, financial obligations incurred by the awardee prior to the effective date of termination will be allowable to the extent they would have been allowable had the award not been terminated, except that no obligations incurred during the period in which the award was suspended (except those allowed pursuant to c, above) will be allowed. The settlement of termination costs will be in accordance with the applicable Federal cost principles (e.g., FPR 1–15.205–42, 1–150.309–45, etc.).

663.2 *NSF Procedures.* a. When it is believed that the awardee has failed to comply with one or more of the terms and conditions of an award, the grants officer will advise the awardee by letter of the nature of the problem and that failure to correct the deficiency may result in suspension or termination of the award. The awardee will be requested to respond in writing within 30 days of the date of such letter, describing the action taken or the plan designed to correct the deficiency. Copies of such correspondence will be furnished to the principal investigator and to the NSF program officer.

b. If a satisfactory response is not received within 30 days of such letter, the grants officer may issue a notice suspending authority to further obligate award funds, in whole or in part. The notice of suspension will be sent by certified mail (return receipt requested), to the authorized organizational representative, with a copy to the PI/PD. Within the Foundation, copies will be furnished to the Division of Financial and Administrative Management (DFA) and to the program officer. The notice will set forth the activities covered by the suspension and its effective date, and the corrective action required by the awardee in order to remove the suspension.

c. The suspension shall remain in effect for 90 days during which time the awardee shall take corrective action to the satisfaction of NSF or give assurances satisfactory to NSF that corrective action will be taken. In that event, the grants officer will issue a notification, addressed as in b, above, that the suspension is lifted. Otherwise, NSF may terminate the award.

d. In the event the deficiency is not corrected to the satisfaction of NSF, the grants officer may issue a notice of termination, addressed as in b, above. The notice will establish the reasons for the action and its effective date.

e. Within 90 days of the effective date of termination, the awardee shall furnish an itemized accounting of funds expended for allowable costs and the unexpended award balance. Within 30 days of a request therefore, the awardee shall remit or otherwise credit to NSF any amounts found due, as prescribed in section 670, "Award Closeout Procedures."

f. In the event of deficiencies involving more than one award, NSF reserves the right to suspend or terminate all support to any or all projects being performed by the awardee, and to withhold any future support until such time as the awardee completes corrective action on present deficiencies and certifies the intention of abiding by the provisions of this "Manual" in the future.

664 TERMINATION BY MUTUAL AGREEMENT

664.1 *NSF Policy.* Circumstances may arise whereby either NSF wishes to terminate its support of a project or the awardee wishes to terminate its performance of a project. If both parties agree that continuation of the project would not produce beneficial results commensurate with the further expenditure of funds, it is NSF policy to terminate the award by mutual agreement.

664.2 *Procedures.* a. If the awardee wishes to terminate the project, the authorized organizational representative should advise the NSF grants officer, with a copy to the NSF program officer.

b. If NSF wishes to terminate the project, the grants officer will advise the awardee's authorized organizational representative, with copies to the PI/PD and the NSF program officer.

c. Within 30 days after receipt of request from either party for termination by mutual agreement, the other party will provide an appropriate written response. In the event of disagreement between the parties, the NSF decision will be final.

d. Following termination, the close-out procedures of section 670 shall be initiated.

670 AWARD CLOSEOUT PROCEDURES

671 BACKGROUND

Succeeding sections 672 through 676 implement:

a. The closeout procedures of Attachment K to OMB Circular A–110 and of Attachment L to FMC 74–7;

b. The requirements of Attachment H to A–110 and of Attachment I to FMC 74–7 for a final technical or performance report;

c. The requirements of Attachment G to A–110 and of Attachment H to FMC 74–7 for a financial status report; and

d. The requirements of NSF Notice No. 62, as amended by NSF Notice No. 63, for a summary of completed projects.

672 DEFINITIONS

The following definitions, adapted from the documents listed in section 671, above, apply for the purposes of closeout of NSF non-procurement awards:

a. *Closeout.* The process by which NSF determines that all applicable administrative actions and all required work of the grant or other agreement have been completed by the performing organization (and the awardee, if different) and NSF.

b. *Disallowed costs.* Those charges to a grant or other agreement which NSF determines to be unallowable, in accordance with the applicable Federal cost principles or other conditions contained in the award. (See Chapter V, "Allowability of costs.")

c. *Expenditures (Outlays).* Charges made to the project during a given period for (1) goods and other tangible property received, (2) services performed by employees, subcontractors, and other payees, and (3) amounts becoming owed for which no current services or performance is required.

d. *Expiration date.* The date specified in the award letter after which expenditures may not be charged against the award except to satisfy obligations of funds to pay allowable project costs committed on or before that date. The expiration date normally is the last day of the month. It is analogous to the "completion date" described in Attachment K to A–110 and Attachment L in FMC 74–7.

e. *Final Technical Report.* The final scientific or technical report of project performance required by Attachment 1–1 to A–110 and Attachment I to FMC 74–7.

f. *Financial Status Report.* Standard Form 269, prescribed by Attachment G to A–110 and by Attachment H to FMC 74–7, to report the status of funds for non-construction projects. On and after the effective date of this "Manual" it replaced the report portion of the

Research Grant Budget and Fiscal Report (NSF Form 98), the Education Grant Budget and Fiscal Report (NSF Form 235), and any other NSF fiscal report forms or formats prescribed by any NSF program announcements, program solicitations, or specific award instruments. It is reproduced at Exhibit 6–4. (The replacement NSF Award Budget is reproduced at Exhibit 2–8.)

g. *Summary of Completed Project.* NSF Form 98A, prescribed by NSF Notice No. 62, to summarize in laymen's language the final technical report in order to answer inquiries by nonscientists as to the nature and significance of the project. It is reproduced at Exhibit 6–3. If the technical report is to be deposited in the National Technical Information Service (NTIS), the Bibliographic Data Sheet (NTIS Form 35), reproduced as Exhibit 6–4, may be substituted.

673 AWARDEE REQUIREMENTS

a. The awardee must furnish NSF with the following, as prescribed in section 674: (1) Summary of Completed Project (Exhibit 6–3 or 6–4, as appropriate) together with (2) Final technical report.

b. Within 90 days after the expiration date, the awardee also must furnish NSF with the following, as prescribed in section 675: (1) Financial Status Report (Exhibit 6–4), (2) Copy of Summary Completed Project (Exhibit 6–3 or 6–4, as appropriate).

c. The documents listed in a and b above will be submitted to:

National Science Foundation, Division of Grants and Contracts, 1800 G Street, NW., Washington, D.C. 20550.

674 FINAL TECHNICAL REPORT AND SUMMARY

674. *Background.* a. For many years, NSF has had requirements, reflected in program announcements such as "Grants for Scientific Research" and in program solicitations, for the submission of final technical reports. Additionally, as indicated in section 752, NSF traditionally has encouraged the publication of research results in the open scientific literature whenever appropriate and worthy.

b. In recent years, there has been increased interest in the Foundation, the Congress, other science agencies, and the scientific community in providing improved access to information about the results of research supported by public funds. Therefore, NSF Notice No. 62, as amended by NSF Notice No. 63, prescribed for the submission of either a Summary of Completed Projects (NSF Form 98A) or a Bibliographic Data Sheet (Form NTIS–35), in addition to the traditional publication in scientific journals and submission of final technical reports, for awards expiring on or after October 1, 1976.

c. This § 674 prescribes the NSF requirements for both the traditional detailed scientific report and for the new summary report for the two basic types of projects which NSF supports.

674.2 *Grants.* a. Within 90 days following the expiration of the grant, the principal investigator/project director must submit the Summary of Completed Project, in accordance with the instructions on the reverse thereof (see Exhibit 6–3), to the address indicated in 673 c, above. In the event that material for publication in the scientific literature has not yet been completed, or has not yet been accepted, the list of publications required by the form should so indicate.

b. Unless otherwise specified in the award instrument, the final technical report should be attached to the summary report. It should include appropriate identifying data and the following basic information:

Brief Description of Research and Results
Publications (published and planned) (give title, Journal or other reference, date, authors)
Theses (if any)
Inventions or discoveries (whether or not patented)
Scientific Collaborators connected with grant (including students) (include title or status, e.g., Associate Professor, Graduate Student, etc.)
Comments (include reference to continuation if appropriate, etc.)
Signature of principal investigator and Date.

c. At such time as the PI/PD publishes in a scientific or technical journal, he should send two reprints of the publication to the cognizant NSF program officer. They should be clearly labeled with the grant number and other appropriate identifying information. (See section 517, "Page Charges in Scientific Journals.")

674.3 *Other Agreements.* a. In accordance with the terms of the agreement but prior to the expiration of the award, the principal investigator/project director must submit the Summary of Completed Project (Exhibit 6–3) or the Bibliographic Data Sheet (Exhibit 6–4) to the address indicated in 673c, above.

b. A final technical report, containing the information required by the award instrument, should be attached to the summary report.

675 FINANCIAL STATUS REPORT AND SUMMARY

a. The Financial Status Report (Exhibit 6–4), in an original and two copies, shall be submitted to the address specified in section 673c, above, within 90 days after the expiration of each nonprocurement award. The certification in item 13 must be signed by the business officer or other authorized certifying official on at least the original, with his name, title, telephone number and date shown on all copies.

b. Prior to completing line 10c, (Program income credits), reference should be made to section 653, "NSF Project Income Provisions." Note that section 653.2 contains special reporting and refund policies with respect to income earned under curriculum development projects supported by NSF awards. Exhibit 6–6 summarizes the project income disposition and reporting requirements.

c. After the Financial Status Report has been accepted by the Division of Grants and Contracts (DGC) it becomes the basis for the Division of Financial and Administrative Management (DFA) to make the final dollar adjustment on the official NSF financial records relating to that award. (See section 441, "Final Unobligated Balance.")

d. NSF makes no provisions for any upward or downward adjustments to the Federal share of costs after the Financial Status Report has been accepted by DGC.

e. Further, the administrative expense of reopening closed-out awards is disproportionate when only small sums are involved. Therefore, NSF will not normally reopen an award account to add or delete costs amounting to $100 or less after the award has been closed. Any post close-out expenditure adjustments of $100.00 or less must be absorbed by the awardee. The Federal Cash Transactions Report should remain in agreement with the Financial Status Report.

f. However, in the event a final audit has not been performed prior to the closeout of the award, NSF retains the right to recover an appropriate amount after fully considering any recommendations on disallowed costs resulting from such final audit as may be conducted.

680 RECORDS RETENTION AND AUDIT

681 BACKGROUND

Section 682 implements the requirements of Attachment C to OMB Circular A–110 and of Attachment C to FMC 74–7 concerning retention and custodial requirements for records concerning grants and other agreements. Those requirements are analogous to but different from the retention requirements for contractor and subcontractor records contained in Part 1–20 of the FPR.

682 NSF REQUIREMENTS

a. Financial records, supporting documents, statistical records, and other records pertinent to a grant or other agreement shall be retained by the awardee for a period of three years from submission of the Financial Status Report prescribed by section 670 except for:

(1) Records which relate to audits, appeals, litigation, or the settlement of claims relating out of the performance of the project shall be retained until such audits, appeals, litigation, or claims have been disposed of.

(2) Records relating to projects subject to the project income provisions of section 653 shall be retained until final disposition of the Federal share of such income shall have been made.

b. Unless court action or audit proceedings have been initiated, the awardee may substitute microfilm copies of original records.

c. The NSF Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the awardee organization, of the performing organization if different, and any subrecipients to make audits, examination, excerpts, and transcripts.

d. NSF may request transfer to its custody of records not needed by the awardee when it determines that the records possess long-term retention value.

Exhibits:

6-1 FMC 73-3: Cost Sharing on Federal Research
6-2 Attachment E to OMB Circular A-110: Cost Sharing and Matching
6-3 NSF Form 98A: Summary of Completed Project
6-4 Form NTIS-35: Bibliographic Data Sheet
6-5 SF 269: Financial Status Report
6-6 Summary of NSF Project Income Disposition and Reporting Requirements.

CHAPTER VII—OTHER CONSIDERATIONS

This chapter discusses those aspects of NSF awards not covered in the preceding chapters. Topics covered are as follows:

700 Civil Rights Act of 1964.
710 Treatment of warm blooded mammals.
720 Handling of information (including questionnaires).
730 International considerations (including travel awards and use of U.S. flag carrier).
740 Excess Government personal property.
750 Intangible property (including patents and inventions, publication and copyright, rights in ADP data banks and software).
760 Production or distribution of materials.
770 Equipment title, use, and disposition.
780 Acquisition and control of materials and supplies.
790 Miscellaneous (including bonding and insurance, liabilities and losses, tax status, national security).

700 CIVIL RIGHTS ACT OF 1964

701 BACKGROUND

Section 602 of the Civil Rights Act of 1964 (Pub. L. 88-362; 42 U.S.C. 2000d-1), provides that no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance, and requires that each Government agency which is empowered to extend such financial assistance shall issue rules or regulations effectuating Title VI (Sections 601-605) of the Act with respect to such programs or activities administered by the agency. Subject to certain exceptions regarding admission policies and certain religious and military institutions, Title IX of the Education Amendments of 1972 (Pub. L. 92-318; 20 U.S.C. 1681-1786), prohibits the exclusion of persons on the basis of sex from any education program or activity receiving Federal financial assistance.

702 NSF REGULATIONS

NSF regulations to implement Title VI of the Civil Rights Act are contained in 45 CFR Part 611. Section 611.4 requires that as a condition of approval of an application for assistance, the applicant must execute the Assurance of Compliance form reproduced in Exhibit 7-1, whether or not a comparable assurance form has been filed with another Federal agency.

703 ASSURANCE OF COMPLIANCE

If not already done, prospective awardees may either reproduce the Assurance of Compliance form or request copies from the Division of Grants and Contracts. The "applicant" referred to in the form is the organization itself whose Chief Executive Officer or comparable official should sign the Assurance. The name and title of the organization and of the official should be typed on the form. The signed original should be mailed to the NSF Division of Grants and Contracts (see § 340.3, "Required Certifications"). Once a properly executed form has been filed with NSF, it will cover all future applications to NSF. Acceptance of a subsequent award constitutes affirmation that the Assurance of Compliance will be fully applicable to the award.

704 CIVIL RIGHTS ASSURANCE—SUBRECIPIENT

Each organization that applies to be or serves as a subrecipient, subgrantee, or subcontractor under an NSF award (for other than the provision of commercially available supplies, materials, equipment, or general support services) must have filed with the awardee an Assurance of Compliance with Title VI of the Civil Rights Act of 1964 and the regulations thereunder. Such Assurance may be filed in one of two ways: (1) By written notification that the appropriate Assurance of Compliance form has been executed and filed either with NSF or the U.S. Department of Health, Education and Welfare; or (2) by executing and filing with the awardee an NSF Assurance of Compliance form.

710 TREATMENT OF WARM BLOODED MAMMALS

711 HUMAN SUBJECTS

a. The protection of the rights and welfare of human subjects involved in research, development, and related activities supported by NSF awards is the responsibility of the awardee.

b. The informed consent of the individual is a vital element in the protection of human subjects. Before a subject participates in an investigation involving risk or the likelihood of substantial stress or discomfort, the nature of these hazards and the procedures to be followed must be carefully explained and consent of the subject given. Likewise, in respect to privacy, each individual selected to participate in a study must decide how much to share with others his or her thoughts, feelings, and the facts of his or her personal life, and under what circumstances; and he or she must be given sufficient information to make this decision in writing before the study begins. If the subject is under eighteen years of age or otherwise legally incompetent, the consent of the parent or legal guardian must be obtained. Awardees are referred to DHEW Publication No. (NIH) 72-102, "Institutional Guide to DHEW Policy on Protection of Human Subjects," dated December 1, 1972, as amended by Part 46, Subtitle A of Title 45 of the Code of Federal Regulations, dated March 13, 1975, for guidance.

c. Proposals submitted to NSF involving the use of human subjects must be reviewed by an appropriate science review committee at the awardee institution and contain a statement that the plan to use human subjects has been reviewed and approved by that committee. The Foundation also requires written assurances that the awardee will comply with the DHEW policies, as amended, regarding the use of human subjects.

712 RESEARCH INVOLVING RECOMBINANT DNA MOLECULES

A new biological method has been developed by which segments of genetic material (DNA) from different sources can be joined together outside of living organisms. Such laboratory generated molecules are referred to as "recombinant DNA." Through the use of recombinant DNA techniques it is possible to transfer genetic material from any source to a given host cell where it may be able to replicate and function. The NSF recognizes that this method offers potentially significant benefits in fundamental and applied biological research. The NSF also recognizes that such research may involve biohazards. Therefore, it is essential that all research involving the use of recombinant DNA molecules be conducted in a responsible manner adhering to safety precautions and conditions designed to protect laboratory workers, the general public and all other living organisms in their general natural environments.

NSF awardees and principal investigators shall comply with the following specific sections of the NIH Guidelines for Recombinant DNA Research (FEDERAL REGISTER, Vol. 41, No. 131, July 7, 1976):

II. Containment (P. 27912-14).
III. Experimental guidelines (P. 27914-20).
IV. Section A and B, Roles and responsibilities of principal investigator and institution P. 27920).
Appendix D (P. 27926-43).

713 LABORATORY ANIMAL WELFARE ACT OF 1966

The awardee will comply with the Laboratory Animal Welfare Act of 1966 (Pub. L. 89-544, as amended, 7 U.S.C. 231 et seq.) and the regulations promulgated thereunder by the Secretary of Agriculture (CFR, Title 9, Subchapter A). This Act and ensuing Regulations pertains to the care, handling, and treatment of warm blooded animals held or used for research, teaching or other activities supported by Federal awards. The awardee is expected to ensure that the guidelines described in DHEW Publication No. (NIH) 74-23, "Guide for the Care and Use of Laboratory Animals," are followed.

NOTE: The awardee may request registration of his facility and a current listing of licensed dealers from the Regional Office of the Animal and Plant Health Inspection Service

(APHIS), USDA, for the region in which his research facility is located. The location of the appropriate APHIS Regional Office as well as information concerning this program may be obtained by contacting the Senior Staff Officer, Animal Care Staff, USDA/APHIS, Federal Center Building, Hyattsville, MD 20782.

714 MARINE MAMMAL PROTECTION ACT

The protection of marine mammals in research activities supported by NSF awards is the responsibility of the awardee.

Proposals submitted to NSF in support of marine research activities will include a statement that the awardee will comply with the Marine Mammal Protection Act of 1972, Pub. L. 92-522 (see Appendix A).

720 HANDLING OF INFORMATION

721 QUESTIONNAIRES: DATA COLLECTION UNDER NSF GRANTS

721.1 *Background.* In accordance with Attachment A to revised OMB Circular No. A-40, collection of information from 10 or more organizatons or individuals through a questionnaire, interview, etc., is deemed to be sponsored by the Federal government when:

a. The PI/PD represents to respondents that the information is being collected for or in association with a Federal agency; or

b. The PI/PD uses the report form to collect information requested by the agency for the planning, operation, or evaluation of one of its programs; or

c. The terms and conditions of the award provide for agency approval of the survey design, questionnaire content or data collection procedures; or

d. The terms and conditions of the award provide for submission to the agency either of the data for individual respondents or of special tabulations requested by the agency.

721.2 *NSF Policy.* In the event that NSF intends to "sponsor" the collection of data as defined in OMB Circular No. A-40, it will normally do so by means of a contract. Data collection activities outlined in a proposal resulting in other kinds of awards are the responsibility of the awardees and NSF support of the project does not constitute NSF approval of the survey design, questionnaire content or data collection procedures. No representation may be made to respondents that such data is being collected for or in association with the National Science Foundation or the Government. However, this requirement is not intended to preclude mention of NSF support of the project in response to an inquiry or acknowledgement of such support in any publication of this data (see General Provision —).

722 RELEASE OF INFORMATION BY NSF

722.1 *Routine Information Release.* a. NSF furnishes to Members of Congress a daily listing of awards (see Exhibit 7-2). This listing, arranged by State and Congressional District, displays opposite each awardee institution or organization the name and department of the principal investigator or project director, number and title of the award, duration (support period), award amount, and NSF Program.

b. Comparable listings are furnished quarterly to the State Central Information Reception Agency (SCIRA) of each State in furtherance of the supplemental reporting requirements of Treasury Circular 1082 (Revised). See section 210, "Project Notification and Review System."

c. On an annual basis NSF publishes a numbered volume, "National Science Foundation Grants and Awards" (year). This document, obtainable from the Superintendent of Documents, U.S. Government Printing Office, contains a list of all awards made the previous fiscal year, arranged alphabetically by State within the major program headings contained in the "NSF Guide to Programs."

722.2 *Press Releases.* Awards for projects which appear to be of special interest to the general public may be made the subject of an NSF Press Release, made available to the news media.

722.3 *NSF Project Summaries.* At the time an award is made in support of a project involving research, NSF furnishes to the Smithsonian Science Information Exchange (SSIE) a summary of the proposed work. Copies of this "Project Summary," based on the abstract submitted by the proposing investigator, are furnished to the principal investigator or project director with the award letter. Copies may be obtained by the general public upon request to SSIE, 1730 M Street, NW., Washington, D.C. 20036. Following completion of the project, NSF may disseminate the technical report through the National Technical Information Service (NTIS), as outlined in section 722.5.

722.4 *Freedom of Information Act (FOIA) of 1974.* Pursuant to the Freedom of Information Act of 1974 (5 USC 552), the National Science Foundation will provide agency records, with certain exceptions, if the request is in writing and identified as an FOIA request, and if the records sought are described with sufficient specificity to permit identification. The requester must also agree to pay fees that are chargeable under the NSF regulations regarding the availability of records and information. Detailed procedures are contained in 45 CFR Part 612.

722.5 *Release of Technical Reports.* a. It is the policy of the National Science Foundation that the results of Foundation-funded research be made publicly available through appropriate dissemination channels. In implementing this policy, the Foundation encourages awardees to arrange for access to research results through refereed dissemination channels. These include refereed journals; edited books, monographs and other publications; and national data banks operated by government agencies and private organizations (see section 752, "Publication" and section 753, "Copyright").

Technical Reports also will be made available to others on request. In recognition of the author's interest to be the first to publish the results of his research, NSF will normally honor requests to delay release of these reports.

b. Often, however, such channels are unable to provide for adequate dissemination of technical reports submitted by awardees. In general, for substantive technical reports (i.e., those reporting new scientific or engineering research results, including policy and applied research), the Foundation will arrange for dissemination through the National Technical Information Service (NTIS) of the Department of Commerce. The various NSF Program Directorates are responsible for ensuring that the appropriate arrangements are made so that dissemination to NTIS is carried out. NSF may use its own program funds to meet costs associated with dissemination activities, including payment of page charges to journal publishers and processing charges for inputting reports to NTIS or other information centers.

730 INTERNATIONAL CONSIDERATIONS

731 TRAVEL TO FOREIGN COUNTRIES

731.1 *Definition.* In awards to U.S. organizations, travel performed to, between, or within a country other than the U.S. is defined as foreign travel. The U.S. includes Guam, American Samoa, Puerto Rico, the Virgin Islands, Canal Zone, and the Trust Territory of the Pacific Islands. For awards to foreign organizations, "foreign travel" means travel outside the boundaries of the country in which the awardee is located.

731.2 *Prior NSF Approval.* Prior NSF approval in writing is required for each separate foreign trip, except to Canada, before award funds may be used to defray foreign travel costs. If the proposal contemplates specific foreign travel, NSF approval of such travel will be indicated in the travel line item of the award budget (see section 514, "Travel Costs," and section 632, "Unbudgeted Expenditures").

731.3 *Use of United States-Flag Carriers.* a. The Comptroller General of the United States, by Decision B-138942 of June 17, 1975, (as amended) provided guidelines for implementation of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974.

b. Except for transportation services that can be financed only with excess foreign currency, any foreign air transportation of persons or property, the expense of which will be assisted by NSF funding, must be performed on a U.S. flag carrier if service provided by such carrier is "available" (see General Provision —).

c. If U.S. flag carriers are unable to perform transportation services that can be financed only with excess foreign currencies, transportation by foreign flag carriers is permissible.

d. For the purposes of this requirement.

(1) Passenger or freight service by a certificated air carrier is considered "available" even though:

(a) Comparable or a different kind of service by a non-certificated air carrier costs less, or

(b) Service by a non-certificated air carrier can be paid for in excess foreign currency, or

(c) Service by a non-certificated air carrier is preferred by the grantee, contractor or traveler needing air transportation, or

(1) Service by a non-certificated air carrier is more convenient for the grantee, contractor, or traveler needing air transportation.

(2) Passenger service by a certificated air carrier is considered to be "unavailable":

(a) When the traveler, while en route, has to wait six hours or more to transfer to a certificated air carrier to proceed to the intended destination, or

(b) When any flight by a certificated air carrier is interrupted by a stop anticipated to be six hours or more for refueling, reloading, repairs, etc., and no other flight by a certificated air carrier is available during the six hour period, or

(c) When the flight of a certificated air carrier, by itself or in combination with other certificated or noncertificated air carriers (if certificated air carrier are "unavailable"), takes 12 or more hours longer from the origin airport to the destination airport to accomplish the Federally funded mission than would service by a non-certificated air carrier or carriers.

e. NSF will no longer consider as an allowable cost under any of its project awards foreign travel which does not meet the criteria of prior NSF approval. Similarly, NSF will hold responsible for compliance with the provisions any individuals who travel abroad with the financial assistance of an NSF International Travel Support Award.

732 PROJECTS IN A FOREIGN COUNTRY

Prior to undertaking any projects outside the United States, the awardee should ensure that such permits or licenses as may be required by the host country or the political subdivision in which the project will be performed have been obtained and that the researcher(s) will abide by the appropriate ordinances of such foreign countries. Foundation funds may not be used in support of a project which is prohibited by law in the country where it is undertaken. A close working arrangement with local scientists in foreign research projects provides the best basis for learning of these ordinances and obtaining assistance for necessary clearances and approvals. International scientific ethics require not only adherence to the local legal requirements but also sensitivity to the best interests of the other country's scientific community. Projects in a foreign country should improve the competence of cooperating scientists and encourage wide distribution within that country of the resulting materials, data, analyses and publications.

733 PASSPORTS AND VISAS

NSF assumes no responsibility for securing passports or visas required by any person because of participation in an NSF-supported project.

734 INTERNATIONAL TRAVEL SUPPORT AWARDS

734. *Funding Limitations.* Funds for international travel normally will not exceed the cost of the round trip air fare, at economy class or excursion rates (including applicable surcharges), between an air terminal near the point of origin and one near the point of destination and will be in the form of an airline ticket mailed directly to the traveler. NSF international travel support awards may not be supplemented by funds from an NSF project grant or fellowship.

734.2 *Charter Flights.* Because of the risk of catastrophic loss, the Foundation does not encourage the use of charter flights as a means of mass transportation for groups of scientists. However, individual travelers may utilize group or charter arrangements involving the use of U.S.-flag carriers at less than jet economy fare.

734.3 *Per Diem.* If the traveler is an official U.S. delegate to an international conference, per diem may be provided.

734.4 *Return of Airline Ticket.* In the event the planned trip is cancelled, the airline ticket must be returned immediately to the NSF Division of International Programs.

734.5 *International Travel Support Award Report.* Within sixty days after completion of the foreign travel, the grantee must submit an NSF Questionnaire form (copies of which will be enclosed with the airline ticket) to the NSF Division of International Programs.

740 EXCESS GOVERNMENT PERSONAL PROPERTY

As a means of providing additional support and conserving supply and equipment funds, NSF may sponsor the transfer of a limited quantity of excess Government personal property to NSF awardees which are public or private institutions of higher education or nonprofit organizations whose primary purpose is the conduct of scientific research. See Important Notice No. 58 (Exhibit 7-3).

750 INTANGIBLE PROPERTY

751 PATENTS AND INVENTIONS

751.1 *Background.* Section 12(a) of the NSF Act requires that every grant or other arrangement which relates to scientific research provide for disposition of inventions in a manner calculated to protect the public interest and the equities of the awardee. NSF patent regulations are contained in Part 660, Title 45, of the Code of Federal Regulations. Intangible property management standards are also contained in Attachment N to OMB Circulars A-102 and A-110. The allowability of patent costs is governed by the applicable Federal cost principles (see Chapter V).

751.2 *Applicability of NSF Patent Provisions.* NSF awards which are made for the purpose of supporting experimental or research work or which contain a significant element of any such activity will contain appropriate provisions dealing with rights to inventions made thereunder. An NSF award made solely for support of one of the following purposes normally will not include NSF patent provisions:

a. Construction, improvement, or operation of facilities;
b. Research equipment;
c. Ship operations;
d. Education and training grants not in support of research;
e. Publication, distribution, and translation of scientific data and information;
f. Symposia and Conferences;
g. Special studies authorized or required by Subsections 3a(5) through 3a(7) of the NSF Act, as amended.

Suitable provision shall also be made to govern disposition of inventions made by subcontractors wherever such a clause appears in the primary award.

751.3 *Basic NSF Patent Provisions.* Except for the exempt projects listed in section 751.2, every NSF award relating to experimental or research activities will be subject to the deferred determination patent clause prescribed by section 650.4 of the NSF Regulations (see General Provision —) unless:

a. Special provisions for a particular project are negotiated at the request of the prospective awardee under the provisions of section 650.5 of the NSF Regulations.

b. The award is for an NSF fellowship or traineeship, in which case the award will substitute the clause contained in section 650.6 of the NSF Regulations requiring only that the Government receive a royalty-free license with "march-in" rights; or

c. The amount of support is small and where all or part of the work will take place at a commercial firm (e.g., Engineering Research Initiation Grants or Faculty Research Participation Grants) in which case the awardee's retention of rights may be specified;

d. The award is to a college, university, or other nonprofit organization which has entered into an Institutional Patent Agreement (IPA), pursuant to section 650.8 of the NSF Regulation.

751.4 *Deferred Determination of Rights.* a. When NSF provides for deferring the determination of rights in inventions until such time as an invention has been identified and reported, it will make its determinations on the basis of consideration of such factors as (i) the nature and purpose of the project; (ii) the commercial position of the inventing organization in the subject technical field; (iii) the contribution of the awardee to the cost of the invention; (iv) the need for Government control of the invention; (v) the intention and capability of the inventing organization effectively to bring the invention to the point of practical application, either by itself or through an invention or patent management organization; and (vi) the degree of domination by and extent of availability of background patents controlled by the awardee.

b. In cases where title to an invention is left with an awardee which itself is not expected to develop and use the invention, NSF will normally require the licensing of such invention on a nonexclusive basis to all qualified applicants.

However, an exclusive license may be permitted if necessary as an incentive for development of the invention or where market conditions are such as to require licensing on an exclusive basis. Any such exclusive license will normally be for a limited period of time less than the life of the patent such as three years from the first commercial use or sale or eight years from the inception of the license agreement, whichever first occurs. Thereafter, additional licenses will be made available nonexclusively unless the original period is extended with NSF approval.

c. Where the awardee does not wish to retain title to the invention and neither NSF nor any other Government agency wishes to take title, the invention may be left with the individual inventor on terms which are reasonable in the circumstances, on a showing that the inventor wishes to and has the ability to bring the invention to the marketplace by his own efforts or the efforts of licensees, or if more appropriate, it may be dedicated to the public by publication.

751.5 *Minimum Government Rights.* In all cases where an award is subject to patent provisions and the awardee or any other party has been allowed to retain principal rights in inventions, NSF shall reserve the license and "march-in" rights described in § 650.10 of the NSF Regulations. Alternative patent provisions are contained in General Provision _____.

751.6 *Availability to the Public of Research Results.* A major objective of the NSF patent policy is to encourage the use of inventions arising out of activities supported by NSF. It is important where an award is for research to assure that any useful product or process developed or improved under the award is made available to the public on reasonable terms. Industrial or commercial organizations may be permitted to retain title to inventions as provided for in Section 1 of former President Nixon's 1971 Statement of Government Patent Policy. However, such an organization may be requested to furnish to responsible applicants technical data and any other rights which it is able to provide to the extent necessary to make the product or practice the process concerned, where such organization is not in a position to, does not desire to, or otherwise will not make available to the public the products or the advantages of using processes developed or improved under the award.

752 PUBLICATION

752.1 *Background.* Section 11(g) of the NSF Act authorizes the Foundation to publish or arrange for the publication of scientific and technical information so as to further the full dissemination of information of scientific value consistent with the national interest.

752.2 *NSF Policy.* In furtherance of the Act, it is NSF policy to encourage, and, in some cases, require publication and distribution of the results of research conducted under awards. Generally, publication is in scientific journals or other news media, the circulation of which is particularly addressed to the scientific community. In furtherance of the policy of the Federal Council for Science and Technology, page charges for publication of scientific results in scientific journals will be budgeted for and paid as a necessary part of research costs under NSF awards. See section 517, "Page Charges in Scientific Journals."

752.3 *Awardee Responsibilities.* The preparation, consent, editing, and publication of manuscripts are the responsibilities of the principal investor, in conformance with such policies and procedures as the awardee may prescribe. Review of manuscripts prior to submission for publication will normally not be made by NSF. However, in some instances, the preparation, publication and dissemination of research results will be subject to agreement between NSF and the awardee. Where required, such procedures or requirements will be included in the award instrument. Upon publication, a minimum of two copies of reprints shall be furnished to the cognizant NSF Program Office. (See section 750, "Production or Distribution of Materials," and section 650, "Project Income.") NSF Requirements are contained in General Provision_____.

753 COPYRIGHT

753.1 *General.* Unless otherwise provided in the award instrument, the author or awardee is free to copyright any books, publications, films, or other copyrightable materials developed in the course of or under an NSF grant. However, any such copyrighted materials shall be subject to a royalty-free, irrevocable, worldwide, nonexclusive license in the United States Government to reproduce, perform, translate, and otherwise use and to authorize others to use such materials for Government purposes (see General Provision _____).

753.2 *Need for Exclusivity.* In some instances, it may be necessary to guarantee exclusivity in order to obtain proper distribution arrangements. In such cases, NSF might be willing to accept a more limited license, and the award instrument will so provide. See General Provision _____.

753.3 *Public Domain.* In some instances, NSF will require that the material be publicly disseminated and remain in the public domain, without copyright. In such cases, the award instrument will so specify. See General Provision _____.

753.4 *Disclaimer.* Regardless of whether material is copyrighted, it shall contain the following acknowledgment and disclaimer statement:

> Some (All) of the materials incorporated in this Work were developed with the financial support of the National Science Foundation Grant _____. However, any opinions, findings, conclusions, or recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the Foundation.

754 RIGHTS IN ADP DATA BANKS AND SOFTWARE

754.1 *Background.* Some NSF awards support the accumulation of a large body of machine readable data by any of a number of means including literature search, consolidation of existing material, and original creation or collection. Accumulation of such a data bank may itself be a principal purpose of the award or the data bank may be expected to be so large and comprehensive that it would probably be useful to others for other purposes. A relatively few NSF awards may support projects which produce software as a major end product, such as methodologies for processing data, general purpose programs, and course materials, which can readily be adapted to other computers.

754.2 *NSF Policy.* It is the policy of the Foundation that data banks and software, produced with the assistance of NSF awards, having utility to others in addition to the awardee, shall be made available to qualified users, at no cost to the awardee, by publication or, on request, by duplication or loan for reproduction by others. However, awardees will not be required to release finite data banks which are incomplete, or which contain errors, ambiguities, or distortions, information which is privileged or confidential, or information the release of which is otherwise not in the public interest. Awardees will be allowed a reasonable time to make necessary corrections. Any dispute over the release or use of such material will be referred to the Foundation for resolution.

754.3 *Implementation.* See General Provision _____ for "Rights in ADP Data Banks and Software."

760 PRODUCTION OR DISTRIBUTION OF MATERIALS

761 PRODUCTION OR DISTRIBUTION AS A SPECIFIC PURPOSE OR OUTCOME OF AN AWARD

a. The other agreement format generally will be used if an awardee, as a specific purpose of the award, intends to publish, sell or commercially distribute any materials developed under the award.

b. Such publishing, selling, or commercial distributing may be undertaken only as described in the proposal, or if not so described, with prior NSF approval. Arrangements shall be such as to permit a number of qualified concerns to submit proposals for production and distribution.

Selection of manufacturers, publishers and distributors shall be made so as to assure wide distribution at a reasonable price. NSF is to be informed of the plan upon which negotiations will be based, including the companies to be approached, measures to assure that qualified concerns will have an opportunity to submit proposals for production and distribution, and criteria to be used in selecting the successful bidder(s).

c. NSF Circular 123, reproduced as Exhibit 7–4, established guidelines, procedures and responsibilities of awardees for the development and submission of publication plans and agreements relating to NSF supported curriculum materials, and of the NSF staff for their review and approval. Specific sections of the Grant Administration Manual referred to in paragraph 4 of Exhibit 7–6 have been incorporated into this Grant Policy Manual as sections 320, 623, 752, 753 and 760. See also section 650, "Project Income."

770 EQUIPMENT TITLE, USE AND DISPOSITION

771 BACKGROUND

a. NSF equipment management standards are contained in section 332.

b. Limitations on the acquisition of and the allowability of costs for equipment are contained in section 512.

c. This section implements portions of Attachment N to OMB Circular A–110 concerning equipment title, use, and disposition.

772 TITLE TO EQUIPMENT

772.1 *Nonprofit organizations* — a. *Normal Situations.* Title to equipment purchased or fabricated with NSF award funds by a college or university or other nonprofit organization normally will vest in the awardee institution, with the understanding that such equipment will remain in use for the specific project for which it was obtained (subject to the shared use provisions of § 332.3) and upon expiration of the project, it will be used for scientific research or for science education purposes as long as it has a useful life. At such time as the property is no longer useful for such purposes, it may be disposed of in accordance with the organization's property management standards, but the proceeds therefrom shall be used by the awardee either (1) to offset costs which otherwise would be chargeable to the grant or (2) for scientific research or science education and training.

b. *Special Situations.* In special situations the award instrument may either (1) require that title to equipment purchased by an awardee with NSF funds pass directly to the Government from the vendor, or (2) reserve the right to require the awardee to transfer title to the Government or to a third party as prescribed in §773, below.

c. *Excess Government Property.* See paragraph 9 of Exhibit 7–3.

772.2 *Commercial firms.* Title to equipment acquired by a profit-making organization with NSF funds normally will pass directly from the vendor to the Government. Upon expiration of the award, disposition of Government property will be determined by the NSF Grants Officer in consultation with the awardee.

773 RIGHT TO TRANSFER TITLE

For items of equipment having a unit acquisition cost of $1,000 or more, NSF may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following conditions prescribed by Attachment N to OMB Circular A–110 (paragraph 6a):

a. The property shall be appropriately identified in the grant or other agreement or otherwise made known to the awardee in writing.

b. NSF shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If NSF fails to issue disposition instructions within the 120 calendar period, title vests in the awardee, subject to the provisions of § 772.1, above.

c. If NSF exercises its right to take title, the equipment shall be subject to the provisions for federally-owned nonexpendable property discussed in § 332, "Equipment Management Standards."

d. When title is transferred either to the Federal Government or to a third party the awardee shall be reimbursed by the benefitting Federal agency with an amount which is computed by applying the awardee share of the cost of the project to the current fair market value of the equipment, plus any reasonable or interim storage costs incurred.

780 ACQUISITION AND CONTROL OF MATERIALS AND SUPPLIES

Excluding the final inventory of books, films and similar material developed under an NSF award, title to materials and supplies shall vest in the awardee upon acquisition. If there is a residual inventory exceeding $1,000 in total aggregate fair market value, upon termination or completion of the award, and the property is not needed for any other federally sponsored project or program, the awardee shall retain the property for use on nonfederally sponsored activities, or sell it, but must in either case, in accordance with paragraph 6c(2) of Attachment N to OMB Circular A–110, compensate the Federal Government for its share.

790 MISCELLANEOUS

791 BONDING AND INSURANCE

a. The NSF Act (42 U.S.C. 1870c) provides NSF with authority to enter into grants, contracts or other agreements without performance or other bonds and without regard to section 3709 of the Revised Statutes.

b. Attachment B to OMB Circular A–102 and A–110 prescribe bonding and involving construction or facility improvement exceeding $100,000 and permit agencies to require fidelity bond insurance.

c. Unless the award instrument specifically provides otherwise NSF does not require performance or other bonds or insurance (see General Provision ____).

792 LIABILITIES AND LOSSES

NSF assumes no liability with respect to accidents, bodily injury, illness, breach of contract or any other damages or loss, or with respect to any claims arising out of any activities undertaken with the financial support of an NSF award, whether with respect to persons or property of the awardee or third parties. The awardee is advised to insure or otherwise protect itself or others as it may seem desirable (see General Provision _____).

793 TAX STATUS

Determination of the tax status of an organization or person receiving compensation in any form as a result of an NSF award is the responsibility of the Internal Revenue Service, State and local tax authorities, and the courts.

794 NATIONAL SECURITY

NSF normally does not support classified projects. When, in the course of an NSF supported project, information or materials are developed which may affect the defense and security of the United States, the awardee must notify the appropriate NSF Program Director immediately. Classified materials should be directed to the NSF Security Officer. The performing organization may wish or need to discontinue the project under these conditions. See section 664, "Termination by Mutual Agreement."

Exhibits:

7–1 Assurance of Compliance.
7–2 Congressional Listing (sample page).
7–3 NSF Important Notice No. 58 (Excess Property).
7–4 NSF Circular 123 (Publication/Distribution Agreements.

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federal register

MONDAY, JANUARY 31, 1977

PART III



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

■

SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 228—SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES: TITLE XX OF THE SOCIAL SECURITY ACT

Final Regulations

Notice of proposed rulemaking was published in the FEDERAL REGISTER August 26, 1976 (41 FR 36156) revising existing regulations for the provision of social services under Pub. L. 93-647, Title XX of the Social Security Act. These proposed revisions represented the first comprehensive review of the Title XX regulations since the program began October 1, 1975. They were aimed at reducing the operational difficulties States encountered during the first program year. The final regulations which follow are issued after further consideration of the policies and changes proposed in the NPRM and of the comments received on these proposals.

Three hundred letters containing about 1400 comments were received from a broad range of respondents: private citizens, Governors, members of Congress, national and local health and welfare organizations, advocacy organizations, public and private provider agencies, provider agency organizations, State and local Title XX agencies, other State agencies, and colleges and universities. In addition, staff in each of the HEW regions arranged informal public meetings during September and October, 1976 in one or more States in each region to obtain additional discussion and comments. Summaries of comments received during these public meetings have also been carefully considered.

The overall reaction to the proposed regulations was one of substantial approval. SRS believes the circulation in April 1976 of the draft proposed regulations to State Title XX agencies and 175 national public and private organizations was beneficial. (See Preamble to the proposed regulations, 41 FR 36156, August 26, 1976.) Such prior circulation and opportunity for public discussion and comment produced useful suggestions from a knowledgeable audience. It also increased the sense of cooperation between the Department and the public in the administration of the social services program. In addition, greater public involvement in meetings where the proposed policies were discussed and explained seems also to have produced an increase in the number of letters which indicate a high degree of understanding of and familiarity with the issues dealt with in the NPRM.

Some letters provided thoughtful discussions of program and policy issues. The majority of comments, however, contained either well-documented observations, recommendations, and suggestions; or requested clarification, specificity, or technical guidance. Where possible, these recommendations and suggestions have been incorporated. For the purpose of public information, significant numbers of requests for statutory changes are noted in the comment analysis which follows. Respondents are referred to the State Title XX agency or the Social and Rehabilitation Service Regional Office for technical guidance and interpretation regarding issues specific to a particular State or problem area which could not be addressed in the regulation.

Also incorporated into the regulations which follow are the interim final regulations implementing Pub. L. 94-401, 1976 Amendments to Title XX of the Social Security Act, published in the FEDERAL REGISTER (41 FR 55668) on December 21, 1976. Although the 45 day comment period for those interim final regulations is still in effect, they are incorporated in this issuance to provide a complete set of Title XX regulations as they now stand. If public comment indicates that modification of the amendments required by Pub. L. 94-401, is desirable changes will be published at a later date.

In response to questions, we wish to reiterate that States planning to implement the options provided by Pub. L. 94-401 must amend their State services plan in accord with § 228.36. Amendments are required with regard to group eligibility (§§ 228.24(f) and 228.26(a), e.g., individuals to be served and services provided); providing family planning services without regard to income; establishing an authority for determining the non-feasibility of standards in day care facilities (§ 228.26(i)); and making grants to providers to hire welfare recipients in day care facilities (§ 228.29(d)). However, States may begin making grants to providers as of September 7, 1976. However, for the purpose of public information as well as receipt of FEP, the plan must be amended. The final amendment will show an effective date of October 1, 1975, or a later date, depending on the date of implementation of such amendments by the State.

The purpose of the portion of the regulation that revises the existing 45 CFR Part 228 is to establish policies and procedures that will:

(1) Clarify or provide specificity in some aspects of existing regulations;

(2) Simplify or eliminate administrative requirements and reduce the possibility of fiscal sanctions on States;

(3) Provide extensions of benefits wherever possible;

(4) Provide additional options for the States in designing their programs; and

(5) Provide an integrated set of all Title XX regulations.

The basis for the final regulation is the Department's continued wish to enhance the ability of the States to focus on the delivery of services to eligible persons and to avoid undue administrative burdens and unnecessary costs.

The following is a summary of the substantive comments received as a result of the publication of the proposed regulations of August 26, 1976, the major issues raised by the respondents, the SRS response to the comments, and a general statement of the bases and purposes of the rules adopted herein. Because the proposed regulations received widespread approval, most, but not all, of the changes made in the proposed regulations are in response to requests for clarification. However, all changes from the August 26 proposal, other than minor editorial corrections, are discussed below.

SUBPART A—SCOPE AND DEFINITIONS

Three changes have been made in this Subpart in response to comments. In § 228.1, the definition of Indian Tribal Council has been revised for clarification.

Also in § 228.1, the current definition of Indian Tribe covers only those Indian Tribes which have received Federal recognition. In the final regulation, the definition has been broadened to include Indian Tribes recognized by appropriate State authority. The purpose of the change is to extend benefits under this program to State recognized Indian Tribes. This expanded definition of an Indian Tribe will be used in all SRS programs.

The third change is a clarification of the term "licensed health professional" under the definition of medical and remedial care. Respondents pointed out that some health professionals (such as respiratory therapists and mental retardation professionals) are not licensed by States but are credentialed by national professional organizations. This language change has been incorporated.

Respondents also recommended changes in the definition of Family, e.g., *Recommendation (1)*: broaden the definition to include unmarried pregnant teenagers and unmarried teenage parents living in their parents' homes as one person families.

Response to (1): It is the Department's view that Congress intended eligibility under Title XX to be based on a definition of "Family" that is consistent, reasonable, and operationally feasible. The present definition is seen as incorporating as many exceptions and as much flexibility as is possible within the intent of the law. It is our belief that children living with and supported by parents cannot be made an exception to the definition of Family without violating the integrity and internal consistency of the definition and without negating the intent of the law.

Recommendation (2): Mandate a national definition of "Family" or mandate various groups, such as children in the custody of State agencies, as one person families.

Recommendation (3): Provide a definition of an "emancipated minor."

Responses to (2) and (3): These recommendations were not accepted based on the Department's wish to provide States with programmatic options in these matters. States are expected to use their State definition of emancipated minor.

There were also a number of requests for policy interpretation, technical guidance, and clarification regarding the application of these definitions to specific State programs or problems. It was not deemed appropriate to address these re-

quests in the regulation. Respondents are encouraged to contact the appropriate Title XX State agency or Social and Rehabilitation Service Regional Office for further assistance.

SUBPART B—STATE PLAN REQUIREMENTS, REPORTS, MAINTENANCE OF EFFORT, COMPLIANCE

The proposed regulations contained clarifying language in § 228.6. No substantial objections were submitted to these proposed changes; therefore, they are included in the final regulations.

SUBPART C—COMPREHENSIVE ANNUAL SERVICE PROGRAM PLAN

This Subpart received the highest number of comments and was the focus of concern of a wide range of respondents. Comments are summarized below. Changes made in the proposed regulations are primarily for specificity or clarification, although two new requirements have been added.

In § 228.21, the word "Federal" has been added to clarify that the State may use either the Federal fiscal year or the fiscal year of the State government as the basis of their services program year.

Section 228.22(a) is revised to recognize, in accordance with the law, the responsibility of the Chief Executive Officer of the State (not the State Title XX agency) for publication of the Compresensive Annual Services Plan (CASP).

Section 228.22(b) is rewritten for clarity. It also adds a specification that States shall, as a part of the statutory mandate to explain the difference between the proposed and final services plans, include a summary in the CASP of the public comment on the proposed plan and the State's response to these comments. Respondents to the NPRM cited the Federal publication and comment process as a model in support of the public review and participation process. A parallel change is also made in § 228.36 with respect to comments received on the proposed amendments to final services plans.

In § 228.24, the example used of "female headed families" brought objections for our use of sexist language. The example has been changed to "one parent families."

Section 228.26(b) adds a requirement that States shall specify in the CASP the effective dates (the dates certain) of each discrete service. This requirement will provide options and flexibility to States who wish to "phase-in" a service as service delivery capability increases, or to "phase-out" (indicate the termination of) a service. The purpose of this change is to (1) inform the public more specifically regarding the availability of services; (2) give States added options in services delivery planning; and (3) ease publication costs.

For example, a State is in the process of increasing its homemaker services delivery capability and will be "phasing-in" this service during the program year. Homemaker services will be available at the beginning of the program year in all but one geographic area of the State. The service will be available (date certain) in the remaining geographic area 4 months later. The State has two options in this situation. It may, under this change, specify in the CASP that the effective date of the homemaker service is October 1 for all but one geographic area and is February 1 for the remaining geographic area. Or, it may publish an amendment to the CASP after the program year has begun showing that homemaker service has been added in the remaining geographic area and is now available on a specified date.

States can also use this option to indicate the termination of a service that is date certain. For example, a State offers day care services to migrant children for a 6-month period during the program year. States may include the service in the CASP and amend the CASP when it terminates the service. Or, under this change in the regulation, the State may specify in the CASP that the effective dates (the dates certain) of the availability of this service are from July 1 to January 1. It is not the intention of this regulation to permit States to use broad, non-specific phrases such as "This service will continue to be available if additional funds are appropriated."

Section 228.28 clarifies that "other funds" may, at State option, be included in the list of program resources used to support the State's Title XX program even though such funds are in excess of the amount needed to match the Federal allotment. This change provides an option to States in regard to FFP for training expenditures. For example, some States use non-Federally matched funds above their ceiling to continue or expand the same services that are included in their CASPs to the same or additional eligible individuals identified in their CASPs. Staff who carry out these programs may receive training as provided in Subpart H so long as these non-Federally matched "other funds" are estimated in the CASP as available Title XX program resources.

FFP for training expenditures of staff carrying out these programs is available if the services program so funded (e.g., with non-Federally matched funds) meets all requirements of 45 CFR Part 228. For example, these include the requirements that the service is described in the CASP, is offered to the same eligible categories of individuals, and adheres to the same standards, eligibility requirements, and limitations on services as pertain to Title XX.

In response to concern for accountability to the public, § 3228.28 clarifies how a State shall indicate in the CASP its Federal allotment, depending on whether the State program year does or does not coincide with the Federal fiscal year.

In § 228.29 the words "A general description of the steps taken * * *" are substituted for the words "The steps taken * * *" in response to many comments. Respondents interpreted the phrase "The steps taken" too specifically, i.e., to mean a list of every meeting, interview, contact, telephone call, etc., with respect to the requirement for program coordination and utilization in this section.

Section 228.33(a). Considerable comment and discussion was received with respect to the public review process described in this section. In general, numerous respondents, primarily national and local health and welfare agencies and organizations, advocacy groups, local government, and individuals objected to the detailed focus of the regulations on the publication and public review process (e.g., a public education and information function) and a diminished focus on assuring active and continuing public participation in the development of the State's services program. Respondents urged an increase in specific requirements on States aimed at strengthening and requiring public participation at all stages of the development of the services program.

The Department has attempted to support requirements for public participation while attempting to avoid unnecessary requirements on States. The requirements contained in these regulations are considered to be minimum requirements. The Department assumes and strongly encourages State commitment to good planning processes, general accountability to the public, and increased public participation in the development of the service program. However, because of the newness of Title XX and the range of capability among the States, not all States have been able to achieve these goals. The Department has tried to indicate its views, position, and concerns (while allowing States maximum flexibility to develop their own procedures) by the inclusion of § 228.29 (c) in the proposed regulations and by the new language in § 228.33(a) related to purpose.

In § 228.33, items (b)(7) and (b)(9) are added for clarification to complete the list of steps that make up the scope of the public review process. These are not new requirements. Section 228.33(b)(7) refers to publication of necessary corrections to a proposed amendment; § 228.33(b)(9) refers to publication of necessary corrections to a final amendment.

In § 228.33(d), a requirement is added that copies of the proposed and final CASPs be retained for inspection for three years. This change is considered minimal for reference and accountability purposes and parallels the requirement that public comments be retained for three years.

Two changes are made in § 228.33(h) with regard to information which must be included in the summary of the proposed services plan. The first, in § 228.33(h)(8), clarifies the specific fiscal data that shall be included in the summary, e.g., the amount of the Federal allotment to the State and the amount of State and local appropriated funds and of other funds available to finance the services program. The second change adds paragraph (h)(9) and requires that the summary include information regarding where an individual may apply for serv-

ices or where he may obtain information about where to apply. This requirement places no burden on the State since this information must also be included in the proposed and final services plan and in the display ad announcing the final services plan. Respondents felt such information included in the summary would help inform the public and assist individuals to apply for needed services. The change was made in response to such requests.

Section 228.33(g)(7) clarifies that States have options in distributing the proposed services plan from local public agency offices, e.g., distributing directly or taking orders for distribution from another source.

In § 228.36(a)(1), an editorial change is made to show that "changes in the program year" means "changes in the period of time encompassed by the program year."

Several new subsections and paragraphs have been added in § 228.36 in response to requests for clarification of the procedures, including the SRS role and responsibility, in making corrections to proposed and final amendments. The newly added citations are: § 228.36 (b)(2), (b)(3), (b)(4), and § 228.36 (e) and (f). These are not new requirements. Since the procedures for correcting proposed and final amendments are parallel to the procedures for correcting proposed and final services plans (with the exception that a 30 day rather than a 45 day comment period is required), the language is similar, if not identical, to previous language and procedures in this Subpart.

In the publication of amendments to the regulations required by Pub. L. 94-401, a section was coded "228.35 Amendments to Final Services Plan." The citation number was in error and should read § 228.36. The pertinent language has been properly included under § 228.36(d) in this issuance.

Changes in § 228.36(b)(5)(iii) were discussed earlier in a parallel change made in § 228.22(b). The added requirement here is that States must include in the display ad which announces an amendment to the final CASP, a summary of the public comments to a proposed amendment and the State's response to such comments.

A significant number of comments regarding this Subpart objected to the delay in FFP until the CASP has met all appropriate requirements of this Subpart. Respondents offered alternate recommendations including deletion of requirements for publication of corrections to the plan and inclusion of corrections in the final plan in lieu of publication. The rationale was saving of publication costs, eliminating the delay in a 45 day comment period on the correction, and, primarily, easing the threat of loss to FFP.

The Department is aware of and concerned about the problems cited. However, these recommendations cannot be accepted, because they conflict with statutory requirements, including the requirement for public notice of all provisions of the plan, and a 45 day review of these provisions. To help prevent such problems, the Department concurs with the suggestion made that States can work with the Regional Offices to obtain technical assistance and review prior to publication of their CASPs and amendments thereto.

A significant number of comments also registered disapproval of the reduction of detailed requirements in § 228.31 and 228.32, concerning needs assessment, planning, evaluation and reporting. They considered that States will diminish their efforts in these areas to the probable detriment of the program. An equal number of comments expressed strong approval for these deletions. All comments have been carefully considered. The Department's decision is that the changes proposed will become final. The basis for this position is the desire of the Department to simplify the administration of the program and reduce the number of detailed requirements which must be included in the CASP. This decision was taken in the context of increased State efforts to improve their programs in these areas. Incidentally, these areas of needs assessment, program planning, monitoring, reporting and the public participation process are priority areas of technical assistance by SRS. Many excellent suggestions and recommendations were received (such as use of television, public meetings, etc., to reach additional groups of citizens) which can be useful in a technical assistance effort. Many of the suggestions made are currently being utilized by States to adapt their programs/procedures to local needs.

SUBPART D—LIMITATIONS: SERVICES

This Subpart of the proposed amendments was the focus of considerable comment, both positive and negative. Specifically, the following changes have been made in response to these comments.

Sections 228.40 and 228.41 have been changed to eliminate the requirement for a case-by-case documentation of how medical and remedial care or room or board is integral but subordinate to a discrete service in the CASP. The Department is appreciative of the many methods of documentation sent us. However, the overwhelming majority of comments objected to this requirement, stating it would be severely burdensome and/or administratively infeasible. Respondents further recommended that the requirement for documentation of room or board and medical and remedial care could be accomplished by a description of these service components in the CASP. This suggestion is accepted. The regulation has been changed to require, under § 228.40, that the medical and remedial care must, first, be necessary to achieve the objective of the discrete service of which it is an integral but subordinate part. Secondly, a specific description of the medical and remedial care must be included in the CASP, together with a description of the service of which it is an integral but subordinate part. A general statement in the CASP such as "including medical and remedial care" is no longer acceptable. Similar requirements with respect to room or board are incorporated in § 228.41. The regulation intends that the State agency will be held responsible for determining the specific type of medical and remedial care and specifically whether both room or board (or one or the other) will be provided as integral and subordinate to a social service. To communicate this to the public, the State agency is also responsible for the publication of this detailed information in the CASP. Only the specific medical and remedial care and the room or board so described in the CASP are matchable.

Section 228.44 is clarified in response to many questions and considerable confusion regarding the provision of services under this section. Paragraph (b)(1) is revised to provide specificity and to clarify the term "inherent responsibilities." Paragraph (b)(2) is revised to clarify that the "intrinsic activities" of a facility are determined by facility charter, State law or standards, relevant licensing or certification requirements, or Federal or State court decisions.

Strong objection was received to § 228.44(d) concerning limitations on services provided in juvenile correctional facilities. These limitations were the result of inadvertent drafting error and have been removed. Section 228.44(d) returns to the language of the current regulation and allows FFP for services but not for inherent responsibilities (e.g., food, clothing, shelter, general maintenance and administration (including the detention function), general supervision and care) in such facilities.

Two major areas of comment were raised regarding § 228.46. The first was a strong request that FFP be available for emergency shelter for adults, particularly battered women. Since Section 2002(a)(11) of title XX limits the provision of emergency shelter to children, this recommendation could not be accepted.

The second area of concern pertained to the limitation of 30 days in any 12-month period for provision of emergency shelter to a child. Respondents cited this limitation as unrealistic and overly-restrictive in the context of service delivery to abused, neglected, or exploited children. In response to recommendations for added flexibility, the regulation has been changed to allow 30 days (as provided by law) in any 6 month period, for children, under the conditions specified in this section.

The 6 month time period will allow States the flexibility needed in diagnosis and service provision to such children and their families. This flexibility is valuable, particularly with respect to a decision to remove a child from his own home, in a service area such as this one that lacks diagnostic precision.

The 6 month time period was selected (as opposed to other suggestions which included 30 days for any one placement or episode, and 90 days in a 12 month period) on the basis that it extends FFP for this service; that it offers States additional alternates for services provision; and that it is a reasonable, if somewhat arbitrary, compromise between the current provisions and the strong recom-

mendation for 30 days per placement or episode which we believe supports an undesirable revolving-door approach to service delivery in these difficult cases. (For example, the child is abused or neglected, is given 30 days of emergency shelter, No diagnostic study or services are provided to the child or his family. He returns home but is back in the care of the agency needing emergency shelter for the same or similar problems within a short time. This cycle occurs repeatedly.)

Regarding § 228.47, many of the comments seemed unclear with respect to the availability of FFP when State funds are advanced to an eligible individual for an authorized service. The regulations do not address State practices. However, the regulation intends that if a State advances its own funds, such an advance may become an expenditure for FFP purposes only after a service has been authorized and delivered as evidenced by a bill or receipt.

Recommendations that FFP be made available for foster care in foster family homes and foster care institutions were received. This is a limitation in the law (Section 2002(a)(7)) and cannot be allowed under regulation.

SUBPART E—LIMITATIONS: FINANCIAL

Two changes have been made in this Subpart in response to comments. Sections 228.53 and 228.54 are clarified to show that public or private agencies or organizations may make funds available to the title XX agency for training as well as for services and other administrative functions. Since this has always been the case, the purpose of the change is to make this provision explicit. It was suggested that in-kind donations be allowed from private donors. This suggestion could not be accepted since such a change would require legislative action.

Section 228.55, containing the definition of family planning services, was vacated under the regulations pertaining to Pub. L. 94-401 and its contents were moved to § 228.63.

SUBPART F—LIMITATIONS: INDIVIDUALS SERVED, ELIGIBILITY AND FEES

SEC. 228.60 *Persons eligible and access to services.* This section has been reorganized and new material added for clarification. It has also been retitled from "Persons eligible" to "Persons eligible and access to services" to more clearly reflect its content.

A new paragraph (a) "Conditions for FPP," consolidates the material on Federal financial participation previously scattered throughout the section.

It was suggested by commentators that individuals who may receive certain services without regard to income was a third category of eligible persons and should be listed with income maintenance status and income status persons. The regulation has been changed accordingly. In addition, the regulation also notes that persons whose eligibility is determined on a group basis are income status individuals.

Paragraph (b) on median income is revised to make clear that all States, whether conducting their Title XX programs on a State or Federal fiscal year, are to use the median income promulgated annually in December for their ensuing program year.

Paragraph (d) formerly called "Income levels," is now broken down into two paragraphs. Paragraph (d) is entitled "Income levels as baselines for fee imposition" and clarifies how to calculate the upper and lower limits of median income which set the boundaries for the mandatory imposition of fees on persons in income status. In order to make clear that the State has the option to impose fees on other persons not having incomes within the limits for mandatory fees, a cross reference is now included to the regulation concerned with discretionary fees.

In regard to adjustment figures for family size relative to setting the income levels for mandatory fees, three respondents thought that 3 percentage points increase for each additional person over a family of six was inequitable. No change has been made in the regulation in this respect because: (1) The Department has concluded that it would not be prudent to make a change in view of the fact that the issue was not raised in a proposal which could be evaluated and commented upon by all interested parties; and (2) The Department believes that the matter of adjustments around incomes must be examined in the broader context of considering other Federal programs which also require a means test.

Paragraph (e) is now called "Income levels for services" and presents the same options for setting income levels as previously.

When Pub. L. 94-401 introduced determination of eligibility on a group basis into the Title XX program, the word "application" in the regulations had to be reconsidered. Generally in the public social services field, application has meant the submission by the applicant of a written, signed form containing information on income needed to establish eligibility for a service. Sometimes it also included a request for a service if the State did not have a separate form for this purpose. However, information on income is not required from individuals whose eligibility is being determined on a group basis, but a request for services is still applicable. Therefore, the regulation now differentiates between an application and a request for services. The application is used only when there is a need to determine eligibility on an individual basis. A request for services is made by everyone seeking a service. The State is to document such requests for purposes of FFP, fair hearings, and to verify that the request for services was a voluntary one. Documentation may be accomplished through submission of a written request by an individual or by the recording of information elicited by the agency, except that a request for family planning services must be in writing to insure that it was requested voluntarily. Documentation for protective services remains the same as in the proposed amendment. The State must establish a procedure for documenting information and referral requests as to the number and nature of these requests.

A heading has been added, "Prompt action on eligibility applications and requests for service" as paragraph (g) to include existing material on time frames in which the State must make decisions on applications for eligibility and notify applicants. As noted previously, an application often included a request for services. To this paragraph has been added new material dealing with a response by the State to requests for service as described in paragraph (f), and to carry out the intent of the legislation which provides that "an opportunity for a fair hearing before the appropriate State agency will be granted to any individual whose claim for any service described in Section 2002(a)(1) is denied or is not acted upon with reasonable promptness." The new material directs that unless a service is denied, the State must provide the service requested with reasonable promptness. "Provide the service" is defined as the actual provision of the service or arrangements for its provision at an appropriate later date. The latter half of the definition is to accommodate those cases where a service is not needed until a later date—e.g., homemaker service is needed six weeks from the date of the request when the mother will be going to the hospital. "Reasonable promptness" means providing the service within 15 days after notification of eligibility to a person whose eligibility is determined on an individual basis, or within 30 days after acceptance of a request for service. If the service is being denied, the State must notify the applicant in writing of the denial within the same time limits.

Paragraph (h) is newly lettered and covers "Notification of right to a fair hearing" which has been rewritten to include applicants who make only a request for services.

Some respondents requested that time limits in the fair hearings process be presented in the regulation along with the time limits on notifying applicants about their eligibility. An SRS decision has been made that fair hearings materials for all SRS programs (now contained in 45 CFR 205.10) would be revised to reflect the needs of the Title XX program and be contained in a separate regulation. A Notice of Intent was published in the FEDERAL REGISTER on this matter on November 30, 1976 (41 FR 52491) and comments are being accepted through the end of January.

Several comments were received about the time limits specified for the State to notify applicants about their eligibility on an individual basis. One dealt with the difficulty of getting a response from the Social Security Administration within 30 days about SSI recipients; another proposed giving the States complete freedom to set their own time limits provided they were "reasonable"; another opposed having to notify the applicant about his eligibility within 15 days after the State has reached a decision. These comments generally represent administrative problems at the State and local level. The suggestion for States setting a "reason-

able time" is unacceptable as it affords the applicant little protection against possible abuse and nullifies an effective fair hearings procedure.

SEC. 228.61 *Determination and redetermination of eligibility.* Paragraph (7) in § 228.60 which deals with safeguarding the civil and other rights of the individual in standards and methods of determining eligibility has been transferred from that section and added to paragraph (a) of § 228.61 which is concerned with methods of determining eligibility. This is merely a consolidation of relevant material.

By inadvertence, material in this Section on the documentation method of determining individual eligibility had been dropped. It is now restored so that a description of both the documentation and declaration methods of determining eligibility are included. The description of what constitutes a determination of individual eligibility has also been clarified.

Respondents were divided on whether the State should have the choice of using different methods of determining eligibility for different categories, services, and geographic areas. Providers and organizations generally favored mandating one method throughout the State, using the declaration method. The regulation was not changed, however, in the interests of permitting flexibility to the States.

The paragraph on conditions for FPP has been changed to reduce the material in (1) and (3) of paragraph (b) to one item and relate it more clearly to conditions for FFP when an individual who had formerly been eligible is subsequently found ineligible. The incorrect citation in the last paragraph of (b) has also been adjusted.

There was overwhelming support from respondents for including recipients of SSI in the group for whom redetermination could be conducted an an annual basis. This change was made, as well as permitting the individual to have a combination of income from a pension, social security and SSI. Other suggestions which were not accepted recommended that AFDC recipients, the developmentally disabled, and other groups be included in the yearly redetermination category. SRS believes that more experience with the Title XX program is necessary before further changes are made.

A great deal of apprehension was expressed about the possibilities of audit exceptions if the declaration method is used. States wanted sepcifications—such as for monitoring, error rates, and valid samples—before they constructed their monitoring procedures and undertook using the declaration method. SRS does not believe the regulation is the proper vehicle for such material, and the Department has no plans for such promulgation. For the present, § 228.61(g) is as far as the Department wishes to go in requiring States to conform to specified procedures. Technical assistance will be available to the States in these areas.

When regulations for Pub. L. 94-401 were published December 21, 1976 (FR 55668), it was specified in § 228.61(d)(2) that if a State agency were claiming expenditures retroactively for services on a group determination of eligibility basis, as permitted to October 1, 1975, the validation of each group of persons receiving such services had to be completed within three months following December 21, 1976. Since this date would fall in the middle of March, SRS has extended the completion date to March 31, 1977 to make it coincide with the end of a month and end of the quarter.

Another change in the regulation issued on December 21, 1976 has been made for purposes of operational feasibility. The regulation, § 228.61(d)(6), instructed the State agency, in the event it found that persons receiving a particular service on the basis of group eligibility did not meet the test of "substantially all," to take two steps within 75 days of making the finding. One step was to discontinue claiming FFP for expenditures incurred for the service provided to persons in the group whose eligibility had been determined on a group basis. The other step was to amend the services plan. Since the end of the 75 days could occur at any point in a month and result in administrative problems relative to stopping FFP, the regulation has been changed to discontinue FFP "by the end of the month in which the 75th day occurs."

In response to queries, paragraph (d)(5) has been revised to clarify that the 75 percent validation test for group eligibility is to be conducted on the same basis as each group is described in the services plan. This means that if a State has described the group on a geographic area basis, it shall conduct the validation on a geographic area basis; if a State has conceived of the group on a Statewide basis, it shall conduct the validation on a Statewide basis. Even though this change has been made on the basis of early comments to the interim final regulation published on December 21, 1976, the Department is still accepting comments on that regulation.

SEC. 228.62 *Fees.* Some respondents seemed unaware that the legislation requires imposition of a fee "reasonably related to income" on service recipients with family gross incomes exceeding 80 percent of the median up to 115 percent of the median. They proposed various legally unacceptable changes: waivers of fees, fees based on characteristics of a group, fees related to cost of service rather than income, exceptions when calculating the income of various groups. Several objected to the possibility of different fees in different geographic areas for the same service. Since States must describe their fee structures in the annual services plan, the public has the opportunity to question differences in fees they believe unjustified.

In paragraph (e)(1) of the proposed regulations, the intended meaning of the words "normal charge" was the going rate in the community for a service. Since the words used raised questions, the regulation has been revised to substitute "the going rate in the community" for "normal charge," for purposes of clarification.

It was of concern to a number of respondents that a Title XX service provider, having been given the opportunity to expand the service with fees collected, would discriminate in favor of providing services to persons who had to pay fees. SRS believes the State agency has the responsibility to detect such trends and deal with them. Others questioned why the State agency was not permitted to use the service fees it collected to expand Title XX services. SRS has added this possibility to the regulation. In response to questions, it has also clarified that fees collected cannot be used to match Federal funds. Pursuant to 45 CFR 74.45(b), these fees (whether initially paid by service recipients to a private or public provider) are to be retained by the State agency to be used in one of two ways: (1) to further the objectives of the program (expand the service); or (2) to reduce the size of the claim for Federal matching. Despite the fees thus becoming State agency monies, SRS has concluded on the basis of long-standing Federal policy relating to conditions under which public funds may be used as the non-Federal match (as expressed in 45 CFR 228.53), that such fees do not meet the requirements of that policy and hence cannot be used as the non-Federal share.

Clarification is also made that FFP is not available if providers impose fees or charges other than those which are stated in the purchase of service agreement with the State agency and are in accordance with the fee schedules published in the State's services plan.

Some respondents also seem unaware that the legislation specifies use of the median income as the basis for determining eligibility for Title XX services for income status individuals. There were suggestions to use for the Title XX eligibility determination, data gathered for determining eligibility for other programs such as food stamps or medical assistance. This is not feasible because income considered for Title XX (as described in § 228.66) is not necessarily the same as that for other programs.

Several respondents reacted unfavorably to the new paragraph (f) requiring the Title XX agency to make outside contacts at the applicant's request in order to protect the confidentiality of an inquiry relating to determination of eligibility when a provider agency is making the eligibility determination. One objection was that providers, seeking audit protection, would flood the State agency with requests to make outside contacts. Another objection was that an extensive system of procedures and administrative effort would be required to carry out this policy. SRS believes that this assurance of confidentiality is crucial in view of continuing concern for individual privacy in governmental programs. This provision will be tested and the situation evaluated later on the basis of experience.

Another change, as a result of the comments, is the clarification that States have authority to charge fees if they

wish for persons receiving services without regard to income. This is of particular significance because there is a pattern of fee setting in many community agencies which provide family planning services.

SEC. 228.63 *Family Planning Services.* Changes were made in this section to include additional components of family planning services as examples for greater specificity.

SEC. 228.64 *Information and Referral.* No changes in this section were suggested by the respondents. Strong approval was expressed by a number of respondents for restricting FFP for information and referral services only when provided by an agency having I&R as a recognized, specific function.

SEC. 228.65 *Protective Services.* A recommendation was made to include services to battered women. Insofar as such individuals meet the definitions in § 228.65, they may receive the services specified in the State's services plan to provide protective services.

SUBPART G—PURCHASE OF SERVICE

Two changes have been made in this Subpart. In response to requests for clarification, § 228.71(a) has been revised to specify factors to be considered and procedures to be used in establishing rates for the purchase of services from public and private agencies. The purpose of these changes are to provide definitive information on which States and provider agencies may base their procedures.

A significant number of respondents disagreed with the option in § 228.70(d) of allowing an unwritten contract with certain individual providers of services. They cited the lack of accountability, including the difficulties in auditing an unwritten contract, and the potential for abuse. They also noted that the requirement that the terms of the unwritten contract be documented in the record was operationally similar to the requirement for a written contract. These comments were carefully considered as were comments which approved of this option as a method of easing administrative requirements. Approving respondents cited the benefits to individual providers (such as day care providers) who wish to provide a service but who are reluctant to sign a formal contract. They cited the resulting threat to services availability due to a decrease in numbers of service providers. They also cited cumbersome contract processing requirements in some States which delay provision of services and create an exceptionally heavy administrative workload.

On balance, this provision was retained on the basis that administrative options are needed by the States. However, for the purpose of clarification, a change is made in § 228.70(d) to specify that States in documenting the terms of the unwritten contract, shall document the terms of the contract that has been negotiated with the individual provider, including all applicable items in § 228.70(a). We anticipate that States, at their discretion, will continue to require written contracts for certain services provided by such individual providers.

The effective date of this option for unwritten contracts for certain individual providers of services under § 228.70 (d) is made retroactive to October 1, 1975. This retroactive date aims to avoid undue administrative burdens on States. The requirement for a written contract with all providers of services was based on the Department's intent to encourage sound administrative and business practices which would support accountability. However, the Department was not aware of the volume of individual providers in some States, the difficulties involved in obtaining written contracts, nor the administrative difficulties of processing such a large number of contracts in some States. In this instance, the Department considers its requirements, although based on good intent, to have been unduly burdensome.

SUBPART H—TRAINING AND RETRAINING

This Subpart received a substantial number of comments from a wide range of respondents. Comments were received on the proposed regulations and in response to the SRS request for public consideration of and comment on the feasibility of combining all SRS training regulations into a consolidated regulation. SRS is appreciative of the large number of comments received on this matter, the majority of which favored separate training regulations. This decision is still pending. All responses, including those received in response to an NOI on this subject, will be carefully considered in reaching a final decision.

The following is a summary of changes which have been made in the proposed regulations after consideration of comments.

The issue, related to this Subpart, which produced the most comment was the deletion of the requirement for submittal of a Training Plan to SRS in § 228.80. A majority of respondents who commented specifically on the Training Plan urged re-instatement of this requirement. Many other respondents, however, commented in general terms approving changes made in this Subpart or approving the relaxation of administrative requirements in this section. It was difficult for the Department to precisely assess these general comments since they might refer to any or all of the several changes made in this Subpart. They were read, however, to give implicit approval to the proposed deletion of the requirement.

Therefore, the requirement for submittal of a Training Plan has been deleted as contemplated in the August proposed regulation. The Department believes the working relationship with the States can be enhanced by avoiding mandated requirements whenever possible and by working on a joint basis with States for program improvement. The Department also recognizes the interest in and shares a concern for good program management with respect to training. The President's Budget for FY 1978 contains a recommendation for a $75 million ceiling on the presently open-ended training fund for income maintenance and social services. The Department will be working closely with States to monitor the use of all training expenditures and their impact on service delivery.

An opportunity for further comment on Departmental regulations with respect to training for all SRS programs is contained in a Notice of Intent and Notice of Proposed Rule-Making published in the FEDERAL REGISTER January 11, 1977 (42 FR 2440). SRS will give further consideration to procedures for planning and reviewing training activities in considering public comment on the issues raised in that notice.

The ten remaining changes made in this Subpart respond to requests for clarification. Their purpose is to eliminate confusion.

Editorial changes are made in §§ 228.81 (c) and (c)(1) to clarify that a provider agency does not need to have a contract to determine eligibility in effect before its service delivery staff may be trained. This section also clarifies that eligibility determination staff of providers may be trained when the contract includes the eligibility determination function.

Section 228.81(e)(2) has been revised to provide that an individual family or in-home day care provider may receive training both:

(1) To enable her (him) to provide services to an eligible person already in her (his) care, or

(2) To prepare her (him) to give such services to an eligible person at a later date, under the conditions specified in this section.

This clarification is made in response to questions asking when the training of such providers may occur. The specified conditions under which the training may be given are the same as for other service providers.

In § 228.82(c), the words "which include equal representation from the three groups comprising the panel" have been deleted in response to requests from State Title XX agencies. They pointed out that since States have primary responsibility for such grants, they should have the responsibility, if they wish, to determine the numerical composition of the evaluation panel, so long as the panel consists of representatives of the SRS Regional Office, the educational institution, and the State agency.

Section 228.84(b) adds language to specify that costs of State agency staff, such as program area specialists, may be matchable when such persons are utilized in training programs under the supervision of the State agency Director of Staff Development, and are properly allocated.

Section 228.84(c) is modified to set limits on the type of expert whose services will qualify for FFP, e.g., FFP is available for experts who are from outside the Title XX agency. This clarification is made in response to questions about whether supervisors or other pro-

gram area specialists in the Title XX agency may be considered as "experts" and thus be eligible to receive salaries, fringe benefits, travel, and per diem as training expenditures.

Section 228.84(e) adds language that clarifies the requirement for a training contract between the Title XX agency and the provider agency.

Section 228.84(g) is modified to parallel the change made in § 228.84(c), namely, to allow FFP only for experts who are from outside the provider agency. This clarification is also made in response to questions from provider agencies on this matter.

Section 228.86, entitled "Phase-in of training requirements," is vacated as no longer applicable. The phase-in period to which this section referred expired on June 30, 1976.

Regarding other comments received, many respondents, primarily those from provider agencies, urged that regulations permit FFP as a training cost for the training of management/administrative staff of and volunteers in provider agencies, and for financial assistance for persons preparing for employment in a provider agency. These recommendations were not accepted. The Department is concerned, first of all, about a public policy position and an interpretation of the statute that would allow FFP as a training expenditure, outside the ceiling, to train the non-direct service delivery staff of agencies from whom the Title XX agency is presumably purchasing such expertise and services. This concern is particularly strong as it is possible to fund the training of such persons only under certain conditions and in appropriate cases within the overall cost of a purchase of service contract.

Secondly, with respect to the recommendation to train persons preparing for employment in provider agencies, this provision would increase considerably the administrative burdens of the State Title XX agency in attempting to control, monitor, and assure benefits of such training to the Title XX program. Unlike the provision of allowing training for persons preparing for employment in the Title XX agency, the administrative costs associated with the potentially multiple number of persons so funded could tend to divert Title XX monies away from service provision.

In addition, two mis-interpretations of the proposed regulations appeared in the comments. The first was in regard to the requirement for accreditation of Departments or Institutes, such as an Institute of Social Policy and Planning, which are a part of an accredited educational institution. The regulation intends that for FFP to be available under § 228.82, to Departments or Institutes which are a part of an accredited educational institution must themselves be accredited by a special accrediting body, if such an accrediting body exists for that Department or Institute. If no special accrediting body exists for the program of such Departments or Institutes, then FFP is available, under § 228.82, for grants to such Departments or Institutes if the Department or Institute is a part of an accredited educational institution. A Department or an Institute which is not a part of an accredited educational institution cannot receive funding under § 228.82.

SUBPART I—GENERAL PROVISIONS

Three changes have been made in this Subpart. In response to requests for clarification, § 228.90(a)(2) adds language that clarifies the availability of FFP for medical examinations for eligible persons precedent to receipt of a service, such as an examination for a child entering day care.

Section 228.90(a)(3) also adds the word "agency" to clarify that FFP is available for costs of State (and local) Title XX agency advisory committees. This clarification is made in response to questions concerning FFP for costs of local advisory committees.

Also in response to comments, § 228.91 clarifies that no FFP is available for goods or services provided in-kind by individuals. The purpose of these changes is to make explicit statements that will resolve continuing questions in these areas.

Part 228, Chapter II, Title 45 of the Code of Federal Regulations is revised to read as set forth below:

Subpart A—Scope and Definitions

Sec.
228.0 Scope of program.
228.1 Program definitions.

Subpart B—State Plan Requirements, Reports, Maintenance of Effort, Compliance

228.5 State plan requirements.
228.6 Appropriate State agency.
228.7 State financial participation.
228.8 Statewide operation.
228.9 Merit system.
228.10 Safeguarding information.
228.11 Residency requirements.
228.12 Standards for institutions or foster homes.
228.13 Standards for child day care services.
228.14 Fair hearings.
228.15 Amendments to State plan.
228.16 Submittal of State plan and amendments for approval by the Secretary.
228.17 Reports and maintenance of records.
228.18 Maintenance of effort.
228.19 Noncompliance.

Subpart C—Comprehensive Annual Services Program Plan

228.20 Conditions for FFP.
228.21 Establishment of program year.
228.22 Services plan.
228.23 Program goals and objectives.
228.24 Individuals to be served.
228.25 Availability of services by geographic area.
228.26 Services.
228.27 Estimates of individuals to be served and expenditures.
228.28 Program resources.
228.29 Program coordination and utilization.
228.30 Organizational structure.
228.31 Needs assessment.
228.32 Planning, evaluation and reporting.
228.33 The public review process.
228.34 Regional review of proposed and final services plans.
228.35 Correction of proposed and final services plans.
228.36 Amendments to final services plan.

Subpart D—Limitations: Services

Sec.
228.39 General.
228.40 Minor medical and remedial care.
228.41 Room or board.
228.42 Child care standards.
228.43 Educational services.
228.44 Services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including hospitals or facilities for mental diseases or for the mentally retarded), or prisons.
228.45 Special services provided by foster family homes.
228.46 Emergency shelter.
228.47 Cash payments for a service.
228.48 Confidentiality regarding services to drug and alcohol abusers.

Subpart E—Limitations: Financial

228.50 Services and individuals covered in the services plan.
228.51 Matching rates.
228.52 Allotments to States.
228.53 Public sources of State's share.
228.54 Private sources of State's share.
228.55 Family Planning Services.
228.56 Fifty Percent Rule.

Subpart F—Limitations: Individuals Served, Eligibility and Fees

228.60 Persons eligible and access to services.
228.61 Determination and redetermination of eligibility.
228.62 Fees for services.
228.63 Family planning services.
228.64 Information and referral services.
228.65 Services directed at the goal of preventing or remedying neglect, abuse, or exploitation of children or adults unable to protect their own interests.
228.66 Monthly gross income.

Subpart G—Purchase of Service

228.70 Procurement standards.
228.71 Rates of payment.

Subpart H—Training and Retraining

228.80 Conditions for FFP.
228.81 Who may be trained.
228.82 Grants to educational institutions.
228.83 Financial assistance to students.
228.84 Activities and costs matchable as training expenditures.
228.85 Activities and costs not matchable as training expenditures.
228.86 (Reserved)

Subpart I—General Provisions

228.90 Expenditures for which Federal financial participation is available.
228.91 Expenditures for which Federal financial participation is not available.

Subpart J—Grants to Child Day Care Providers To Employ Welfare Recipients

228.100 Definitions.
228.101 Conditions for Federal financial participation.
228.102 Claims for Federal financial participation.

AUTHORITY: Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

Subpart A—Scope and Definitions

§ 228.0 Scope of program.

(a) Federal financial participation is available, in accordance with title XX of the Social Security Act and this Part, with respect to expenditures under a State program for the provision of services, to low income individuals and families, directed at the goals of:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care, or

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

§ 228.1 Program definitions.

As used in this Part:

Act means the Social Security Act.

Administrator means the Administrator of the Social and Rehabilitation Service of the U.S. Department of Health, Education, and Welfare.

Categories of individuals means groupings of persons on the basis of common characteristics such as recipient status (AFDC, SSI, Medicaid), income level, age, physical or mental condition, or any other characteristic that the State specifies in its comprehensive annual services plan.

Family means one or more adults and children, if any, related by blood, or law, and residing in the same household. Where adults, other than spouses, reside together, each may be considered a separate family by the State. Emancipated minors and children living under the care of individuals not legally responsible for that care may be considered one-person families by the State.

Fiscal year means the Federal fiscal year unless otherwise specified.

FFP means Federal financial participation.

Geographic area means any identifiable area encompased within the State.

Indian tribal council means the official Indian organization administering the government of an Indian tribe, but only with respect to those tribes with a reservation land base. This includes Inter Tribal Councils whose membership tribes have reservation status.

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native region, village or group as defined in the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or any Indian Tribe, band, nation, or other organized group or community which is recognized as an Indian Tribe by any State commission, agency, or authority which has the statutory power to extend such recognition.

Medical or remedial care means care directed toward the correction or amelioration of a medical condition which has been diagnosed as such by a licensed medical practitioner operating within the scope of medical practice as defined by State law, and which care is provided by or under the direct supervision of such a medical practitioner or other health professionals licensed by the State or credentialed by the appropriate professional organization.

Monthly gross income means the monthly sum of income received from sources identified by the U.S. Census Bureau in computing median income. (See 228.66.)

Other public agencies means State and local public agencies other than the State agency, and Indian Tribes.

Room means shelter only; and *board* means 3 meals a day or any other full nutritional regimen.

Secretary means the Secretary of the U.S. Department of Health, Education, and Welfare.

Services plan means the State Comprehensive Annual Services Program Plan under section 2004 of the Act.

SSI (Supplemental Security Income) means monthly cash payments made by the Social Security Administration to an aged, blind or disabled individual who meets the requirements for such aid under title XVI of the Act, and also includes State supplementary payments made by a State on a regular basis to an individual receiving SSI, or who would, but for his income, be eligible to receive such benefits, as assistance based on need in supplementation of such benefits.

State means the 50 States and the District of Columbia.

State agency means the appropriate State agency, designated by the chief executive officer of the State or as otherwise provided by the laws of the State, to administer or supervise the administration of the State's program, and except where the context otherwise requires, includes local agencies administering the program under the supervision of the State agency.

State plan means the State plan under section 2003 of the Act.

Title XX means title XX of the Social Security Act.

Subpart B—State Plan Requirements, Reports, Maintenance of Effort, Compliance

§ 228.5 State plan requirements.

Each State which establishes a services plan under title XX shall operate it pursuant to a State plan, approved as meeting the requirements of §§ 228.6 through 228.16.

§ 228.6 Appropriate State agency.

(a) *Designation of appropriate State agency.* The State plan shall provide:

(1) For the designation, by the chief executive officer of the State or as otherwise provided by the laws of the State, of a State agency with authority to administer or supervise the administration of the State's program under title XX; and

(2) For a description of the appropriate State agency, and inclusion of an organizational chart showing location of the agency within the State Government.

(b) If on December 1, 1974, a separate agency administered or supervised the service program for the blind under title VI, such agency may continue to do so for title XX. Both agencies shall use the same program year.

(c) *Administration of title IV–B of the Act.* Under title IV–B of the Act, the State agency shall administer or supervise the administration of title IV–B of the Social Security Act unless, prior to December 1, 1974, title IV–A and IV–B of the Act were administered by separate agencies.

(d) *Legal authority.* The Attorney General of the State shall submit a certification identifying the State agency and certifying the legal authority under which such agency administers or supervises the administration of the State program including the authority to make ruls and regulations governing the administration of the program.

(e) *Authority and responsibility of the agency.* There shall be maintained within the State agency the authority and responsibility for:

(1) The State plan:

(2) The services plan;

(3) The projection of estimated expenditures;

(4) The accountability for Federal funds;

(5) The establishing and maintaining of standards for the determination of eligibility;

(6) The administration or supervision of the administration for the provision of services;

(7) Operating the program on a Statewide basis;

(8) Complying with any program reporting requirements;

(9) Maintaining a working relationship between the Secretary and the State; and

(10) Overall supervision, control and oversight of title XX activities.

(f) *Administrative support agreements.* In carrying out the responsibilities under paragraph (e) of this section, the State agency may enter into agreements in accordance with the procurement requirements of 45 CFR Part 74, Subparts P and Q, with public or private entities to provide administrative support. A local agency administering the program under the supervision of the State agency may also enter into such agreements.

§ 228.7 State financial participation.

A State plan under title XX shall provide that State funds will be included in meeting the cost of the program.

§ 228.8 Statewide operation.

A State plan shall provide that the State's program for the provision of services described in its services plan shall be in effect in every political subdivision of the State. Every part of every political subdivision shall be part of a geographic area described in the services plan.

§ 228.9 Merit system.

(a) The State plan shall provide that methods of personnel administration will be established and maintained in the State agency administering or supervising the administration of the State plan and in local agencies administering the State plan in conformity with the standards for a Merit System of Personnel Administration, 45 CFR Part 70, and any standards prescribed by the U.S.

Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970, modifying or superseding such standards. Under this requirement, laws, rules, regulations, and policy statements effectuating such methods of personnel administration are a part of the State plan. Statements of acceptance of these standards by all official local agencies included in the State plan must be obtained and methods must be established by the State to assure compliance by local jurisdictions. These statements and citations of applicable State laws, rules, regulations, and policies which provide assurance of conformity to the standards in 45 CFR Part 70 must be submitted to the U.S. Civil Service Commission in accordance with 5 CFR Part 900 for determination as to adequacy. Copies of the materials cited and of similar local materials maintained by a State official responsible for compliance by local jurisdictions must be furnished to the Department on request.

(b) The State plan shall provide that the State agency will develop and implement an affirmative action plan for equal employment opportunity in all aspects of personnel administration as specified in 45 CFR Part 70.4. The affirmative action plan will provide for specific action steps and timetables to assure such equal opportunity. The plan shall be made available for review upon request.

§ 228.10 Safeguarding information.

The State plan shall contain provisions regarding safeguarding the use and disclosure of information on applicants for, and recipients of, services in accordance with 45 CFR 205.50.

§ 228.11 Residency requirements.

The State plan shall provide that no requirements as to duration of residence or citizenship will be imposed as a condition of participation in the State's program for the provision of services.

§ 228.12 Standards for institutions or foster homes.

Where a services plan includes services to individuals living in institutions or foster homes, the State plan shall provide for the establishment or designation of a State authority or authorities, that may include Indian tribal councils on Indian reservations, which shall be responsible for establishing and maintaining standards which are reasonably in accord with recommended standards of national standard setting organizations concerned with standards for such institutions or homes including standards related to admissions policies, safety, sanitation, and protection of civil rights. For purposes of this section, "institution" includes all residential facilities providing for group living.

§ 228.13 Standards for child day care services.

Where a services plan provides for child day care services, the State plan shall provide for the establishment or designation of a State authority or authorities, that may include Indian tribal councils on Indian reservations, which shall be responsible for establishing and maintaining standards for such services which are reasonably in accord with recommended standards of national standard setting organizations for such services including standards related to admissions policies for facilities providing such services, safety, sanitation and protection of civil rights.

§ 228.14 Fair hearings.

The State plan shall provide for a system of hearings under which applicants for, or recipients of, services or an individual acting on behalf of an applicant or recipient, may appeal denial, reduction, or termination of a service, or failure to act upon a request for service with reasonable promptness. Under this requirement, the procedures and provisions of 45 CFR 205.10 shall apply.

§ 228.15 Amendments to State plan.

The State plan shall provide that it will be amended whenever necessary to reflect new or revised Federal statutes or regulations, or material change in any State law, organization, policy, or State agency operation.

§ 228.16 Submittal of State plan and amendments for approval by the Secretary.

Upon adoption by the State of a State plan, or an amendment to a State plan, it shall be certified by a duly authorized officer of the State agency and submitted to the Social and Rehabilitation Service in accordance with 45 CFR Part 201.

§ 228.17 Reports and maintenance of records.

(a) Each State which participates in the program shall maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records regarding applications, determination of eligibility, the provision of services, and administrative cost; and statistical, fiscal and other records necessary for reporting and accountability required by the Secretary in accordance with 45 CFR Part 201 and Part 205; and shall retain such records for such periods as are prescribed by the Secretary.

(b) The State agency shall make such reports in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as he finds necessary to assure the correctness and verification of such reports.

§ 228.18 Maintenance of effort.

Each State which participates in the program shall assure that the aggregate expenditures from appropriated funds from the State and political subdivisions for the provision of services during each services program year with respect to which payment is made under this Part is not less than the aggregate expenditures from such appropriated funds for the provision of services during the fiscal year ending June 30, 1973, or the fiscal year ending June 30, 1974, with respect to which payment was made under the plan of the State approved under title I, VI, X, XIV, or XVI, or Part A of title IV, whichever is less, except that the requirements of this subsection shall not apply to any State for any services program year if the payment to the State under this Part, for each fiscal year any part of which is included in that services program year, with respect to expenditures, other than expenditures for personnel training or retraining directly related to the provision of services, equals the allotment of the State for that fiscal year under § 228.52 of this Part. Where such sum totals appropriated include privately donated funds that are identifiable and documented, such donated funds are not considered part of the aggregate expenditures from appropriated funds.

§ 228.19 Noncompliance.

(a) *Withholding of payment.* If the Secretary, after reasonable notice and opportunity for a hearing to the State, in accordance with 45 CFR 213, finds that the plan of the State no longer complies with any of the requirements of § 228.6 through § 228.15, that in the administration of the plan, there is a substantial failure to comply with any of those requirements, or that there is a substantial failure to comply with the requirements of §§ 228.17 or 228.18, he shall, except as provided in paragraph (b) of this section, notify the State that further payments will not be made to the State under this Part until he is satisfied that there will no longer be any such failure to comply.

(b) *Alternate three percent penalty.* The Secretary may suspend implementation of any termination of payments under paragraph (a) of this section for such period as he deems appropriate and, alternatively, reduce the amount otherwise payable to the State under this Part for expenditures during that period by three percent for each requirement set forth in § 228.6 through §228.18 with respect to which there was a finding of noncompliance and with respect to which he is not yet satisfied that there will no longer be any failure to comply.

Subpart C—Comprehensive Annual Services Program Plan

§ 228.20 Conditions for FFP.

(a) The State's final services plan shall meet all requirements of this Subpart and of § 228.50; if it does not (except for family planning services provided pursuant to § 228.26(g)), there will be no FFP in expenditures for services under the services plan.

(b) FFP will be available in expenditures under the final services plan for services that are provided:

(1) No earlier than 90 days after a proposed services plan has been published and made available for public review and any corrections necessary to bring such proposed plan into compliance with all requirements of §§ 228.21 through 228.33 have been published, with 45 days for public comment; and

(2) No earlier than the date of publication of a final services plan that meets all requirements of §§ 228.21 through 228.35 (if applicable).

§ 228.21 Establishment of program year.

The State shall establish the beginning of the Federal fiscal year or the fiscal year of the State government as the beginning of the State's services program year. In order to exercise this option, the State may have a program year of less than 12 months or may extend the program year to 15 months.

§ 228.22 Services plan.

(a) The Chief Executive Officer of the State, or such other official as the laws of the State shall provide, shall publish in both proposed and final form the Comprehensive Annual Services Plan (hereinafter in this part referred to as the services plan) prepared by the State agency prior to the beginning of each services program year. The proposed and final services plans shall meet all requirements of this Subpart.

(b) The final services plan shall also include: (1) A summary of the public comments, including the State's response to the comments; and

(2) An explanation of differences between the proposed and final services plan, if any and the reasons therefor.

§ 228.23 Program goals and objectives.

(a) The services plan shall provide that services offered are directed at the goals of:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; or

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

(b) The objectives to be achieved under the program shall be directed to the goals in paragraph (a) of this section, and shall be stated in the services plan in measurable terms so that an assessment may be made of the extent to which they are achieved.

§ 228.24 Individuals to be served.

The proposed and final services plans shall:

(a) Specify which of the categories of individuals described in § 228.60 will be provided services in the forthcoming program year; describe the income levels for eligibility, and include the Statewide definition of family in accordance with § 228.1;

(b) If the State limits services to individuals with certain characteristics, describe the limitations imposed for each category in sufficient detail to enable individuals to know if they are likely to meet the eligibility requirements, e.g., one parent families whose income is not more than 80 percent of the median income; mentally retarded SSI recipients, or alcohol abusers whose income does not exceed 50 percent of the median income;

(c) Specify which of the categories to be served will be charged a fee;

(d) Include the fee schedule, specifying any variations by service or by geographic area, as permitted under § 288.62; and

(e) Specify whether family planning services, information and referral services, and services to prevent or remedy neglect, abuse or exploitation will be provided without regard to income.

(f) If the State is determining eligibility on a group basis in accordance with § 238.61, the services plan shall so state and describe any specific conditions or characteristics (other than income), that must be met or that individuals must have so that they will know if they might qualify to receive a particular service for which eligibility is determined on a group basis. Conditions or characteristics that may be used by the State as a basis for determining that a service is to be offered on a group eligibility basis may include one or more of the following: the nature of the service, characteristics of persons to receive the service (such as age, physical or mental condition, place of residence, single parenthood, common problems, etc.), location of the service site(s), nature of the community where the service will be provided, or other factors which lead the State to reasonably conclude that substantially all the persons to whom the services will be offered are members of families which have a monthly gross income of no more than 90 percent of the State's median income, adjusted for family size.

§ 228.25 Availability of services by geographic area.

For the purpose of delivering services described in the service plan, the State agency may divide the State into geographic areas, but only if such geographic areas encompass the entire State, including Indian reservations. The State shall consider, in defining geographic areas, the boundaries of planning areas of other human services programs. If the State chooses to establish such geographic areas, the services plan shall:

(a) Describe those geographic areas;

(b) Provide that the services described in § 228.26(f) will be available to eligible individuals in every geographic area; and

(c) Where different services are made available to a category of individuals in different geographic areas, provide that the services furnished in a geographic area will be available to all eligible individuals in that category who reside in that area.

§ 228.26 Services.

The services plan shall: (a) Describe each discrete service, including the service(s) which is (are) available to individuals on the basis of group determination of eligibility, in as much detail as necessary to enable a reasonably prudent person to understand what is included in the service. For purposes of this paragraph, services such as "child welfare services" "services to alcoholics" or "protective services" are not discrete services but rather clusters of services, each of which shall be separately described. If medical or remedial care or room or board as described in §§ 228.40 and 228.41 are part of a service, the plan shall so specify in describing that service.

(b) Specify the effective date when each discrete service is available if the effective date is other than the beginning of the program year. For each discrete service that is to be offered in a prescribed time frame, specify the effective date on which that service is available and the effective date on which that service is to be discontinued. (See § 228.50 (a)(2).)

(c) Specify the method of delivery for each service, i.e., directly by the State agency, by a provider (public or private), or both;

(d) Indicate the relationship of each service to one or more of the program goals and one or more of the program objectives specified in § 228.23;

(e) Specify the categories of individuals in each geographic area to whom each service will be provided, including any services provided on a group basis;

(f) Include among the services to be provided in each geographic area:

(1) At least three services for SSI recipients;

(2) At least one service directed at each of the program goals specified in § 228.23.

(g) Describe the foster care services required under section 408 of the Act to be provided to all recipients of AFDC–FC, if such services are available under title XX;

(h) Describe any family planning services that will be provided pursuant to section 402(a)(15) of the Act. Failure to include such family planning services will not constitute a deficiency in the services plan. However, failure to provide family planning services pursuant to section 402(a)(15) of the Act may result in a loss of FFP to the State under its AFDC program.

(i) The State agency shall identify in its services plan the point in its organizational structure or the level of staff where it has placed authority:

(1) To make the decision for the State that it is not feasible to furnish child day care in a day care center or group day care home which complies with Federal staffing standards; and

(2) To furnish child day care by granting a waiver of otherwise applicable Federal staffing standards in a day care center or group day care home which serves few title XX funded children (see § 228.42(c)(2)) and meets applicable State staffing standards.

§ 228.27 Estimates of individuals to be served and expenditures.

In order to provide residents of the State with information on the scope of the services program, the services plan shall include estimates of State and Fed-

eral expenditures applicable to the title XX program as follows:

(a) For each discrete service, a list of estimated expenditures and estimated numbers of individuals to be served, by each category of eligible individuals and by each geographic area;

(b) Estimated expenditure for the forthcoming program year; and

(c) A comparison of estimated aggregate non-Federal expenditures for the forthcoming program year with those of the preceding completed program year.

§ 228.28 Program resources.

(a) The services plan shall indicate how the State intends to finance its title XX program by providing an estimate of the funds to be used from the State's title XX allotment, and by separately identifying and estimating State and local appropriated funds, and the aggregate of donated and other funds to be used to meet the expenditures under the program. ("Other funds" include any State or local funds used in the title XX program that are in excess of the State's allotment ceiling so long as such funds are administered in accordance with all requirements of this Part.)

(b) Where a State program year is the same as the Federal fiscal year, States shall include in the services plan the full amount of the federal allotment. Where a State program year extends through more than one Federal fiscal year, States shall include in the services plan the full amount of the federal allotment for both fiscal years. The services plan shall also indicate the proportion of each Federal fiscal year encompassed by the State's program year.

§ 228.29 Program coordination and utilization.

The services plan shall describe:

(a) How the planning and the provision of services under the program will be coordinated with and utilize the following programs:

(1) Under the Social Security Act:

(i) title IV–A, AFDC (including WIN);

(ii) title IV–B, Child Welfare Services;

(iii) title XVI, SSI; and

(iv) title XIX, Medical Assistance (Medicaid); and

(2) Other appropriate programs for the provision of related human services within the State—for example, programs for the aging, children, develop mentally disabled, alcohol and drug abusers; programs in corrections, public education, vocational rehabilitation, mental health, housing, medical and public health, employment and manpower.

(b) A general description of the steps taken to assure maximum feasible utilization of services under these programs to meet the needs of the low income population; and

(c) A general description of the steps taken to assure public participation in the development of the services program, including contacts with public and private organizations, officials of county and local general purpose government units, and citizen groups and individuals, including recipients of services.

(d) The description shall also include the extent to which the title XX agency utilizes grants and otherwise encourages child day care providers under contract to employ AFDC recipients.

§ 228.30 Organizational structure.

The services plan shall describe the organizational structure of the State agency through which the program will be administered including where individuals may apply for services and have their eligibility determined, and the estimated number of volunteers or a brief description of volunteer activities.

§ 228.31 Needs assessment.

The services plan shall describe the steps taken to assure that the needs of all residents of, and all geographic areas in, the State are taken into account in the development of the services plan. The description shall include the data sources used (or to be used).

§ 228.32 Planning, evaluation and reporting.

The services plan shall describe the planning, evaluation, and reporting procedures and activities the State has carried out or plans to carry out in connection with its services program. Examples of these procedures and activities which may be described include the following:

(a) *Planning.* Relationship with the State budget process and the legislature; input from other State, regional and local planning units and from local general purpose governmental units; citizen organizations and individuals; relationship of needs assessment and service resources inventory to setting of program priorities and allocation of resources.

(b) *Evaluation.* Purpose, scope and timing of current and proposed evaluations, and the schedule for dissemination of evaluation results.

(c) *Reporting.* Description of planned formal reports, such as reports to elected officials or to the public (but excluding reports furnished to SRS), and the schedule for issuance.

§ 228.33 The public review process.

A State's services plan does not become effective for its services program year until the public review process is completed in accordance with § 228.33, § 228.34, and § 228.35 (if applicable).

(a) *Purpose.* The purpose of the public review process is to enable the residents of each State to participate meaningfully in the State decision making processes with respect to the States services plan. The public review process is intended to assure that each State has provided opportunity for prior public participation of title XX clients, title XX advisory groups, public and private organizations, public officials and the general public in needs assessment, identification of priorities and allocation of resources throughout the development of the services plan. (See § 228.29(c))

(b) *Scope.* The public review process shall include at least:

(1) Publication of the proposed services plan and a display advertisement describing that plan, and a summary of the plan, if any, at least 90 days before the beginning of the program year, with a 45-day period for public comment;

(2) Consideration of, and public access to, comments received;

(3) Publication of any corrections required to bring the proposed services plan into compliance with the requirements of §§ 228.21 through 228.33;

(4) Publication of the final services plan and a display advertisement announcing its publication no earlier than 45 days after publication of the proposed services plan;

(5) Publication of any necessary corrections to the final plan;

(6) Publication of any proposed amendments to the final plan with a 30-day period for comments;

(7) Publication of any corrections required to bring the proposed amendment into compliance with the requirements of § 228.21 through § 228.33;

(8) Publication of the final amendments; and

(9) Publication of any necessary corrections to the final amendment;

(10) Public access to copies of the proposed and final services plans.

(c) *Approval prior to publication.* Prior to publication, the proposed and final services plans shall each be approved by the Governor or such other official as the laws of the State provide.

(d) *Retention of published services plans.* Copies of the proposed and final services plans shall be retained for at least three years in specified local public offices and made available for public and Federal inspection throughout the program year.

(e) *Handling of public comments.* (1) Written comments on the proposed services plan shall be considered by the State agency if received within 45 days after publication of the display advertisement announcing publication and availability of the proposed services plan; and

(2) Such comments shall be retained for at least 3 years for inspection by the public and by Federal officials.

(f) *Display advertisement; general requirements.* (1) A display advertisement is one prepared for and published within the main news section of a newspaper; advertisements placed in the legal or classified sections of a newspaper do not meet this requirement.

(2) Such advertisement must be published in the newspaper of widest circulation (and in foreign languages or foreign language newspapers where appropriate) in each geographic area described in the proposed and final services plans.

(g) *Display advertisement for the proposed plan.* A display advertisement shall at least:

(1) Specify the beginning and ending dates of the program year;

(2) Include a brief description of the services to be offered under the services plan;

(3) Describe the categories of individuals to be served;

(i) Identify those whose eligibility is based on income maintenance status (AFDC or SSI); and

(ii) Specify the maximum dollar amount of income that a family of four can have and still be eligible on the basis of income status; and

(iii) Indicate that such dollar amount is adjusted by family size.

(4) If the State has different income levels for different services, or different income levels for different geographic areas, specify that those different income levels are described in the proposed plan and in the plan summary (if the State has published a summary);

(5) Indicate beginning and ending dates of the 45-day period for public review and comment.

(6) Specify a toll-free telephone number that can be called to obtain without charge either a copy of the proposed plan or a summary thereof; or state that such copies can be obtained by calling a specified local public agency in each county, such as the local social services agency.

(7) Identify a local public agency in each county such as the social services agency where copies of the proposed services plan are available for public review; available for distribution to the public either free (if no summary is provided) or at a reasonable cost; or where copies of the proposed service plan may be ordered, if distributed from another source; and

(8) Specify the address where written comments may be sent and, if there are to be public hearings on the proposed plan, the location, date, and time for such hearings; or state that information concerning the hearings can be obtained by calling a specified toll-free number or by telephoning specified local agencies after a given date.

(h) *Summary of proposed services plan.* If the State publishes a services plan summary (to be provided free in lieu of a free copy of the entire services plan), it shall contain at least the following information:

(1) The beginning and ending dates of the program year;

(2) The categories of individuals including any limitations, who are eligible for services;

(3) The categories of individuals to whom a fee will be charged if they wish to be provided services under the services plan;

(4) Fee schedules, including any variations by service or by geographic area;

(5) A description of each discrete service to be provided under the plan;

(6) The services that will be made available to each category of individuals in each geographic area under the services plan;

(7) For each service, estimated expenditures, and estimated numbers to be served by each category of eligible individuals and by each geographic area; and

(8) Amount of the Federal allotment to the State and the amounts of State and local appropriated funds and of other funds to finance the services program; and

(9) A toll-free telephone number that can be called to obtain information on where to apply for services or the name of a local public agency in each county where applications for services will be accepted.

(i) *Display advertisement of the final services plan.* The display advertisement of the final services plan shall contain at least:

(1) A statement that the final services plan has been published and is available for review by the public;

(2) An explanation of any differences between the proposed and final services plans and the reasons therefore;

(3) A toll-free telephone number that can be called to obtain information about the services plan and where to apply for services; or the name of a local public agency in each county, where information regarding the services plan will be made available and where applications for services will be accepted;

(4) The name of a local public agency in each county where copies of the final services plan are available for public review and distribution to the public either free or at a reasonable cost; and

(5) The location where public comments on the proposed services plan are available for review.

§ 228.34 Regional review of proposed and final services plans.

(a) *Proposed services plan.* (1) Not later than 5 working days after publication of the proposed services plan, the State shall submit to the SRS Regional Commissioner the following: 7 copies of the proposed services plan and its summary, if any; a dated copy of the display advertisement; the names of the newspapers in which the display advertisement appeared; and the geographic areas covered by those newspapers.

(2) The Regional Commissioner will review the materials submitted to determine whether all requirements of §§ 228.21 through 228.33 have been met.

(3) Within 10 working days following receipt of the materials described in paragraph (a)(1) of this section, the SRS Regional Commissioner will notify the director of the State agency in writing that those materials meet all the requirements of this Subpart, or will specify the deficiencies that must be corrected in accordance with § 228.35. For purposes of this paragraph, a display advertisement which does not meet each requirement of paragraphs (f) and (g) of § 228.33, or a proposed services plan which does not comply with each required item under §§ 228.21 through 228.32, and 228.33(c) is deficient.

(4)(i) If correction(s) to the proposed services plan or to the display advertisement announcing the proposed services plan is necessary, the State shall submit to the SRS Regional Commissioner no later than 5 working days after publication of such correction(s), the following:

(A) For correction(s) to the proposed services plan, 7 copies of the corrected pages and one dated copy of the display advertisement announcing the correction(s). (The State shall file the corrected pages in the proposed services plan.)

(B) For correction(s) to the display advertisement announcing the proposed services plan, one dated copy of the display advertisement containing the correction(s) to the original display advertisement.

(ii) Within 5 working days of receipt of the materials submitted pursuant to paragraph (a)(4)(i) (A) and (B) of this section, the SRS Regional Commissioner will notify the director of the State agency in writing that the correction meets the requirements of §§ 228.21 through 228.32, 228.33(c), and 228.35; and that the State is free to publish its final services plan following expiration of the 45-day comment period; or will specify the additional correction that must be made in accordance with § 228.35.

(b) *Final services plan.* (1) Not later than 5 working days after publication of the final services plan, the State shall transmit to the SRS Regional Commissioner: 7 copies of such plan; a dated copy of the display advertisement; and a statement containing the date of publication of the final services plan; the names of newspapers where the display advertisement appeared; and the geographic areas in the services plan covered by those newspapers;

(2) The Regional Commissioner will review the materials submitted to determine whether all requirements of §§ 228.21 through 228.33 have been met;

(3) Within 5 working days following receipt of the materials described in paragraph (b)(1) of this section, the SRS Regional Commissioner will notify the director of the State agency in writing that the final services plan meets all the requirements of §§ 228.21 through 228.33, or will specify the deficiencies that must be corrected in accordance with § 228.35. For purposes of this paragraph (b)(3), a display advertisement that does not meet all requirements of § 228.33(i), or a final services plan that does not comply with each requirement of §§ 228.21 through 228.32, and 228.33(c) is deficient.

(4)(i) If correction(s) to the final services plan or to the display advertisement announcing the final services plan is necessary, the State shall submit to the SRS Regional Commissioner no later than 5 working days after publication of such correction(s), the following:

(A) For correction(s) to the final services plan, 7 copies of the corrected pages and one dated copy of the display advertisement announcing the correction(s). (The State shall file the corrected pages in the final services plan.)

(B) For correction(s) to the display advertisement announcing the final services plan, one dated copy of the display advertisement containing the correction(s) to the original display advertisement.

(ii) Within 5 working days of the receipt of the materials specified in paragraph (b)(4)(i) (A) and (B) of this section, the SRS Regional Commissioner will notify the State agency in writing that the correction(s) meets all the require-

ments of §§ 228.21 through 228.32, 228.33 (c) and 228.35; and that the final services plan is in effect; or specify the additional corrections that are required before the plan can become effective.

§ 228.35 Correction of proposed and final services plans and display advertisements.

(a) A display advertisement which is deficient shall be corrected by publication of correct information for each deficient item in a display advertisement in all newspapers in which the original display advertisement appeared.

(b) A deficient proposed or final services plan shall be corrected by publishing the following information in a display advertisement in all newspapers in which the original advertisement apeared:

(1) The items being corrected;

(2) A statement that corrected pages for insertion in the plan are available without charge; and

(3) A toll-free number or the address of the local public office where corrected pages may be obtained.

(c) For correction of a proposed services plan, the display advertisement shall contain the information specified in paragraph (b) of this section and also indicate the beginning and ending dates of the new 45-day comment period on the corrected plan, and the method for submitting comments.

§ 228.36 Amendments to final services plan.

(a) Amendments to the final services plan are necessary at least when:

(1) Change is to be made in the period of time encompassed by the program year (See § 228.21);

(2) Geographic areas are to be realigned; or

(3) Any of the following changes are to be made, whether applicable Statewide or only in particular geographic areas:

(i) Specific services are to be added or deleted;

(ii) Fees are to be changed, or the charging of fees is to be initiated or discontinued; or

(iii) The categories of individuals to be served are to be changed.

(b) Any amendment to a final services plan shall be prepared by the State agency and approved, published, and made generally available to the public by the Chief Executive Officer or such other official as the laws of the State provide in the following manner:

(1) The proposed amendment shall be published in a display advertisement in the newspaper of widest circulation (and in foreign languages or foreign language newspapers, where appropriate) in each geographic area in which the change has impact, and shall provide for a public comment period of at least 30 days. The display advertisement shall contain at least:

(i) A description of the proposed changes and the reasons therefor, and the proposed effective date of the changes which shall be no earlier than 30 days after publication of the proposed changes;

(ii) The method for public comment and where comments will be received; and

(iii) The beginning and ending dates of the 30 day period for public comment.

(2) Not later than 5 calendar days after publication of the proposed amendment, the State shall submit to the SRS Regional Commissioner 7 copies of the proposed amendment and a dated copy of the display advertisement which announced the proposed amendment.

(3) The SRS Regional Commissioner will review the proposed amendment(s) to determine whether applicable requirement(s) of § 228.21 through § 228.33 have been met. Within five working days following receipt of the amendment(s) the Regional Commissioner will notify the director of the State Agency in writing that the amendment meets the applicable requirement(s) of § 228.21 through § 228.33 or will specify deficiencies.

(4) Corrections to the proposed amendment(s) shall be made in accordance with the procedures for corrections to the proposed plan as described in § 228.34(a)(4) except that the period for public review and comment prior to publication of the final amendment is 30 days.

(5) No earlier than 30 days following the publication of the proposed amendment, the final amendment shall be published as a display advertisement in each newspaper in which the proposed amendment was published. This display advertisement shall contain at least:

(i) A description of the final amendment of the services plan;

(ii) The effective date of the amendment; and

(iii) An explanation of the State's response to the public comments; and

(iv) An explanation of the differences between the proposed and final amendments if any and the reasons therefor.

(c) The effective date of an amendment shall be no earlier than the date of publication of the final amendment.

(d)(1) Notwithstanding paragraph (c), of this section, when a State amends its services plan so that it may provide family planning services without regard to income, or determine eligibility on a group basis for the provision of a service, the final amendment to the services plan may have a retroactive effective date of October 1, 1975 (or later, depending on when the State began providing the particular service specified in the amendment). FFP is available for a service which is the subject of an amendment made in accordance with this paragraph (d)(1), *Provided*, That the service was in the State's services plan when the service was delivered.

(2) The State shall publish the proposed and final amendments to the services plan, in accordance with the provisions of this section, and specify therein the relevant retroactive dates.

(e) Not later than 5 calendar days following publication of the final amendment, the State agency shall submit to the SRS Regional Commissioner 7 copies of the final amendment and a dated copy of the display advertisements which announced the final amendments.

(f) The SRS Regional Commissioner will review the final amendment(s) to determine whether applicable requirement(s) of § 228.21 through § 228.33 have been met. Within 5 working days following receipt of the amendment(s) the Regional Commissioner will notify the director of the State agency in writing that the amendment meets the applicable requirement(s) of § 228.21 through § 228.33 or will specify deficiencies.

(g) Corrections to the final amendment(s) shall be made in accordance with procedures for corrections to the final plan as described in § 228.35(b).

Subpart D—Limitations: Services

21. Section 228.40 is revised to read as follows:

§ 228.40 Minor medical and remedial care.

(a) FFP is not available for medical and remedial care, other than family planning services, except when they are an integral but subordinate part of a service described in the services plan, and the medical and remedial care is not available to the individual under the State's approved title XIX plan and to the extent the individual or the provider is not eligible to receive payment under title XVIII for the provision of the service to the individual.

(b) Medical and remedial care are deemed to be integral but subordinate components of a service if:

(1) They are necessary to achieve the objective of that service and not merely to correct a medical condition; and

(2) The specific medical and remedial care are described and included in the State's services plan along with the description of the service of which they are an integral but subordinate part. For example, in describing child day care services, a State could describe (itemize) medical examinations, dental screening, and immunizations as integral but subordinate parts of the child day care service.

(c) Notwithstanding the requirement of paragraph (a) of this section, that medical and remedial care must be integral but subordinate to a particular service, FFP is available for medical and remedial care provided between October 1, 1975 and October 1, 1977 in a program of rehabilitative services to drug and alcohol abusers, under the following conditions:

(1) When provided in the initial detoxification of such persons for up to 7 days, so long as such detoxification is integral (but not necessarily subordinate) to the further provision of other title XX services to drug and alcohol abusers; and

(2) When integral but subordinate to the entire rehabilitative process (rather than a particular service), including but not limited to initial detoxification, short-term residential services, and subsequent outpatient counseling and rehabilitative services, whether or not such a process involves more than one provider of services.

§ 228.41 Room or board.

(a) FFP is not available for room or board under a services plan, except when

provided in emergency shelter under § 228.46, or as an integral but subordinate part of another service and then only for a period of not more than six consecutive months for any one placement.

(b) Room or board is deemed to be as an integral but subordinate component of a service if:

(1) It is necessary to achieve the objective of that service and not merely to provide food and shelter; and

(2) Room or board are included in the State's services plan along with the description of the service of which it is an integral but subordinate part, and is provided in accordance with all applicable requirements under this Part.

(c) Room or board under this Part shall not be considered an integral but subordinate part of a service when provided to an individual in a foster family home or other facility such as a foster care institution or other facility whose primary purpose is to provide board, room and care or supervision.

(d) As used in this section, the term *placement* means an uninterrupted period of time during which an individual takes up, or is placed in, residence in a facility other than his usual place of residence, for the purpose of undergoing a specific regimen of services or treatment according to a prescribed plan.

(e) Notwtihstanding the requirement of paragraph (a) of this section, that room or board must be integral but subordinate to a particular service, FFP is available for room or board provided between October 1, 1975 and October 1, 1977 in a program of rehabilitative services to drug and alcohol abusers, under the following conditions:

(1) When provided in the initial detoxification of such persons for up to 7 days, so long as detoxification is integral (but not necessarily subordinate) to the further provision of other title XX services to drug and alcohol abusers; and

(2) When integral but subordinate to the entire rehabilitative process (rather than a particular service), including but not limited to initial detoxification, short-term residential services, and subsequent outpatient counseling and rehabilitative services, whether or not such a process involves more than one provider of services.

§ 228.42 Child care standards.

(a) FFP is available for child care services provided under a services plan only where the following standards are met:

(1) *In-home care.* (i) When homemaker service is utilized for this purpose, it meets standards established by the State or by an Indian tribal council, in accordance with § 228.13, which are reasonably in accord with recommended standards of national standard setting organizations concerned with this type of home care for children.

(ii) When other caretakers are utilized for this purpose, such care meets standards established by the State or by an Indian tribal council, in accordance with § 228.13, which, as a minimum, cover the caretaker's age, health, capacity and available time to properly care for children; minimum and maximum hours to be allowed per 24 hour day for such care; maximum number of children that may be cared for in the home at any one time; and proper feeding and health care of the children.

(2) *Out-of-home care.* (i) Facilities used to provide day care outside a child's own home are licensed by the State, an Indian tribal council, in accordance with § 228.13, or approved as meeting the standards for such licensing.

(ii) Such facilities and care meet the 1968 Federal Interagency Day Care Requirements, except that:

(A) Subdivision III of such requirements with respect to educational services is recommended but not required.

(B) Required staffing standards for children under age 3 in day care centers and group day care homes are: 1 adult for each child under 6 weeks of age; 1 adult to 4 children, ages 6 weeks through 36 months. (States may, at their option, require fewer children per adult.)

(C) Required staffing standards for school age children in day care centers are: at least 1 adult to 15 children, ages 6–10; and at least 1 adult to 20 children, ages 10–14.

(b) The requirements in paragraph (a) (2) (ii) of this section are in lieu of otherwise applicable requirements under section 522(d) of the Economic Opportunity Act of 1964 with respect to child day care services under title XX.

(c) Notwithstanding the Federal staffing requirements for out-of-home child day care services set forth in paragraph (a) (2) (ii) (B) of this section:

(1) FFP is available between October 1, 1975 and October 1, 1977 for title XX child day care services so long as day care centers and group day care homes providing day care services to children 6 weeks of age to 6 years of age apply staffing standards which:

(i) Are the State staffing standards which are in effect at the time the child day care services are provided;

(ii) Are no lower than the corresponding staffing standards which were imposed or required by applicable State law on September 15, 1975; and

(iii) Are no lower, in the case of a particular day care center or group day care home, than the corresponding standards actually being met in such center or home on September 15, 1975.

(2) (i) When States find that it is not feasible to furnish day care (partly or totally funded under title XX) for children of any age in a day care center or group day care home that complies with Federal staffing standards, they may waive such Federal standards otherwise applicable, and furnish day care services, if:

(A) A day care center or group day care home serves few title XX children (of the total number of children served at any given time in each such facility, not more than 5 of the children in a center, or 20 percent of them, whichever is lower; not more than 20 percent of the children in a group day care home); and

(B) Such day care center or group day care home complies with applicable State staffing standards.

(ii) States shall establish criteria against which to assess the non-feasibility of their use of a day care center or group day care home which complies with Federal staffing standards; and they shall maintain a record of the waiver for each facility in terms of these criteria.

(d) Between October 1, 1975 and October 1, 1977, in applying Federal staffing standards, States shall not count the children of the operator of a family day care home unless such children are under 6 years of age.

§ 228.43 Educational services.

FFP is not available for any educational service made generally available through any State or local educational agency to residents of the State without cost and without regard to their income. To the extent a fee is imposed on any resident, FFP is available only for such fee.

§ 228.44 Services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including hospitals or facilities for mental diseases or for the mentally retarded), or prisons.

(a) FFP is available for services to individuals living in hospitals, skilled nursing facilities, intermediate care facilities (including any such hospitals or facilities for mental diseases or for the mentally retarded), or prisons only under the following conditions:

(1) The services provided are separately identifiable in the services plan (generalized descriptions such as "services to nursing home patients" or "services to increase socialization skills" are unacceptable under this provision).

(2) Such services are provided by other than the facility in which the individual is living. This requirement is not met if the services are provided by:

(i) Staff or contractors who are under the professional direction or direct supervision of the facility; the facility exercises control of the employment, tenure or compensation of such staff or contractors or makes assignments or alters the service regimen provided by them; or

(ii) Staff of like facilities under reciprocal arrangement.

(3) Such services are also provided to individuals who:

(i) Are not living in a hospital, skilled nursing facility, intermediate care facility (including any such hospitals or facilities for mentally retarded), or prison; and

(ii) Are residents of any part of a geographic area that is within the catchment area of such facility.

(b) FFP is not available for:

(1) Inherent responsibilities of a facility including but not limited to the provision of food, clothing, shelter, general maintenance and administration (includ-

ing the detention function), general supervision and personal care; or

(2) Activities that are intrinsic to the purpose of such facility as determined by facility charter, State law or standards, relevant licensing or certification requirements, or Federal or State court decisions.

(c) For purposes of this section:

(1) *"Prison"* means any State or local correctional institution or facility for the confinement of individuals charged with or convicted of criminal offenses. The term does not include separate juvenile correctional facilities nor community-based residential service facilities, such as half-way houses.

(2) *Separate juvenile correctional facility* means one that is located in a separate building or buildings; is served by separate day-to-day operational staff; and provides a separate and distinct program of services.

(3) *Skilled nursing facility (SNF)* means an institution primarily engaged in providing to inpatients skilled nursing care and related services for patients requiring medical or nursing care, or rehabilitation services for the rehabilitation of injured, disabled or sick persons.

(4) *Intermediate care facility (ICF)* means an institution which provides on a regular basis, health related care and services to individuals who do not require the degree of care which a hospital or SNF is designed to provide, but who because of their mental or physical condition require health related care and services above the level of room or board which can be made available to them only through institutional facilities.

(5) *Hospital* means an institution which is primarily engaged in providing by or under the supervision of physicians, to inpatients diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

(d) Services in separate juvenile correctional facilities may be provided by staff of the facility. However, FFP is not available for inherent responsibilities of the facility (e.g., food, clothing, shelter, and managing and carrying out the detention function).

(e) Notwithstanding the requirements of paragraphs (a)(2) and (b)(1) and (2) of this section, FFP is available between October 1, 1975 and October 1, 1977 for the cost of providing initial detoxification services for up to 7 days for drug and alcohol abusers when such detoxification is integral to the further provision of other title XX services, even though:

(1) Hospital or other institutional staff provide detoxification services to resident drug and alcohol abusers; and

(2) Such detoxification services include inherent or intrinsic responsibilities of the facility where they are provided.

§ 228.45 Special services provided by foster family homes.

(a) A foster family home is a home licensed or approved by appropriate State or local authority or an Indian tribal council on Indian reservations, in accordance with § 228.12, to provide board and care including parenting for children and oversight for adults.

(b) *Special services provided by foster family homes.* FFP is not available for activities described under paragraph (a) of this section, but is available for special services provided by a foster family home to an individual living in that home, only upon documentation, by an appropriately qualified professional person who is other than the placement worker, that:

(1) The individual requires an identified special service because of a health (physical or mental) condition, an emotional or behavioral problem; and

(2) The caregivers are capable, by virtue of special training, or experience, of providing the needed service.

(c) Nothing in this section precludes the provision of any other service in the services plan to eligible individuals living in foster family homes when provided by other than the foster family.

§ 228.46 Emergency shelter.

(a) FFP is available for emergency shelter as a protective service to any child, including runaways, only under the following conditions:

(1) The child is in danger of abuse, neglect or exploitation;

(2) The need for emergency shelter is documented by personnel authorized by State law to place children, or by an Indian tribal council; and

(3) Emergency shelter is provided for not in excess of 30 days in any 6 month period, which may be consecutive or may accumulate over more than one stay.

(b) Emergency shelter may be provided in facilities such as foster family homes, institutions, and group homes.

§ 228.47 Payments to recipient for services.

FFP is available in cash payments made to a recipient for a service already rendered to him, upon presentation of a bill for, or presentation of a receipt of payment for, such service if he was eligible under the services plan for the service at the time it was provided and if the purchased service:

(a) Is identified in the services plan;

(b) Was authorized by the State agency prior to its purchase and meets applicable standards, if any; and

(c) Was secured by the individual within a period of time and at a cost which were approved by the State agency.

§ 228.48 Confidentiality regarding services to drug and alcohol abusers.

States providing services to drug and alcohol abusers shall safeguard information about such services and recipients by applying the provisions of section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (as amended by section 122(a) of Pub. L. 93-282), as implemented by regulations at 42 CFR Part 2.

Subpart E—Limitations: Financial

§ 228.50 Services and individuals covered in the services plan.

(a) FFP is available with respect to any expenditures for the provision of any service for any individual only when:

(1) The State's services plan meets the requirements of Subpart C, and

(2) The final services plan (including any amendments published in final) in effect when the service is provided to the individual includes the provision of that service to a category of individuals which includes that individual.

(3) The State plan is approved as meeting the requirements of Subpart B of this Part.

§ 228.51 Matching rates.

(a) *Seventy-five percent FFP.* FFP is available at the 75 percent rate for service costs and for personnel training and retraining directly related to the provision of services under the services plan.

(b) *Ninety percent FFP.* Notwithstanding paragraph (a) of this section, FFP is available at the 90 percent rate for costs of family planning services provided under the services plan.

(c) *One hundred percent FFP.* Notwithstanding paragraph (a) of this section, FFP is available at the 100 percent rate up to the State's share of the additional allotments described in § 228.52(c)(3). The purpose of the additional funds is to encourage States to the maximum extent they determine to be feasible to promote the employment of AFDC recipients in jobs related to day care services.

(1) During fiscal year 1977, 100 percent FFP is available for:

(i) Day care services provided to children in day care centers, group day care homes, and family day care homes, which are licensed by the State for child day care services and otherwise meet the requirements of § 228.42(a)(2) as modified by the provisions of § 228.42(c) and (d).

(ii) Day care services provided to children in their own homes in accordance with § 228.42(a)(1); and

(iii) Staff activities in direct support of the child day care services such as: licensing homes or facilities used by title XX children, monitoring title XX child care services delivery, and training staff in accordance with Subpart H of this Part.

(2) During the transition quarter (July 1, 1976 through September 30, 1976) and the 1977 fiscal year, 100 percent FFP is available for grants by States to child day care providers to employ welfare recipients, in accordance with Subpart J.

§ 228.52 Allotments to States.

(a) *Basic Limitation.* The amount of Federal funds payable to the 50 States and the District of Columbia under this Part for any fiscal year with respect to expenditures for services under the services plan (other than expenditures for personnel training or retraining directly related to the provision of services) may not exceed the allotment set forth in this section.

(b) *Allotments for fiscal year beginning July 1, 1975.* The allotment of each State for the fiscal year beginning July 1, 1975, shall be the allotment of the State for that fiscal year as determined under section 1130 of the Act. In determining, for the purposes of that limitation, the total amount of the payments made to any State with respect to expenditures

during that fiscal year, there shall be included the amount of any payments made to the State that are chargeable against the allotment of the State for the fiscal year beginning July 1, 1975, under section 1130.

(c) *Allotments for fiscal years beginning after June 30, 1976.* (1) The allotment of each State for each fiscal year beginning after June 30, 1976, shall be an amount which bears the same ratio to $2,500 million as the population of such State bears to the population of all the States.

(2) The allotment for each State will be promulgated for each fiscal year by the Secretary prior to the first day of the third month of the preceding fiscal year, on the basis of the population of each State and of all the States as determined on the basis of the most recent satisfactory data available from the Department of Commerce.

(3)(i) The basic allotment described in paragraph (c)(1) of this section shall be increased by an amount which bears the same ratio to $40 million for the transition quarter (July 1, 1976 through September 30, 1976) and to $200 million in the 1977 fiscal year as the population for such State bears to the population of all States. The amount of these additional allotments payable to each State shall be the lesser of:

(A) The amount of each additional allotment; or

(B) The amount of actual expenditures incurred for the provision of child day care services and for grants by States to child day care providers for the employment of welfare recipients.

(d) *Certification of allotment need.* (1) Each fiscal year, each State shall certify to the Secretary, within 30 days after the beginning of the fiscal year, whether the amount of its allotment is greater or less than the amount needed by the State for such fiscal year and, if so, the amount by which the amount of such allotment is greater than such need.

(2) If any State certifies in accordance with paragraph (d)(1) of this section, that the amount of its allotment for any fiscal year is in excess of its need for such year, the amount of the limitation of such State for such year shall be adjusted downward by the amount of such excess.

(3) Of the amounts made available pursuant to paragraph (d)(2) of this section, the Secretary shall allot to the jurisdiction of Puerto Rico $15,000,000, to the jurisdiction of Guam $500,000, and to the jurisdiction of the Virgin Islands $500,000, which shall be available to each such jurisdiction in addition to amounts available under Section 1108 of the Act for the purpose of matching the expenditures of such jurisdictions for services pursuant to sections 3(a)(4) and (5), 403(a)(3), 1003(a)(3) and (4), 1403(a)(3) and (4), and 1603(a)(4) and (5) of the Act, except that if the amounts made available pursuant to paragraph (d)(2) of this section are less than $16,000,000, such amounts as are available shall be allotted to each of the three jurisdictions in proportion to their respective populations.

(e) *Date of Expenditure.* For purposes of this section, expenditures for services are ordinarily considered to be incurred on the date on which the State or local agency makes payment or the date to which the expenditure was allocated, pursuant to the cost principles of Subpart Q of 45 CFR Part 74 and the cost allocation procedures of 45 CFR 205.150. In the case of local administration, the date of expenditures by the local agency governs. In the case of purchase of services from another public agency, the date of expenditure by such other public agency governs. Different rules may be applied with respect to a State, either generally or for particular classes of expenditures, only upon justification by the State to the Administrator and approval by him. In reviewing State requests for approval, the Administrator will consider generally applicable State law, consistency of State practice, particularly in relation to periods prior to October 1, 1975, and other factors relevant to the purposes of this section.

(f) *Procedures for making grants to States.* See 45 CFR Part 201.

§ 228.53 Public sources of State's share.

(a) *Funds available for matching.* Public funds used by the State or local agency for its services programs, including training and other administrative functions, may be considered as the State's share in claiming FFP only where such funds are:

(1) Appropriated directly to the State or local agency; or

(2) Funds of another public agency (including Indian tribes) which are:

(i) Transferred to the State or local agency and are under its administrative control; or

(ii) Certified by the contributing public agency as representing expenditures for services eligible for FFP under this Part; or

(iii) Representing value, as determined in accordance with 45 CFR 74.53(b) and (c), and Appendix C, Part II, B.11 of 45 CFR 74, of goods or property provided by a public agency even if the agency does not incur any current expenditures for such goods or property during the period of their use in the services program.

(b) *Funds not available for matching.* Notwithstanding paragraph (a) of this section, public funds used by the State or local agency for its services programs may not be used as the State's share in claiming FFP where such funds are:

(1) Federal funds not authorized by Federal law to be used to match other Federal funds; or

(2) Used to match other Federal funds.

§ 228.54 Private sources of State's share.

(a) *Funds available for matching.* Funds donated from private sources for services, training, or other administrative functions may be considered as State funds in claiming FFP only where such funds are:

(1) Transferred to the State or local agency and under its administrative control;

(2) Donated to the State, without restrictions as to use, other than restrictions as to the services, administration or training with respect to which the funds are to be used imposed by a donor who is not a sponsor or operator of a program to provide those services, or the geographic area in which the services with respect to which the contribution is used are to be provided; and

(3) Not used to purchase services from the donor unless the donor is a nonprofit organization and it is an independent decision of the State agency to purchase services from the donor.

(b) For purposes of this Part, a voluntary federated fund-raising organization is not considered to be a sponsor or operator of a service facility, and member agencies are considered separate autonomous entities so long as control by interlocking board membership or other means does not exist.

§ 228.55 [Reserved]

§ 228.56 Fifty Percent Rule.

(a) If one-half of the Federal funds to which the State is otherwise entitled is greater than the amount of the aggregate expenditures (combined State and Federal) made under the program for individuals identified in this paragraph, such Federal funds will be adjusted so the total Federal reimbursement does not exceed twice the amount of the total expenditures in behalf of those individuals:

(1) Who are receiving aid under the plan of the State approved under part A of title IV or who are eligible to receive such aid; or

(2) Whose needs are taken into account in determining the needs of an individual who is receiving aid under the plan of the State approved under part A of title IV, or who are eligible to have their needs taken into account in determining the needs of an individual who is receiving or is eligible to receive such aid; or

(3) With respect to whom supplementary security income benefits under title XVI or State supplementary payments, are being paid, or who are eligible to have such benefits or payments paid with respect to them; or

(4) Whose income and resources are taken into account in determining the amount of supplemental security income benefits or State supplementary payments being paid with respect to an individual, or whose income and resources would be taken into account in determining the amount of such benefits or payments to be paid with respect to an individual who is eligible to have such benefits or payments paid with respect to him, or

(5) Who are eligible for medical assistance under the plan of the State approved under title XIX.

(b) In accounting for costs of services to meet the requirements of paragraph (a) of this section:

(1) In lieu of accounting for the status of each person receiving a service on the basis of group determination of eligibility, States may use generally accepted statistical sampling procedures.

(2) Regarding services to persons who receive services without regard to income (family planning services, services to prevent or remedy abuse, neglect or exploitation of children and adults, and information and referral services), States may use any appropriate method, including generally accepted sampling procedures or allocation of costs to the services provided these persons in the same ratio as the known cost of all other services distributed for the 50 percent rule.

(3) States shall deem grants made by them to child day care providers for the employment of welfare recipients, to be expenditures for child day care services made on behalf of AFDC recipients.

Subpart F—Limitations: Individuals Served, Eligibility and Fees

§ 228.60 Persons eligible and access to services.

(a) *Conditions for FFP.* FFP is available in expenditures for services to individuals provided that:

(1) The service is included in the State's services plan;

(2) The individual who receives the service is a member of one of the categories covered by the State's services plan; and

(3) Such individual was eligible under the provisions of this section and those of § 228.61 at the time of receipt of the service.

(b) *Categories of individuals who may receive services.*

(1) *Income maintenance status.* The following individuals are eligible on the basis of income maintenance status:

(i) Recipients of AFDC; and

(ii) Those persons whose needs were taken into account in determining the needs of AFDC recipients; and

(iii) Recipients of SSI benefits or State supplementary payments.

(2) *Income status.* Individuals other than those described in paragraph (b)(1) of this section, are eligible if the family's monthly gross income is less than 115 percent (or, at State option, a lower percentage) of the median income of a family of four in the State adjusted for size of family, subject to the limitations set forth in § 228.62. Income status individuals include those whose eligibility is determined on a group basis.

(3) *Without regard to income.* Individuals may be provided family planning services under § 228.63, information or referral services under § 228.64, or services to prevent or remedy neglect, abuse, or exploitation of children or adults under § 228.65, without regard to income at State option if the State so provides in its services plan.

(c) *Median income.* On or before December 1 of each year, beginning with calendar year 1975, the Secretary will promulgate the median income for a family of four for each State and for the 50 States and the District of Columbia. This promulgation shall be used for purposes of determining eligibility and establishing fees in the following Federal or State fiscal year.

(d) *Income levels as baselines for fee imposition.*

(1) Except for individuals whose eligibility is determined on a group basis, individuals whose eligibility is based on income status shall be subject to imposition of a fee for service (in accordance with § 228.62) if their family's monthly gross income exceeds 80 percent of the median income of a family of four in the State or the median income of a family of four in all States, whichever is less, and does not exceed 115 percent of the median income of a family of four in the State, adjusted for family size.

(2) The median incomes (at 80 percent and 115 percent) as calculated in paragraph (d)(1) of this section for a family of four, shall be adjusted for family size according to the following percentages:

(i) One person—52 percent.
(ii) Two person family—68 percent.
(iii) Three person family—84 percent.
(iv) Four person family—100 percent.
(v) Five person family—116 percent.
(vi) Six person family—132 percent.
(vii) For each additional family member above six persons, the State shall add 3 percentage points to the percentage for a family of six.

(3) For discretionary fees applicable to persons who are at or below the lower level median income described in paragraph (d)(1) of this section, or are eligible on the basis of income maintenance status, or who may receive services without regard to income, see § 228.62(b).

(e) *Income levels for services.* So long as the State observes the baselines for income levels for imposition of fees established pursuant to paragraph (d)(1) of this section, it may establish income levels for services:

(1) At any level lower than 115 percent of the median income of the State;

(2) At different levels for different services under the services plan;

(3) At different levels for different categories of individuals;

(4) At different levels in different geographic areas; or

(5) At different levels for different sizes of families within the limits for eligibility and fees set forth in paragraph (d)(2) of this section.

(f) *Opportunity to apply:* The State shall assure that each individual wishing to do so has an opportunity to apply for services without delay. The State shall use the following intake process for individuals seeking service:

(1) *Determination of eligibility.*

(i) When eligibility must be determined on an individual basis, the State shall require a written signed application containing the necessary information.

(A) The application shall be in a form prescribed by the State and the applicant shall certify that the information submitted is correct.

(B) The application may be filed by the applicant himself or by his authorized representative; or where the applicant is incompetent or incapacitated or in an emergency, by someone acting responsibly for him, including agency staff.

(ii) No written application is necessary for services available without regard to income.

(iii) No written application is necessary for individuals whose eligibility is determined on a group basis.

(2) *Request for services.* Except as described in paragraph (f)(2)(iv)(B) of this section, the State shall document each request for service for purposes of FFP as well as for fair hearings and as evidence of the voluntary nature of the request for service. Documentation may be accomplished through submission of a written request by an individual needing service or his representative, or by the recording of information elicited by the agency, except that a request for family planning services (whether or not it is a "universal" service) must be in writing in order to verify that it was requested voluntarily. With respect to the following:

(i) When an individual has had eligibility determined on an individual basis, the written application for eligibility determination may be deemed a request for services (unless the State has a separate process for requesting services), and may serve as initial documentation. Subsequent requests for services from such an eligible individual shall be documented as described in paragraph (f)(2) of this section.

(ii) For protective services, an acceptable alternative to a request for services is a dated agency record that documents the circumstances of actual or potential abuse, neglect, or exploitation of a child or adult.

(iii) For requests for information and referral services, the State shall establish a procedure for documenting the number and nature of the requests.

(iv) When eligibility is determined on a group basis in accordance with § 228.61, requests for services shall be handled in one of two different ways:

(A) If the State has established specific conditions (other than income) or characteristics as a condition precedent to the receipt of a service on the basis of group eligibility, the State shall, in the intake process, elicit information necessary to determine whether an individual meets the specified conditions or has the characteristics for membership in the group (e.g.—if eligibility for homemaker services to teenage parents maintaining their own homes in public housing is determined on a group basis, the intake process shall elicit a statement regarding age, parenthood, address, and maintenance of one's own home).

(B) If the State has concluded solely on the basis of the nature of a service and/or the location where it will be provided (e.g.—recreation services in specified senior centers or day care services for migrant children), that substantially all of the individuals who would apply for the service are members of families with gross monthly incomes of 90 percent or less of the State's median income, adjusted for family size, no information need be elicited at intake or documentation made except as to the numbers served. The presence of the individual at

the service site or participation in the service is deemed a request for services.

(g) *Prompt action on eligibility applications and requests for service.*

(1) A decision shall be made on all applications within time standards established by the State agency pursuant to § 228.6, but not to exceed 30 calendar days from the date of application.

(2) The agency shall notify applicants about their eligibility within 15 calendar days after it makes a decision. The date of each notification shall be entered in the case record. Applicants found to be eligible shall be notified orally or in writing; those found to be ineligible shall be notified in writing unless the requested service is provided by that agency to them through another funding source.

(3) Unless a service is denied, the State shall provide the service requested with reasonable promptness. "Provide the service" means actual provision of the service or arrangement for its provision at an appropriate later date. "Reasonable promptness" is accomplished when the State provides the service:

(i) Within 15 calendar days after notification of eligibility; or

(ii) Within 30 calendar days after acceptance of a request for service.

If the service is denied, the State shall notify the applicant in writing of the denial within these same time limits.

(h) *Notification of right to a fair hearing.* At the time of application or request for services, each individual shall be given information about the right to request and obtain a fair hearing, in accordance with § 228.14.

§ 228.61 Determination and redetermination of eligibility.

(a) *Methods of determining (or redetermining) eligibility.* (1) Standards and methods for determination of eligibility will be consistent with the objectives of the program, and will respect the rights of individuals under the United States Constitution, the Social Security Act, title VI of the Civil Rights Act of 1964, and all other relevant provisions of Federal and State laws.

(2) States may establish any method or methods, including a declaration method, for determining individual eligibility in accordance with § 228.60 and § 228.66.

(i) A determination of individual eligibility means a decision, reflected in the State's records, based on a dated and signed application and sufficient information which would lead a reasonable person to conclude that the criteria set forth in § 228.60 have been met and the individual is eligible to receive services on the basis of income or income maintenance status.

(A) *Documentation method* means that the State has sought and obtained verification regarding the source and amount of the gross family monthly income of the individual applying, or has verified his income maintenance status.

(B) *Declaration method* means acceptance of an individual's statements regarding the source and amount of his family's gross monthly income, and the income maintenance status as described in § 228.60(b)(1)) of any member of the family.

(ii) (For group determination of eligibility, see paragraph (2) of this section and § 228.60(f)(2)(iv).)

(3) (i) States may determine eligibility on a group basis if, upon consideration of one or more of the following factors, with respect to a particular service, they can reasonably conclude without individual determination that substantially all members of the group who receive the particular service are members of families with monthly gross incomes of not more than 90 percent of the State's median income, adjusted for family size:

(A) The geographic area in which a particular service is provided;

(B) The characteristics of the community in which the service is provided;

(C) The nature of the service provided;

(D) The conditions, other than income, of eligibility to receive the service; or

(E) Other factors surrounding provision of the service.

(ii) "Substantially all" means that no less than 75 percent of the persons provided a service on the basis of group eligibility determination shall be members of families whose gross monthly incomes are no more than 90 percent of the State's median income, adjusted for family size.

(iii) There are no mandatory fees, as defined in § 228.62(a), for persons whose eligibility is determined on a group basis.

(iv) Group determination of eligibility may be used for any service except, that for child day care, it is limited to the children of migratory workers.

(4) States may use one method for determining eligibility for all services, categories of individuals and geographic areas, or they may use different methods for different services, different categories of individuals and different geographic areas.

(5) States shall have available for Federal review a written description of the method(s) they have established for determining and redetermining eligibility.

(b) *Conditions for FFP.* (1) Regardless of the method chosen for determination or redetermination of eligibility:

(i) FFP is available in the cost of services provided prior to the actual date of an initial determination of eligibility only if such determination is made within 30 days of the date of application and the individual is properly determined to have been eligible when the services were initiated.

(ii) When a recipient of services was improperly determined to be eligible, FFP is not available in the cost of services provided during the period of improperly determined eligibility.

(2) When an individual properly determined to be eligible on the basis of information available to the agency at the time of determination of eligibility is subsequently found ineligible, FFP is available until the end of the month in which he is determined ineligible. A proper determination of eligibility is a determination which is based on a correct assessment on the information available to the agency at the time of such determination, provided that all information necessary to make a determination is available; a proper redetermination is one which meets those criteria and, in addition, is made within the time limits established by paragraph (c) of this section.

(c) *When redetermination shall be made.*

(1) Redetermination of eligibility shall be made for persons whose eligibility is determined on an individual basis:

(i) When required on the basis of information the agency has obtained about anticipated changes in the individual's situation;

(ii) Promptly, not to exceed 30 days, after information is obtained about changes which have occurred in the individual's circumstances that may make him ineligible; and

(iii) Periodically, but not less frequently than every 6 months except that for individuals whose family gross monthly income at the time of determination is derived exclusively from pensions, or social security benefits, or SSI, or a combination thereof, redetermination may be made at 12-month intervals.

(2) If the State has established specific conditions or characteristics as a condition precedent to the receipt of a service on the basis of group eligibility (and, in accordance with § 228.60(g)(2)(iv)(A), has elicited information at intake that individuals applying for the service meet the conditions or have the characteristics for membership in the group), it shall, unless the characteristic is irreversible (such as being above a certain age), redetermine the eligibility of these individuals as follows:

(i) When the conditions or characteristics established by the State are apt to change in regard to an individual (such as place of residence, marital status, children living in the home), the State shall ascertain not less frequently than every 6 months whether persons receiving the service on a group eligibility basis still meet the conditions or have the characteristics which made them members of the group; or

(ii) When the conditions or characteristics established by the State are not apt to change substantially in regard to an individual (such as a physical disability), the State shall ascertain not less frequently than once a year whether persons receiving the service on a group eligibility basis still meet the conditions or have the characteristics which made them members of the group.

(iii) The State shall discontinue providing the service on the basis of group eligibility determination by the end of the month in which it finds persons who no longer meet the conditions or have the characteristics required for group membership.

(d) *Validation of "substantially all" basis for establishing a group:*

(1) Each group of persons receiving a service on the basis of group determination of eligibility shall be subject

to a validation check of whether at least 75 percent of those receiving the service are members of families with gross monthly incomes of no more than 90 percent of the State's median income, adjusted for family size.

(2) States shall conduct their initial validation check not later than 6 months after they have started providing a service to individuals on the basis of group eligibility. (If a State claims expenditures for services on a group determination of eligibility basis retroactively, as permitted to October 1, 1975, the validation shall be made by no later than March 31, 1977.)

(3) After the initial validation, States shall thereafter conduct such validations for the same group no less frequently than once a year.

(4) The validations may be conducted on a sample basis. States shall maintain a record of how the test was conducted, and document the process used and the findings.

(5) In order to determine whether at least 75 percent of the persons who receive a particular service on the basis of group eligibility are in families with the specified income level, States shall take into account the findings made on members of the group, as described in the services plan.

(6) If a State finds that *less* than 75 percent of the persons receiving a particular service on the basis of group eligibility meet the specified income standard, the State shall, within 75 days following such a finding:

(i) Discontinue by the end of the month in which the 75th day occurs, claiming FFP for expenditures incurred for the service provided to persons in that particular group whose eligibility has been determined on a group basis:

(ii) Amend the State's services plan to either delete the service, or to provide a new basis for determination of eligibility to continue the service.

(iii) If the State decides to continue the service, FFP is available, in accordance with the amended services plan, for providing the service:

(A) On the basis of individual eligibility; or

(B) On the basis of group eligibility if the State changes the conditions or characteristics relative to the group and has a reasonable basis on which to conclude that with such modification, at least 75 percent of the individuals served would then be members of families with the specified monthly gross income.

(e) *Who makes the determination.* Determinations of eligibility shall be made by the State agency, or, pursuant to written contract in accordance with Subpart G, by a provider of services.

(f) *Outside contacts.* (1) When the provider agency determines eligibility, it shall inform the applicant or recipient that, if it is necessary to contact outside sources (including employers) and the applicant or recipient wishes to keep the service confidential, he is entitled to request that such contacts be made by the State agency; and

(2) The State agency, upon notification of the individual's request, shall make the outside contacts and relay the information to the provider.

(g) *State monitoring of eligibility process.* Whether the determination of eligibility is made by the State or the provider, the State shall establish and implement a continuing monitoring procedure to test the ability of its method(s) for determining eligibility to correctly make those determinations and shall, where erroneous determinations are disclosed, take action designed to eliminate such errors. A monitoring procedure under this paragraph may include the use of statistically valid samples. Periodic reports on the State agency's monitoring procedures, findings, and actions under this paragraph will be required pursuant to § 228.17(b).

§ 228.62 Fees for services.

(a) *Mandatory fees.* FFP is available for a service provided to an individual whose eligibility is based on income status if his family's monthly gross income exceeds 80 percent of the median income of a family of four in the State or the median income of a family of four in all States, whichever is less, and does not exceed 115 percent of the median income of a family of four in the State, adjusted as to family size, only if a fee or other charge, based on a fee schedule in accordance with paragraph (c) of this section, is imposed.

(b) *Discretionary fees.* (1) A State may impose a fee or other charge for any service to any individual who is eligible for services based on income maintenance status, or is eligible based on income status and whose family's month gross income is less than 80 percent of the median income of a family of four in the State, adjusted for family size, or the median income for a family of four in all States, adjusted for family size, whichever is less, but only if the fee or other charge is based on a fee schedule in accordance with paragraph (c) of this section.

(2) A State may impose a fee on individuals who are provided services without regard to income (family planning services, information or referral services, or services to prevent or remedy abuse, neglect or exploitation of children and adults). The fee shall be based on a fee schedule in accordance with paragraph (c) of this section and be described in the State's services plan in accordance with § 228.24(c).

(c) *Criteria for fees.* (1) Fees established by the State agency:

(i) May be different for different services;

(ii) May be different for different geographic areas;

(iii) Shall be reasonably related to the individual's income; and

(iv) Shall not exceed the cost of the service to the title XX agency.

(2) Where several services are provided concurrently to an individual, the total fees imposed shall not exceed the amount reasonably related to his income.

(d) *Methods of collection.* The State agency shall:

(1) Establish methods for the collection of any fee or other charge imposed; and

(2) Maintain evidence of a reasonable effort to collect such fee or charge.

(e) *Disposition of fees collected.* Fees collected from service recipients may not be used as the non-Federal matching share. However, at State option, fees may:

(1) If provided for in the purchase of service agreement, be retained by the provider and used to expand the title XX service to eligible individuals under that contract; or

(2) Be used to reimburse the provider if the contract so specifies, for costs above the negotiated rate when it is lower than the going rate in the community for the service. Any amount remaining after such reimbursement to the provider for these costs shall be deducted from the amount of expenditures for which FFP is claimed; or

(3) Be deducted from service expenditures before FFP is claimed.

(4) If collected by the State in direct delivery of a service, be retained by the State and used only to expand the service to eligible individuals.

(f) Under this provision, FFP is not available in the costs of any service when a provider imposes a fee or charge other than that set by the State agency, pursuant to the purchase of service agreement under § 228.70(a)(7), described in the State's services plan pursuant to § 228.24 (c) and (d), and formulated in accordance with paragraph (c) of this section.

§ 228.63 Family planning services.

(a) FFP is available in the cost of family planning services provided without regard to income.

(b) For purposes of this part, family planning services means counseling, educational and medical services (including diagnosis, treatment and continuing supervision, necessary laboratory examinations and tests, drugs, supplies, devices and related counseling furnished, prescribed by, or under the supervision of, a physician) to enable individuals (including minors) voluntarily to limit their family size, to space their children, or to correct infertility.

(c) Where a State authorizes sterilization as a family planning service, it must comply with the provisions of 45 CFR 205.35.

§ 228.64 Information and referral services.

FFP is available: (a) Only for information about services provided under title XX and related service programs, brief assessment (but not diagnosis and evaluation) to facilitate appropriate referral, and referral to and follow-up with those community resources which provide or make available such services; and (b) Only when provided by an agency that has information and referral as a specific recognized function and that

has a staff with identifiable tasks relating to information and referral.

§ 228.65 Services directed at the goal of preventing or remedying neglect, abuse, or exploitation of children or adults unable to protect their own interests.

(a) FFP is available without regard to income for services directed at the goal of preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests, only as follows:

(1) With respect to children, only when provided to or in behalf of an individual under the age of 18 who is harmed or threatened with harm through nonaccidental physical or mental injury, sexual abuse (as defined by State law); or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter. For purposes of this section, runaways are presumed to be harmed or threatened with harm by virtue of their status.

(2) With respect to adults, only when provided with respect to individuals 18 years of age or older unable to protect their own interests, harmed or threatened with harm through action or inaction by another individual or through their own actions due to ignorance, incompetence or poor health; resulting in physical or mental injury, neglect or maltreatment, failure to receive adequate food, shelter, or clothing, deprivation of entitlements due them, or wasting of their resources.

(3) In each case, the State agency shall document the circumstances which lead it to believe that the individual is subject to, or at risk of, abuse, neglect or exploitation.

(4) No later than six months after the case has been opened, the State agency shall redocument and evaluate the circumstances then existing with respect to abuse, neglect or exploitation for the purpose of ascertaining if the individual still meets the conditions for services without regard to income. Such redocumentation and evaluation of the circumstances shall take place thereafter no less frequently than at six-month intervals if the case remains open.

(b) Except in the case of runaways, no individual shall be deemed to meet the conditions specified in paragraph (a) (1) or (2) of this section merely because he belongs to a particular class (e.g., mentally retarded, aged, juvenile delinquents); each person shall be individually determined to meet the specified criteria.

(c) States may include in their services plan, subject to the limitations of Subpart D, any appropriate service which they plan to provide to prevent or remedy abuse, neglect or exploitation of children or adults as set forth in this section.

§ 228.66 Monthly gross income.

(a) Monthly gross income means the monthly sum of income received by an individual from the following sources that are identified by the U.S. Census Bureau in computing the median income:

(1) *Money, wages or salary*—i.e., total money earnings received for work performed as an employee, including wages, salary, Armed Forces pay, commissions, tips, piece-rate payments, and cash bonuses earned, before deductions are made for taxes, bonds, pensions, union dues, and similar purposes.

(2) *Net income from nonfarm self-employment*—i.e., gross receipts minus expenses from one's own business, professional enterprise, or partnership. Gross receipts include the value of all goods sold and services rendered. Expenses include costs of goods purchased, rent, heat, light, power, depreciation charges, wages and salaries paid, business taxes (not personal income taxes), and similar costs. The value of salable merchandise consumed by the proprietors of retail stores is not included as part of net income.

(3) *Net income from farm self-employment*—i.e., gross receipts minus operating expenses from the operation of a farm by a person on his own account, as an owner, renter, or sharecropper. Gross receipts include the value of all products sold, government crop loans, money received from the rental of farm equipment to others, and incidental receipts from the sale of wood, sand, gravel, and similar items. Operating expenses include cost of feed, fertilizer, seed, and other farming supplies, cash wages paid to farmhands, depreciation charges, cash rent, interest on farm mortgages, farm building repairs, farm taxes (not State and Federal income taxes), and similar expenses. The value of fuel, food, or other farm products used for family living is not included as part of net income.

(4) *Social Security* includes Social Security pensions and survivors' benefits, and permanent disability insurance payments made by the Social Security Administration prior to deductions for medical insurance and railroad retirement insurance checks from the U.S. Government.

(5) *Dividends, interest (on savings or bonds), income from estates or trusts, net rental income or royalties* include dividends from stockholdings or membership in associations, interest on savings or bonds, periodic receipts from estates or trust funds, net income from rental of a house, store, or other property to others, receipts from boarders or lodgers, and net royalties.

(6) *Public assistance or welfare payments* include public assistance payments such as AFDC, SSI, State Supplemental Payments, and general assistance.

(7) *Pensions and annuities* include pensions or retirement benefits paid to a retired person or his survivors by a former employer or by a union, either directly or through an insurance company; periodic receipts from annuities or insurance.

(8) *Unemployment compensation* means compensation received from government unemployment insurance agencies or private companies during periods of unemployment and any strike benefits received from union funds.

(9) *Worker's compensation* means compensation received periodically from private or public insurance companies for injuries incurred at work. The cost of this insurance must have been paid by the employer and not by the person.

(10) Alimony.

(11) Child support.

(12) *Veterans' pensions* means money paid periodically by the Veterans' Administration to disabled members of the Armed Forces or to survivors of deceased veterans, subsistence allowances paid to veterans for education and on-the-job training, as well as so-called "refunds" paid to ex-servicemen as GI insurance premiums.

(b) *Exclusions from monthly gross income.* Excluded from computation of monthly gross income are the following:

(1) Per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian Claims Commission or the Court of Claims;

(2) Payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under section 21(a) of the Act;

(3) Money received from sale of property, such as stocks, bonds, a house, or a car (unless the person was engaged in the business of selling such property in which case the net proceeds would be counted as income from self employment);

(4) Withdrawals of bank deposits;

(5) Money borrowed;

(6) Tax refunds;

(7) Gifts;

(8) Lump sum inheritances or insurance payments;

(9) Capital gains;

(10) The value of the coupon allotment under the Food Stamp Act of 1964, as amended, in excess of the amount paid for the coupons;

(11) The value of USDA donated foods;

(12) The value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act, as amended;

(13) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(14) Earnings of a child under 14 years of age (no inquiry shall be made);

(15) Loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs;

(16) Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commissioner of Education under the Higher Education Act; and

(17) Home produce utilized for household consumption.

Subpart G—Purchase of Service

§ 228.70 Procurement standards.

FFP is available in the costs of purchased services only if they are secured in accordance with relevant provisions of Subpart P of 45 CFR 74, and the requirements of this Subpart.

(a) *Written contracts.* The State agency executes a written contract in accordance with requirements under this Part and 45 CFR 74.159 with the agency, individual, or organization from which services are purchased. In addition to the applicable requirements of § 74.159, the contract shall:

(1) Include all terms of the contract in one instrument, be dated, and be executed by authorized representatives of all parties to the contract prior to the date of implementation;

(2) Have a definite beginning and ending date for provision of services;

(3) Contain a detailed description of the services to be provided and of the methods, including subcontracting, to be used by the provider in carrying out its obligations under the contract;

(4) If eligibility determinations are to be made by the provider, contain a statement to that effect and criteria in accordance with Subpart F which shall be used by the provider for such determinations; and specify that the provider will inform individuals of their right to fair hearings in accordance with § 228.14;

(5) Provide for a stated number of units of service at a specific dollar rate, or for a specific dollar amount, or for costs to be determined in accordance with acceptable cost allocation methods;

(6) Specify the method and source of payment to the provider, including collection and disposition of fees, if applicable;

(7) Specify that no fees shall be imposed by the provider other than those set by the State in accordance with § 228.62 and described in the services plan;

(8) Include a statement that the provider meets applicable State or Federal standards as specified in this part;

(9) Specify the locations of facilities to be used in providing services;

(10) Provide that the provider will comply with the requirements of the Civil Rights Act of 1964, and for safeguarding information in accordance with § 228.10;

(11) Provide that any subcontracts permitted by the contract shall be subject to the requirements of this Part; and that the provider is responsible for the performance of any subcontractor;

(12) Specify requirements for fiscal and program responsibility, billing, records, controls, reports, and monitoring procedures; and

(13) Provide for access to financial and other records pertaining to the program by State and Federal officials.

(b) The requirements of this section may be satisfied by a simple printed contract form so long as all items described in paragraph (a) of this section are contained therein.

(c) The provisions of this section do not apply when services are obtained directly by the recipient and payment is made to him. (See § 228.47.)

(d) A written contract is not required for purchase of services from an individual provider who has no direct service employees or subcontractors provided:

(1) The State's statute of frauds does not preclude the agency from enforcing its unwritten contract with the provider; and

(2) The State agency maintains documentation of the terms of the unwritten contract negotiated with the individual provider, including all applicable items specified in paragraph (a) of this section.

§ 228.71 Rates of payment.

(a) FFP is available for expenditures for services only where the rates of payment for services do not exceed the amounts reasonable and necessary to assure the quality of service. (See § 228.62 (e) for disposition of fees.) Where services are purchased from other public agencies, rates shall be established in accordance with cost principles of Appendix C of 45 CFR Part 74 and such cost are reasonably assignable to such services. Where services are purchased from private agencies, rates may be established on the basis of negotiation, utilizing any reasonable methods for establishing competitive rates, including the Principles for Determining Costs suggested in Appendix F of 45 CFR Part 74. The State agency shall maintain and make available for Federal review records which describe and support the rates of payment and the methods used to establish and maintain such rates.

(b) Public Health Service grant funds from programs specified in 42 CFR Part 50 of the Health Services Funding regulation (as well as any matching funds required to earn those grant funds) which have been made available under a grant to a health service project, if not required to be used to finance cost of services to individuals eligible for services under title XX, shall not be deemed by the State agency to be available to reduce the costs otherwise subject to reimbursement under title XX. This precludes double Federal payment for the same individuals.

Subpart H—Training and Retraining

§ 228.80 Conditions for FFP.

FFP is available in expenditures for personnel training and retraining that is directly related to the services program if the State meets all requirements of this Subpart. The training may include in-service training, and short and long-term training at educational institutions. FFP in such training expenditures may be claimed inside or outside the State's allotment for services and is available at the 75 percent rate. FFP shall be available for training expenditures no earlier than the date on which FFP is available for the provision of services under the final services plan in accordance with § 228.20.

§ 228.81 Who may be trained.

FFP is available for training only the following individuals:

(a) State agency staff employed in all classes of positions which directly relate to the operation of the Title XX program;

(b) Volunteers attached to the State agency and supervised by it in relation to duties directly related to the program;

(c) Service delivery personnel employed by providers (and in instances where the provider agency also determines eligibility for service, eligibility determination personnel employed by providers) only when:

(1) A purchase of service contract or a purchase of service and eligibility determination contract, is in effect in accordance with Subpart G;

(2) The training provided is directly related to the provision of services, or the determination of eligibility under the contract; and

(3) The provider personnel, during or immediately following the training period, participate in the provision of services or the determination of eligibility under the contract for a period of time at least equal to the period of time for which training was provided;

(d) Persons preparing for employment in the State agency in all classes of positions which directly relate to operation of the title XX program;

(e) Individual providers who are currently under contract pursuant to Subpart G including, but not limited to:

(1) Foster family caregivers who need training to enable them to provide special services (as specified in § 228.45) to eligible individuals living in the home, or to prepare them to receive eligible individuals who need such services if the home is used within the period covered by the contract, or

(2) Family or in-home day care givers to enable them to provide services to eligible individuals already in their care or to prepare them to receive eligible individuals who need such services, if the home is used within the period covered by the contract;

(f) Individuals who provide services paid for by the recipient, as provided in § 228.47, if training is directly related to such service, and

(g) Foster family caregivers whose homes provide a resource to the title XX agency in carrying out its directly operated foster care services program for eligible children and adults.

§ 228.82 Grants to educational institutions.

(a) FFP is available in payments for training furnished under grants to educational institutions, if all conditions specified in this section are met:

(1) Grants are made: (i) For the purpose of developing, expanding, or improving training for employees of the State agency and of providers, or persons preparing for employment with the State agency; (ii) For an educational program (curriculum development, classroom instruction, and related field instruction) that is directly related to the title XX program and provision of services; and (iii) For not more than three years, renewable subject to the provisions of paragraph (b) of this section;

(2) Grants are available only to post secondary, undergraduate and graduate

educational institutions and programs that have been accredited by the appropriate institutional accrediting body recognized by the U.S. Commissioner of Education. A specialized program for which there is a specialized accrediting body shall be accredited by, have preaccreditation status from, or have applied for, accreditation by such body, (45 CFR Part 149 specifies the criteria and procedures for obtaining recognition as an accrediting agency or association. Lists of currently recognized accrediting bodies are published in the FEDERAL REGISTER periodically. See also "Nationally Recognized Accrediting Agencies and Associations" dated June, 1975 and published by the Office of Education).

(3) The State agency has written policies establishing conditions and procedures for such grants; and

(4) Each grant specifies objectives in terms of how the educational program is related to the title XX services program and how it is designed to meet the State agency's manpower needs.

(b) An evaluation of the educational program funded by each grant is made no later than the close of the second year of the grant. The evaluation shall be conducted by a panel consisting of representatives from the educational institution, the State agency, and the SRS Regional Office to determine whether the conditions and objectives specified in the grant are being met.

(c) If a majority of the panel members finds that the educational programs are failing to meet such conditions and objectives, payment shall be terminated no later than the close of the second year of the grant.

§ 228.83 Financial assistance to trainees.

(a) FFP is available for expenditures in the costs of training persons specified in § 228.81. If the following conditions are met, and within the specified limitations:

(1) State agency employees and service delivery personnel and eligibility workers of provider agencies who are in attendance full-time at training programs for 8 consecutive workweeks or longer have a legally binding commitment to continue to work in the State or provider agency for a period of time at least equal to the period for which financial assistance is granted.

(2) Persons preparing for employment in the State agency are:

(i) Selected by the State agency and accepted by the school;

(ii) Pursuing educational programs approved by the agency; and

(iii) Legally committed to work for the State agency for a period of time at least equal to the period for which financial assistance is granted if employment is offered within 6 months after training is completed. If not employed by the State agency, such persons shall keep the agency informed of their employment status for one year.

(b) *State agency responsibilities.* The State agency shall:

(1) Offer employment to the individual preparing for employment in the State agency during the 6 months following completion of the training, unless precluded by Merit System requirements, legislative cuts, position freezes, or other circumstances beyond the agency's control; and

(2) Evaluate the training programs.

(c) Any recoupment of funds by the State from trainees failing to fulfill their commitment under this section shall be treated as a refund and deducted from total training costs for the purpose of determining net costs for FFP.

§ 228.84 Activities and costs matchable as training expenditures.

Costs matchable as training expenditures include:

(a) *State agency employees.* (1) For State agency employees in full-time training programs of eight consecutive work weeks or longer (with no assigned agency duties); salaries (including fringe benefits), or stipends, dependency allowances, travel, and education costs (that is, tuition, books, and supplies);

(2) For State agency employees in full-time training programs of less than eight consecutive work weeks: per diem, travel and education costs;

(3) For State agency employees in part-time training programs (part of work week, evenings, mornings): Education costs.

(b) *State agency staff development personnel.* For State agency staff development personnel (including support staff), asigned full time to training functions with respect to State agency or provider agency staff: salaries, fringe benefits, travel and per diem. (Costs of staff spending less than full time on training for the title XX program, including costs of other State agency staff under the supervision of the State agency Director of Staff Development, must be allocated according to the time actually spent on such training.)

(c) *State agency training activities.* (1) For experts outside the State agency engaged to develop or conduct special programs: salary, fringe benefits, travel and per diem;

(2) For State agency training activities directly related to the title XX program: cost of use of space, postage, teaching supplies, and purchase or development of teaching materials and equipment—for example, books and audio-visual aids.

(d) *Persons preparing for employment.* For persons preparing for employment with the State agency: stipends, travel, and education costs.

(e) *Provider agency personnel.* FFP is available in the following costs of training provider agency personnel as training costs, provided there is a contract with the State agency which includes such training; such costs are not included in the cost of services purchased from the provider agency; and such costs are reasonably assignable to title XX training:

(1) For provider agency employees in full-time training programs of 8 consecutive work weeks or longer (with no assigned provider agency duties): travel and education costs;

(2) For provider agency employees in full-time training programs of less than 8 consecutive work weeks: per diem, travel, and education costs;

(3) For provider agency employees on part-time educational leave: education costs;

(f) *Provider agency staff development personnel.* For provider agency staff development personnel (including support staff) engaged in providing training to State title XX agency staff or provider agency staff eligible for training under § 228.81 salaries and fringe benefits, travel and per diem.

(g) *Provider agency training activities.* (1) For experts outside the provider agency engaged to develop or conduct special programs: salary, fringe benefits, travel and per diem.

(2) For provider agency training activities directly related to the title XX program: cost of teaching supplies and purchase or development of teaching materials and equipment—for example, books and audio-visual aids.

(h) *Individual providers.* For individual providers and foster parents in part-time training: travel and education costs.

(i) *Payments to educational institutions.* Under conditions specified in § 228.82, for curriculum development, classroom and field instruction: salaries, fringe benefits and travel of instructors; clerical assistance; teaching materials and equipment—for example, books and audio-visual aids.

§ 228.85 Activities and costs not matchable as training expenditures.

FFP is not available for the following as expenditures outside the State's allotment for social services. Such expenditures are matchable as administrative costs (not training expenses) under the State's allotment for services.

(a) Salaries of newly-employed workers in the State agency or a provider agency while they are in orientation;

(b) Salaries of State agency employees who attend training programs less than full-time for a period of less than eight consecutive work weeks;

(c) Salaries of supervisors (day-to-day supervision of staff is not a training activity);

d) Attendance at meetings or conferences of professional organizations; and

(e) Employment of students on a temporary basis, such as in the summertime.

§ 228.86 [Reserved]

Subpart I—General Provisions

44. Section 228.90 is revised to read as follows:

§ 228.90 Expenditures for which Federal financial participation is available.

(a) Federal financial participation is available only for expenditures which are identified and allocated in accordance with grant administration requirements set forth in 45 CFR Part 74, and, where appropriate, with the cost allocation provisions of 45 CFR 205.150.

(b) Under this Part, expenditures for the following are considered appropriate for the effective and efficient administration of the program:

(1) Salary, fringe benefits and travel costs of staff engaged in carrying out service work or service related work;

(2) Costs or related expenses, such as equipment, furniture, supplies, communications, and office space; transportation (such as tokens or tickets); and medical examinations, when necessary for the development of a services plan or when precedent to obtaining a service for an individual, provided such medical examination is not available to the individual under title XVIII or title XIX of the Act.

(3) Costs of State agency advisory committees on services, including expenses of members in attending meetings, supportive staff, and other technical assistance;

(4) Costs of agency staff attendance at meetings pertinent to the development or implementation of Federal and State service policies and programs;

(5) Cost to the agency for the use of volunteers in the program;

(6) Costs of operation of agency facilities used solely for the provision of services, except that appropriate distribution of costs is necessary when other agencies also use such facilities in carrying out their functions;

(7) Costs of administrative support activities furnished by other public agencies, private organizations, or individuals, or other units within the State agency which are properly cost allocated;

(8) Costs of technical assistance, data collection, surveys and studies performed by other public agencies, private organizations or individuals to assist the State agency in developing, planning, monitoring, and evaluating the services program; and

(9) Costs of public liability and other insurance protection.

44. Section 228.91 is revised to read as follows:

§ 228.91 Expenditures for which Federal financial participation is not available.

(a) Federal financial participation is not available under this part in expenditures for:

(1) Carrying out any maintenance assistance payments functions or any other functions or activities which are not related to services under this Part;

(2) The purchase, construction, or major modification of any land, building or other facility, or fixed equipment. However, FFP is available in the cost of using buildings, capital improvements, and equipment, in accordance with 45 CFR 74, Appendix C, Part II, B. 11.

(3) Housing costs for families and individuals including rent, deposits, purchase, construction, major renovation or repair;

(4) Goods or services provided in-kind by a private organization or individual; and

(5) Sabbatical leave.

Subpart J—Grants to Child Day Care Providers to Employ Welfare Recipients

§ 228.100 Definitions.

For purposes of this Subpart:

(a) A "qualified" child day care provider is one in whose facility at least 20 percent of the total number of children regularly served are partly or totally funded under title XX.

(b) An "eligible" welfare recipient is, as defined in section 50B(g) of the Internal Revenue Code of 1954, one who meets all the following requirements:

(1) Has been certified by the State or local welfare department as being eligible for financial assistance for aid to families with dependent children (AFDC) and as having continuously received AFDC during the 90-day period which immediately precedes the date on which the employee is hired;

(2) Has been a full-time employee of the provider for a period in excess of 30 consecutive days;

(3) Has not displaced any other individual from employment by the provider; and

(4) Is not a migrant worker. (The Internal Revenue Code of 1954 defines a migrant worker as one who is employed in a job for which the customary period of employment by one employer is less than 30 days if the nature of the job requires the worker to travel from place to place over a short period of time.)

§ 228.101 Conditions for FFP

From September 7, 1976 until October 1, 1977, FFP is available from additional allotments specified in §228.52 (c)(3) for salaries paid under grants which States make in accordance with this Subpart to qualified public, nonprofit private, and proprietary child day care providers under contract to the State agency, to employ eligible welfare recipients, as defined in § 228.100: *Provided*, That:

(a) The grants do not exceed:

(1) $5,000 to public and non-profit private providers for each recipient per year; and

(2) $4,000 to proprietary providers for each recipient per year. (The Internal Revenue Code of 1954 provides a tax credit of up to $1,000 per year per welfare recipient employed by proprietary child day care providers (section 50A(a)(6)(B) of the Code) under an extension until October 1, 1977 of the credit for Federal welfare recipient employment incentive expenses to proprietary child day care providers (section 50B(a)(2)(B)). The tax credit, to a maximum of $1,000, equals 20 percent of the wages to a recipient to the extent that a provider is not specifically reimbursed for such wages. There is no aggregate tax credit limit for such child day care employers of recipients.)

(b) States make such grants on a time schedule that minimizes balances of Federal funds and in a manner consistent with Treasury Department Circular #1075 (revised) which promulgated the Letter of Credit system and was published in the FEDERAL REGISTER (38 FR 5242) on February 27, 1973.

(c) Pursuant to § 228.17, States submit statistical and financial reports on the AFDC recipients hired under these grants, in accordance with instructions issued by the Secretary.

§ 228.102 Claims for FFP.

(a) States may claim for salaries paid by child day care providers for the 30 days of full-time, continuous employment needed to make a recipient eligible, as defined in § 228.100(b).

(b) If a recipient starts employement with a provider on or after September 7, 1976, expenditures incurred for salaries for any part of the continuous 30-day employment which occurs after September 7, but within the transition quarter, are chargeable to the State's new allotment for the transition quarter.

(c) Any expenditures incurred on or after October 1, 1976 through September 30, 1977 for salaries under the grants for employment of welfare recipients are chargeable to the State's new allotment for the 1977 fiscal year.

Effective date: These regulations shall be effective 90 days after publication or earlier at State option with the following exceptions: (1) Section 228.70(d) is made retroactive to October 1, 1975, at State option; (2) Sections of Part 228 (as listed below), that were issued as interim final regulations implementing Pub. L. 94-401 (1976 Amendments to Title XX of the Social Security Act) published in the FEDERAL REGISTER (41 FR 55668) on December 21, 1976, are effective October 1, 1975, at State option, with the following exceptions: Additional allotments to States (§ 228.52) are available from 7-1-76 through 9-30-77; State grants to child day care providers (Subpart J) may be made on or after September 7, 1976 for use through September 30, 1977; and the option to waive Federal staffing standards in out-of-home facilities with few title XX children (§ 228.42(c)(2)) is effective no earlier than September 7, 1976.

The list of sections effective October 1, 1975, at State option, is as follows:

SUBPART C

§ 228.24 (e) and (f)
§ 228.26(a)
§ 228.29(d)
§ 228.36(d)

SUBPART D

§ 228.40(c) (1) and (2)
§ 228.41(e) (1) and (2)
§ 228.42(c) (1) and (d)
§ 228.44(e) (1) and (2)
§ 228.48

SUBPART E

§ 228.51(c)
§ 228.56(b)

SUBPART F

§ 228.60(b)(3)
§ 228.60(f)(2)(ii)
§ 228.60(f)(1)(iii)
§ 228.60(f)(2)(iv) (A) and (B)
§ 228.61(a)(3)
§ 228.61(c)(2)
§ 228.61(d)

(Catalog of Federal Domestic Assistance Program No. 13754 Public Assistance Social Services.)

NOTE.—The Social and Rehabilitation Service has determined that this document does not require preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 6, 1977.

ROBERT FULTON,
Administrator, Social and Rehabilitation Service.

Approved: January 18, 1977.

MARJORIE LYNCH,
Acting Secretary.

[FR Doc.77-2656 Filed 1-28-77;8:45 am]

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MONDAY, JANUARY 31, 1977

PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

GRANTS FOR ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION SERVICES

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 54a]

ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION SERVICES

Proposed Revision of Grant Regulations

Notice is hereby given that the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposes to revise Part 54a of Title 42, Code of Federal Regulations, which currently sets forth only the formula for computing allotments to States under section 302 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4572).

SUMMARY OF THE PROPOSED REGULATIONS

It is proposed to revise Part 54a to set forth regulations implementing the provisions of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended by Pub. L. 93-282 and Pub. L. 94-371, hereinafter sometimes referred to as the Act, governing: (1) Formula grants to assist States in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism (sections 301-303 of the Act, 42 U.S.C. 4571-4573), and (2) grants for alcohol abuse and alcoholism prevention and treatment projects (section 311 of the Act, 42 U.S.C. 4577).

GENERAL PROVISIONS

Subpart A of the proposed regulations is applicable to all the grants authorized by Title III of the Act (42 U.S.C. 4571, et seq.). The proposed regulatory provisions specify those generally applicable statutory and regulatory requirements which apply to all recipients of the grant assistance authorized by the Act.

FORMULA GRANTS TO STATES

Subpart B of the proposed regulations implements the statutory provisions (sections 301-303 of the Act, 42 U.S.C. 4571-73) which authorize formula grants to assist States in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism. The formula grants are provided through an allotment of funds which is computed on the basis of relative population, financial need, and need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism (section 302(a) of the Act, § 54a.203 of the proposed regulations). The Secretary of Health, Education, and Welfare is authorized, however, on the request of any State, to arrange for the assignment of officers or employees of the Department or to provide equipment or supplies in lieu of a portion of the allotment to the State (section 302(d) of the Act added by Pub. L. 93-282, § 54a.206 of the proposed regulations). To receive an allotment a State must submit to and have approved by the Secretary of Health, Education, and Welfare a State plan or modification thereof which meets the requirements specified in the Act and the proposed regulations (section 303 of the Act § 54a.207 of the proposed regulations). The State plan, among other things, must: (1) Designate a single State agency as the sole agency for administering the State plan or for supervising the administration of the State plan (section 303(a)(1) of the Act, § 54a.209 of the proposed regulations); (2) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations, of groups to be served with attention to assuring representation of minority and poverty groups, of public agencies concerned with the prevention and treatment of alcohol abuse and alcoholism, and at least one representative of the Statewide Health Coordinating Council, if any, established pursuant to section 1524 of the Public Health Service Act, to consult with the State agency in carrying out the plan (section 303(a)(3) of the Act, § 54a.210 of the proposed regulations); (3) set forth, in accordance with criteria established by the Secretary of Health, Education, and Welfare, a survey of need for the prevention and treatment of alcohol abuse and alcoholism, including a survey of the health facilities needed to provide services for alcohol abuse and alcoholism and a plan for the development and distribution of such programs throughout the State (section 303(a)(4) of the Act, § 54a.211 of the proposed regulations); (4) contain, to the extent feasible, a complete inventory of all public and private resources available in the State for the purpose of alcohol abuse and alcoholism treatment, prevention, and rehabilitation (section 303(a)(11) of the Act, § 54a.211(b)(1) of the proposed regulations); (5) provide that the State agency will review admissions to hospitals and outpatient facilities to assist the Secretary in determining the compliance of such hospitals and outpatient facilities with Section 321 of the Act (42 U.S.C. 4581), which provides that alcohol abusers and alcoholics who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their alcohol abuse or alcoholism, by any private or public general hospital or outpatient facility which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency (section 303(a)(15) of the Act, § 54a.214 of the proposed regulations); and, (6) set forth, in accordance with criteria to be set by the Secretary, standards (including enforcement procedures and penalties) for construction and licensing of public and private treatment facilities, and for other community services or resources available to assist individuals to meet problems resulting from alcohol abuse (section 303(a)(10) of the Act added by Pub. L. 93-282, § 54a.212 (Reserved) of the proposed regulations). The criteria for standards for the construction and licensing of public and private treatment facilities and for other community services are being developed. Comments and suggestions on the scope and content of the criteria to be established by the Secretary are invited. To receive an allotment a State must also submit to the Secretary periodic reports assessing the progress of the State in the implementation of its State plan (section 303(c) of the Act, § 54a.207(c) of the proposed regulations).

Section 54a.203(a) of this Notice of Proposed Rulemaking sets forth the formula for allotting grant funds to the States. This formula is now in effect as § 54a.102 of the current Part 54a. It is included in this notice for the purpose of providing a complete regulation. However, the Senate Committee on Labor and Public Welfare, in its report (Senate Report No. 94-705) on the bill enacted as Pub. L. 94-371, has expressed concern about this formula and stressed that formula grant funds must be allotted not only on the basis of relative population and financial need, as the formula now provides, but also of need for more effective prevention, treatment, and rehabilitation, as Pub. L. 91-616 requires. In conference, the House agreed with the Senate, and section 3(b) of Pub. L. 94-371 thus requires the Secretary to establish, by regulation, a methodology for determining the incidence and prevalence of alcohol abuse within the States to be used in determining State need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism. Section 3(b) further requires that this be accomplished within 180 days of enactment of the law.

In response to this directive, and with appropriate public participation, the Department is now developing a methodology for determining incidence and prevalence of alcohol abuse within the States and will shortly issue a separate Notice of Proposed Rulemaking setting forth a methodology and a revised formula for the allotment of grant funds to the States which will incorporate incidence and prevalence of alcohol abuse within the States as a measure of need.

SPECIAL GRANTS FOR IMPLEMENTATION OF THE UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT ACT

Subpart C of the proposed regulations, which would implement the statutory provision (added by Pub. L. 93-282 as section 304, and amended and redesignated as section 310, 42 U.S.C. 4576, by Pub. L. 94-371) establishing a special grant program to assist States which have adopted the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act to utilize fully the protection of the Uniform Act in their efforts to approach alcohol abuse and alcoholism from a community care standpoint, has been reserved. This subpart will be proposed and promulgated separately, at a later date.

PROJECT GRANTS FOR THE PREVENTION AND TREATMENT OF ALCOHOL ABUSE AND ALCOHOLISM

Subpart D of the proposed regulations implements the statutory provision (section 311 of the Act, amended by Pub. L. 93–282 and Pub. L. 94–371, 42 U.S.C. 4577) which authorizes grants to public and nonprofit private entities to assist them in (a) Conducting demonstration and evaluation projects, (b) Providing treatment and prevention services, (c) Providing education and training, and (d) Providing programs and services, including counseling and education services, in cooperation with law enforcement personnel, schools, courts, penal institutions, and other public agencies, on an individual or community basis, for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics. Eligible entities (public and nonprofit private) must submit an application to the Secretary of Health, Education, and Welfare (§ 54a.404 of the proposed regulations). The applicant must give assurance that a copy of the application has been forwarded for review by the single State agency designated in the State plan (§ 54a.404(c) of the proposed regulations)—note that under § 54a.208 of the proposed regulations the State plan must incorporate by reference documents which describe the policies and procedures under which the single State agency will review and comment upon project grant applications. In order to be considered for approval an application must meet the minimum requirements prescribed in § 54a.405 of the proposed regulations. These requirements include the statutory requirements, added by Pub. L. 93–282 and Pub. L. 94–371, that projects shall: (a) Whenever possible, be community based, seek to insure care of good quality in general community care facilities and under health insurance plans, and be integrated with, and provide for the active participation of a wide range of public and nongovernmental agencies, organizations, institutions, and individuals; (b) where a substantial number of the individuals in the population served by the project are of limited English-speaking ability, take special steps to ensure that the services provided are responsive to their needs; and (c) where appropriate, utilize existing community resources, including community mental health centers. The Secretary, after taking into account the contents of the application and the comments of the single State agency and appropriate peer review groups thereon, and after receiving the National Advisory Council on Alcohol Abuse and Alcoholism's recommendation for approval, may award grants (to cover all or part of the project costs) to applicants whose projects will in his judgment best promote the purposes of section 311 of the Act (§ 54a.406 of the proposed regulations). Among the factors to be considered by the Secretary are: The administrative and management capabilities of the applicant; the ability of the applicant to provide care of good quality; the need for the activities to be conducted under the project; and the degree to which available non-Federal resources are committed to the project and will progressively supplant Federal funds (§ 54a.406 of the proposed regulations).

GRANTS FOR NATIONAL ALCOHOL RESEARCH CENTERS

Subpart E of the proposed regulations, which would implement the statutory provision (section 504 of the Act, added by Pub. L. 94–371, 42 U.S.C. 4588) authorizing grants to National Alcohol Research Centers for interdisciplinary research relating to alcoholism and other alcohol problems, has been reserved. This subpart will be proposed and promulgated separately, at a later date.

HEALTH PLANNING

Those reviewing and subject to these regulations should also understand that the alcohol abuse and alcoholism program is, in many respects, subject to the National Health Planning and Resources Development Act of 1974 (Pub. L. 93–641). Pub. L. 93–641 mandates the establishment of Health Systems Agencies (HSAs) on a nationwide basis, one for each health service area. HSAs are charged with providing planning for all health services for their respective areas. Among their responsibilities, HSAs will develop a comprehensive health systems plan; review and approve (or disapprove) applications for Federal health project grants—including most of those for alcohol abuse and alcoholism services; and review all existing and proposed institutional health services to determine the need for and appropriateness of such services.

At the State level, Pub. L. 93–641 requires that each State designate a State Health Planning and Development Agency (SHPDA). The SHPDA is, among other things, responsible for the development of a State health plan which will derive from the (local) health systems plans. The SHPDA is advised by a Statewide Health Coordinating Council (SHCC). The SHCC is responsible, among other things, for annual review and approval (or disapproval) of a variety of State plans for health services—including alcohol abuse and alcoholism services—and of any applications for allotments submitted to the Secretary under these plans.

In addition, Pub. L. 93–641 requires each State to adopt a Certificate of Need program covering the development of new institutional services or facilities. Both publicly and privately financed institutions will have to obtain such certification before new services or facilities are initiated (see the Notice of Proposed Rulemaking of March 19, 1976 appearing at 41 FR 11688, particularly proposed regulations for 42 CFR Part 100 and Subpart E of 42 CFR Part 123).

The specific provisions of Pub. L. 93–641 affecting the development of services under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act are set forth in Pub. L. 93–641 and regulations thereunder. (Materials and information relating to Pub. L. 93–641 may be obtained from the Health Resources Division in each of the Department's Regional Offices). However, § 54a.105 of the proposed regulations calls attention to the requirements of Pub. L. 93–641. Other sections of the proposed regulations require that (1) each State plan include evidence that all applicable requirements for submitting State plans for review under Pub. L. 93–641 have been met, and (2) each application for a project grant include evidence that all applicable requirements for submitting project grant applications for review under Pub. L. 93–641 have been met. In addition, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act, by its own terms, requires certain interactions with the entities mandated by Pub. L. 93–641. These requirements are set forth in §§ 54a.208(b)(3) and 54a.210(b)(1)(iv) of the proposed regulations.

The Department wishes to stress the importance of developing effective formal and informal relations among alcohol abuse and alcoholism programs, State alcoholism agencies, State alcohol abuse advisory councils, and those State and local planning agencies created pursuant to Pub. L. 93–641. In order to effectively carry out their planning responsibilities, HSAs and SHPDAs must become familiar with the requirements of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act and alcohol programs generally. Similarly, alcohol abuse and alcoholism programs and State alcoholism agencies and advisory councils must become familiar with the requirements of the National Health Planning and Resources Development Act of 1974 and health planning generally. All parties are urged to work together in the development of local and State plans for health services and facilities as well as in the development of applications for Federal health project grants and other Federal assistance—helping one another in effectively carrying out their specific responsibilities.

IMPLEMENTATION PLAN

The new regulations policies of the Department issued July 25, 1976 (see FR Doc. 76–24042 appearing at 41 FR 43811, August 17, 1976) require that an implementation plan for this Notice of Proposed Rulemaking (NPRM) be prepared prior to its issuance. In compliance with these requirements, an implementation plan was forwarded to the Secretary who authorized the issuance of this NPRM without publication of the Notice of Intent (NOI) otherwise required by the new policies because, over an extended period of time, there has been significant interaction between the Department and organizations and individuals in the development of the proposed regulations which has satisfied the spirit and intent of the NOI.

The requirements set forth in the proposed regulations, which have been un-

der development for more than 3 years, have received extensive public exposure and discussion at annual meetings with the directors of State alcohol agencies, during site visits by Federal staff to communities which have applied for and received funds authorized under the Act, and in formal and informal discussions with national organizations interested in alcohol abuse and alcoholism. Issues raised during this process have been carefully reviewed and suggestions for change have been incorporated wherever possible.

SUBMISSION OF COMMENTS

Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed revision of 42 CFR Part 54a to the Office of the Director, National Institute on Alcohol Abuse and Alcoholism, Room 16-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, on or before April 1, 1977.

Comments received will be available for public inspection at Room 16-105, Parklawn Building, between the hours of 8:30 a.m. and 5:30 p.m., Monday through Friday.

This revision is proposed under the authority of sections 101, 301-303, 310, and 311 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended by Pub. L. 93-282 and Pub. L. 94-371 (42 U.S.C. 4551, 4571-4573 and 4576-4577).

Therefore, it is proposed to revise Part 54a of Title 42 CFR in the manner set forth below.

NOTE.—The Department of Health, Education, and Welfare 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.

(Catalog of Federal Domestic Assistance Program Nos. 13.257 Alcohol Formula Grants, 13.252 Alcohol Demonstration Programs)

Dated: December 23, 1976.

THEODORE COOPER,
Assistant Secretary for Health.

Approved: January 18, 1977.

MARJORIE LYNCH,
Acting Secretary.

It is proposed to revise Part 54a to read as follows:

PART 54a—GRANTS FOR ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION SERVICES

Subpart A—General

Sec.
54a.101 Applicability.
54a.102 Definitions.
54a.103 Nondiscrimination.
54a.104 Confidentiality of patient records.
54a.105 Reviews required by Health Planning and Resources Development Act.
54a.106 Applicability of 45 CFR Part 74.

Subpart B—Formula Grants to States

54a.201 Applicability.
54a.202 Definitions.
54a.203 Allotments to States.
54a.204 Transfer of allotments.
54a.205 Allotment; administrative expenditures.
54a.206 Allotment; equipment, supplies or personnel in lieu of cash.
54a.207 State plan; submission and review.
54a.208 State plan; purpose; coordination.
54a.209 State plan; single State agency.
54a.210 State plan; State advisory council.
54a.211 State plan; survey of need; resource allocation plan.
54a.212 State plan; criteria for construction and licensing of facilities. [Reserved]
54a.213 State plan; personnel administration.
54a.214 State plan; nondiscrimination by Federally assisted private and public general hospitals in the admission and treatment of alcohol abusers.
54a.215 Assurances.

Subpart C—Special Grants for Implementation of the Uniform Alcoholism and Intoxication Treatment Act [Reserved]

Subpart D—Project Grants for the Prevention and Treatment of Alcohol Abuse and Alcoholism

54a.401 Applicability.
54a.402 Definitions.
54a.403 Eligibility.
54a.404 Application.
54a.405 Project requirements.
54a.406 Evaluation and grant award.
54a.407 Payments.
54a.408 Expenditure of grant funds.
54a.409 Grantee accountability.
54a.410 Publications and copyrights.
54a.411 Additional conditions.
54a.412 Matching rates. [Reserved]

Subpart E—Grants for National Alcohol Research Centers [Reserved]

Subpart A—General

AUTHORITY: 42 U.S.C. 4551, 4571-4573 and 4576-4577.

§ 54a.101 Applicability.

The provisions of this subpart apply to all grants which are authorized by Title III of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 as amended by Pub. L. 93-282 and Pub. L. 94-371 (42 U.S.C. 4571, et seq.), and administered by the National Institute on Alcohol Abuse and Alcoholism under the authority granted by Title I of that Act (42 U.S.C. 4551, et seq.). Those grants include: (a) Formula grants to assist States in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism (42 U.S.C. 4571-4573; Subpart B of this part); (b) Special grants to assist States in implementing the Uniform Alcoholism and Intoxication Treatment Act (42 U.S.C. 4576; Subpart C of this part); and (c) Grants for alcohol abuse and alcoholism prevention and treatment projects (42 U.S.C. 4577; Subpart D of this part).

§ 54a.102 Definitions.

As used in this part:

(a) "Act" means the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended by Pub. L. 93-282 and Pub. L. 94-371 (42 U.S.C. 4541, et seq.).

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved may be delegated.

(c) The term "State" means the 50 States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 54a.103 Nondiscrimination.

(a) *Race, color, national origin.* Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d; 78 Stat. 252) which provides that no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI has been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80). Such regulation is applicable to assistance provided under Title III of the Act and the regulations of this part.

(b) *Handicapped individuals.* Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(c) *Admission of alcohol abusers to federally assisted private and public general hospitals and outpatient facilities.* Attention is called to section 321 of the Act (42 U.S.C. 4581) which provides that alcohol abusers and alcoholics who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their alcohol abuse or alcoholism, by any private or public general hospital or outpatient facility (as defined in section 1633(6) of the Public Health Service Act, 42 U.S.C. 300s-3(6)) which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency.

§ 54a.104 Confidentiality of patient records.

Attention is called to section 333 of the Act (42 U.S.C. 4582) which provides that records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to alcoholism or alcohol abuse education, training, treatment, rehabilitation or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall be confidential and may be disclosed only for the purposes and under the circumstances

expressly authorized under section 333 of the Act. Violations of section 333 are subject to a fine of not more than $500 in the case of a first offense and not more than $5,000 in the case of each subsequent offense. A regulation implementing section 333 of the Act has been promulgated (42 CFR Part 2).

§ 54a.105 Reviews required by Health Planning and Resources Development Act.

Attention is called to section 1524(c)(6) of the Public Health Service Act (42 U.S.C. 300m-3(c)(6)) which requires that the Statewide Health Coordinating Council, if any, established under section 1524 annually review and approve or disapprove the alcohol abuse and alcoholism State plan and any application for alcohol formula grant funds submitted to the Secretary. Attention is also called to section 1513(e)(1)(A) of the Public Health Service Act (42 U.S.C. 300l-2(e)(1)(A)) which requires that the Health Systems Agency, if any, established under section 1513 review and approve or disapprove each proposed use within its health service area of Federal funds for the development, expansion, or support of health resources which are made available through project grants for the prevention and treatment of alcohol abuse and alcoholism and through special grants for implementation of the Uniform Alcoholism and Intoxication Treatment Act and Federal funds made available through grants and contracts by the State from alcohol abuse and alcoholism formula grants. Attention is also called to section 1536 (42 U.S.C. 300n-5), which authorizes the State Health Planning and Development Agency to perform this review under section 1513(e)(1)(A) in those States where health service areas will not be established and health systems agencies will not be designated.

§ 54a.106 Applicability of 45 CFR Part 74.

The relevant provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as those terms are defined in Subpart A of that Part 74; the relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under Subpart D of this part:

45 CFR Part 74

Subpart
A. General.
B. Cash Depositories.
C. Bonding and Insurance.
D. Retention and Custodial Requirements for Records.
F. Grant-Related Income.
G. Matching and Cost Sharing.
K. Grant Payment Requirements.
L. Budget Revision Procedures.
M. Grant Closeout, Suspension and Termination.
O. Property.
Q. Cost Principles.

Subpart B—Formula Grants to States

AUTHORITY: 42 U.S.C. 4571–4573.

§ 54a.201 Applicability.

This subpart applies only to grants under sections 301–303 of the Act (42 U.S.C. 4571–4573) to assist States in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism.

§ 54a.202 Definitions.

All terms not defined herein shall have the same meaning as given them in § 54a.102. As used in this subpart:

(a) "State agency" means the single State agency, which may be an individual agency or an inter-departmental agency, designated pursuant to section 303(a)(1) of the Act as the sole agency for the administration of the State plan or for supervising the administration of the State plan.

(b) "State plan" means the document for planning, establishing, conducting, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs within the State to deal with alcohol abuse and alcoholism, which contains the information, proposals, and assurances required by section 303 of the Act and the regulations of this subpart.

(c) "Treatment" means any of the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling, which may be extended to persons with alcohol abuse problems.

(d) "Population", with respect to any State or area thereof, means the latest figures of total population certified by the United States Department of Commerce.

§ 54a.203 Allotments to States.

(a) The allotments to the several States under section 302 of the Act will be computed by the Secretary as follows:

(1) One-third weight on the basis of need for more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism, expressed by the relationship of the population in each State to the total population of all the States.

(2) Two-thirds weight on the basis of total population weighted by financial need, as determined by the relative per capita income for each State for the three most recent consecutive years for which data is available from the United States Department of Commerce.

(b) If, after determining the amount of the allotment for each State in accordance with paragraph (a) of this section, it appears that any State (with the exception of the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) will receive less than $200,000, the minimum allotment prescribed by section 302(a) of the Act, the Secretary shall reduce the shares of each State which would receive more than $200,000 by an equal percentage and reallocate those sums as required to assure that every State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) will receive at least $200,000.

§ 54a.204 Transfer of allotments.

(a) *Allotments to the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.* Any amount allotted to a State in a fiscal year (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) which is unobligated at the end of that year shall remain available to the State, for the purposes for which made, for the next fiscal year (and for such year only), and that amount shall be in addition to the amounts allotted to the State for that purpose for the next fiscal year; except than any amount, remaining unobligated at the end of the sixth month following the end of the year in which it was allotted, which the Secretary determines will remain unobligated by the close of the next fiscal year, may be reallotted by the Secretary to any other of the States having need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of the Act and the regulations of this subpart. Funds thus reallotted to any of the States shall be available for the purposes for which made until the close of such next fiscal year and shall be in addition to the amounts allotted and available for the same period.

(b) *Allotments to the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.* Any amount allotted to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands in a fiscal year which is unobligated at the end of that year shall remain available for the purposes for which made, for the next two fiscal years (and for such years only), and that amount shall be in addition to the amounts allotted for that purpose for each of the next two fiscal years; except that any amount remaining unobligated at the end of the first of the next two fiscal years, which the Secretary determines will remain unobligated at the close of the second of the next two fiscal years, may be reallotted by the Secretary to any other of the four States (Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) having need therefor on such basis as the Secretary deems equitable and consistent with the purposes of the Act and the regulations of this subpart. Funds thus reallotted to any of those four States shall be available for the purposes for which made until the close of the second of the next two fiscal years and shall be in addition to the amounts allotted and available for the same period.

(c) *Reallotment approval.* Funds will not be reallotted to a State under paragraphs (a) and (b) of this section unless the Secretary finds that:

(1) The State has an approved State plan for the fiscal year during which the reallotted funds would be available for expenditure; and

(2) The State has filed the report required under paragraph (d) of this section and has provided such additional information as the Secretary may request with regard to the proposed use of the funds to be reallotted.

(d) *Reports.* Each State shall, with respect to each fiscal year in which it receives an allotment, submit a report to the Secretary which shall set forth the amount of the allotment remaining unobligated as of the date of the report, the State's plans, if any, for obligating such unobligated amount, the need, if any, for additional funds, and the State's plans for meeting such need if such additional funds are made available through reallotment.

(1) A State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) shall submit the report within 60 days of the end of the sixth month following the end of the fiscal year in which the allotment was made.

(2) The Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands shall submit the report within 60 days of the end of the first fiscal year following the fiscal year in which the allotment was made.

§ 54a.205 Allotment; administrative expenditures.

(a) At the request of a State on such forms, at such time, and in such manner as the Secretary may prescribe, a portion of any allotment or allotments of the State shall be available to pay that portion of the expenditures found necessary by the Secretary for the proper and efficient administration during the year of the State plan approved under the Act and the regulations of this subpart, except that not more than 10 percent of the total of the allotments of the State for a year, or $50,000 whichever is less, shall be available during the year for that purpose.

(b) *Allowable costs.* Allowability of administrative costs shall be dtermined in accordance with the applicable cost principles set forth in Subpart Q of 45 CFR Part 74. Expenditures which are allowable, if found necessary for the proper and efficient administration of the State plan, include:

(1) Costs of compensation of personnel and other administrative expenditures directly related to the preparation and administration of the State plan or to supervising that preparation and administration; and

(2) Expenditures incurred by a State advisory council established pursuant to section 303(a)(3) of the Act, including per diem and travel expenses incurred by council members at rates not exceeding those established under applicable State law.

(c) *Unallowable costs.* Funds made available under this section may not be used for:

(1) Administrative costs exceeding 10 percent of the total of the allotment of a State for a year or $50,000, whichever is less;

(2) Administrative costs attributable to programs other than those funded under this subpart;

(3) Costs of central administrative departments of State and local governments other than those directly related to administration of the State plan;

(4) Administrative costs relating to services which the State is required to provide at its own expense in order to satisfy the maintenance of effort requirements of the Act and the regulations of this subpart;

(5) Acquisition of land or construction or acquisition of buildings; or,

(6) Matching other Federal grants.

§ 54a.206 Allotment; equipment, supplies, or personnel in lieu of cash.

At the request of a State on such forms, at such time, and in such manner as the Secretary may prescribe, the Secretary may, in lieu of cash payments, furnish equipment or supplies to the State or detail to the State officers or employees of the Department of Health, Education, and Welfare when he finds that the equipment, supplies, or personnel would be used for purposes for which an allotment would be available under the Act and the regulations of this subpart. In that case, the Secretary will reduce the payments to which the State would otherwise be entitled from its allotment for the fiscal year by an amount which equals the fair market value of the equipment and supplies furnished and by the amount of the pay, allowances, traveling expenses, and other costs incurred in connection with the detail of officers or employees. The amount by which the payments are reduced shall be available for the payment of the costs incurred by the Secretary in furnishing the equipment, supplies, and personnel but that amount shall, for purposes of determining the allotment under section 302(a) of the Act and § 54a.203, be deemed to have been paid to the State.

§ 54a.207 State plan; submission and review.

(a) *Submission.* To receive funds from its allotment a State must submit to and have approved by the Secretary a State plan which contains or, as required by these regulations, incorporates by reference the information, proposals, and assurances specified in the Act and in the regulations of this subpart. Documents incorporated by reference become a part of the State plan as though fully set forth therein. Such documents must be:

(1) Clearly identified as to subject, date and location;

(2) Officially adopted and disseminated in accordance with applicable procedures; and

(3) Made available to the Secretary and readily available to the public for inspection.

(b) *Modification.* The State agency shall from time to time, but not less often than annually, review its State plan and submit to the Secretary for approval modifications thereof which shall:

(1) Contain budgetary requirements for the new fiscal year and such updates of the assurances and information, which under this subpart must be contained in the State plan, as may be prescribed by the Scretary; and

(2) Incorporate by reference such changes in the proposals and information, which under this subpart must be incorporated by reference in the State plan, as may be prescribed by the Secretary and such additional changes as the State agency may consider to be necessary.

(c) *Assessment of progress.* The State agency shall submit to the Secretary periodic reports assessing the progress of the State in implementing its State plan in such form and manner as the Secretary may prescribe. Such a report shall first be submitted with the State plan submitted for the first fiscal year beginning after September 30, 1977. Thereafter, the State agency shall make additional reports every third year in which it receives an allotment.

(d) *Review and comment by the Governor.* The State plan, any modification thereof, and all assessments of progress shall be submitted to the Governor of the State for his review and comment at least 45 days prior to submission of the plan, modification, or assessment of progress to the Secretary. The comments of the Governor, or such documentation of his review without comment as the Secretary may prescribe, must be submitted to the Secretary with the plan, modification, or assessment of progress.

(e) *Publicized plan.* The State agency shall publicize a general description of the proposed plan, modification, or assessment of progress at least 30 days prior to the submission of the plan, modification or assessment of progress to the Secretary. The State plan, modifications thereof, and assessments of progress must be readily available and accessible for examination and comment by interested persons prior to submission to the Secretary and during the period they are in effect.

§ 54a.208 State plan; purpose, coordination.

(a) *Purpose.* The purpose of the State plan is to provide a rational and more effective basis for the utilization of Federal, State, and all other available resources in planning, establishing, conducting, maintaining, coordinating, and evaluating prevention, treatment, and rehabilitation projects and programs to deal with alcohol abuse and alcoholism in the State and for ongoing planning for improvement and expansion of such activities, as necessary.

(b) *Coordination of alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs.* The State plan must: (1) Incorporate by reference a description of the policies and procedures under which the State agency will review

and comment upon applications for assistance under section 311 of the Act (42 U.S.C. 4577). As a minimum the policies and procedures must provide for:

(i) A written evaluation of the project set forth in the application which shall include comments on the relationship of the project to other projects pending and approved, and to the State plan.

(ii) State agency submission of such evaluation to the Secretary within 30 days of the date upon which the State agency received the application for assistance.

(iii) The furnishing of a copy of the evaluation to the applicant.

(2) Incorporate by reference the policies and procedures under which the State agency will, to the maximum extent practicable, coordinate and review the activities of other agencies within the State government, local and metropolitan area agencies, and interstate agencies to assure that all programs for the provision of services for people with alcohol abuse problems are consistent with the State plan. As a minimum, these policies and procedures must include provisions under which:

(i) The State agency will review and evaluate proposals for programs and projects directly or indirectly related to the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism which are submitted to it by other agencies; and

(ii) The State agency will ensure that those agencies or authorities with interests or responsibilities related to the project and program proposals developed or reviewed by the State agency have been afforded an opportunity to review the proposals.

(3) Provide assurance that the State agency will cordinate its planning with local alcoholism and alcohol abuse planning agencies and with other State and local health planning agencies.

(4) Incorporate by reference documentary evidence that all applicable requirements for submitting the State plan for review under Title XV of the Public Health Service Act (42 U.S.C. 300k–1—300n–5) have been met.

§ 54a.209 State plan; single State agency.

(a) The State plan must incorporate by reference documentary evidence of the designation or establishment of a single State agency. Such documentation shall include:

(1) The Executive Order, statute, resolution, motion or similar action by the State authority which designated or established the State agency; and,

(2) Evidence that the State agency has legal authority to carry out the State plan and all duties and responsibilities required by the Act and the regulations of this subpart.

(b) If the State agency is responsible for State programs in addition to the State alcohol abuse and alcoholism program, the State plan must incorporate by reference documents which identify the officials who will head each area of responsibility, and which establish policies and procedures for ensuring that separate records are maintained with respect to each program and that all other applicable Federal requirements are met.

(c) The State plan must incorporate by reference documents which describe methods under which the State agency will either administer or supervise the administration of the activities to be carried out under the State plan. If part or all of the responsibility for administering the State plan has been or is to be delegated to one or more agencies (under the supervision of the State agency), the State plan must incorporate by reference documents which identify such other agency or agencies, including local government agencies, and set forth the responsibilities of each such agency.

§ 54a.210 State plan; State advisory council.

(a) *Establishment; scope of authority.* The State plan must incorporate by reference documents which provide for the designation or establishment of a State Alcohol Abuse Advisory Council to consult with and advise the State agency in carrying out the State plan.

(b) *Membership.* (1) The membership of the State Alcohol Abuse Advisory Council shall, to the extent practicable, be drawn from different geographical areas of the State, and shall provide representation for:

(i) Nongovernmental organizations concerned directly or indirectly with alcohol abuse and alcoholism, such as local affiliates of the National Council on Alcoholism, local citizen groups, employee groups, labor and management, members of Alcoholics Anonymous, and other provider, consumer, and consumer advocate groups; and

(ii) Public agencies concerned directly or indirectly with alcohol abuse and alcoholism, such as local elected officials or representatives of health and mental health agencies, vocational rehabilitation agencies, welfare agencies, and law enforcement agencies; and

(iii) The minority, poverty, and major population groups which are significantly affected by the problems of alcohol abuse and alcoholism and which are to be served under the State plan; and

(iv) At least one representative of the Statewide Health Coordinating Council established pursuant to section 1524 of the Public Health Service Act (42 U.S.C. 300m–3).

(2) The State plan shall incorporate by reference documents which contain the policies and procedures for selection of Advisory Council members, and a list of members for the current fiscal year, their names, addresses, occupations, and affiliations.

(c) *Meetings; recommendations.* (1) The State plan must incorporate by reference guidelines and instructions establishing the time, place, and frequency of meetings of the Council which shall provide, as a minimum, for annual meetings of the Council.

(2) The State agency shall maintain records of the recommendations made to it by the State Alcohol Abuse Advisory Council and, if such recommendations are not adopted, the reasons therefor.

§ 54a.211 State plan; survey of need, resource allocation plan.

(a) *Need.* Each State plan must set forth a survey of the need for prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism, including a survey of the need for health facilities to provide services for alcohol abuse and alcoholism. The survey of need shall encompass the social, economic, and medical aspects of the problem of alcohol abuse and alcoholism; and shall take into account the relative extent of the problems of alcohol abuse and alcoholism within various population groups (including women and individuals under the age of eighteen) or areas as follows:

(1) Estimate the proportion of the population of the State with alcohol abuse and alcoholism problems and the proportion of the population directly or indirectly affected by such problems.

(2) Identify areas within the State with a high incidence of alcohol abuse and alcoholism problems determined on the basis of:

(i) The demographic and socioeconomic characteristics of the population within each area identified, such as age, sex, income, employment, underemployment and unemployment rates, types of occupation, housing conditions, pertinent geographical factors, and ethnic makeup of the area; and

(ii) The special needs of specific population groups within each area with actual or potential problems of alcohol abuse and alcoholism, such as drinking drivers, chronic public intoxicants, offenders within the correctional system, women, senior citizens, youth (individuals under the age of eighteen), Indians, employees of State and local governments and private industry, and groups within each such area whose occupational and social conditions make them vulnerable to alcohol abuse and alcoholism.

(3) Estimate the extent of the problem of alcohol abuse and alcoholism compared to other health and social problems confronting the people of the State.

(b) *Current resources.* The State plan shall contain a description of the present availability and accessibility of public and private resources for the provision of alcohol abuse and alcoholism prevention, treatment, and rehabilitation services, including:

(1) A complete inventory (to the extent feasible) of all private and public resources available in the State for such purposes including but not limited to programs funded under State and local laws, occupational programs for employees in State and local government and in private industry or other work settings, voluntary organizations, education programs, military and Veterans' Administration resources, community mental health centers, hospitals, and other health care or social service centers which provide such services;

(2) Personnel qualified to provide such services;

(3) Financial support, including public and private third party payments, for the provision of such services;

(4) State laws affecting the availability and accessibility of such resources; and

(5) Other health and social problems confronting the State which may affect the availability of resources for meeting alcohol abuse and alcoholism problems.

(c) *Additional resources needed.* The State plan must contain a description of the additional resources, including facilities, personnel, training, technical assistance, and funds, necessary to meet those needs identified pursuant to paragraph (a) of this section which are not being met by the existing resources described pursuant to paragraph (b) of this section.

(d) *Action plan.* The State plan must set forth a comprehensive action plan establishing priorities for the development and distribution throughout the State of alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and facilities. This plan must:

(1) Utilize, to the extent practicable, the existing resources described in paragraph (b) of this section;

(2) Describe the steps necessary to secure and develop the necessary resources described in paragraph (c) of this section;

(3) Establish priorities for the distribution of facilities and services in all geographic areas and subareas of the State;

(4) Set forth, in the order of such priorities, the additional projects and programs required to meet the unmet need, the estimated costs of each and the source of financial and other resources expected to support each project or program, including formula grant support made available under the Act and the regulations of this subpart;

(5) Include a timetable for completing all such projects and programs; and

(6) Include a long term plan for expansion or diminution of existing resources or development of new resources in accordance with projected estimates of future needs.

§ 54a.212 State plan; criteria for construction and licensing of facilities. [Reserved]

COMMENT: Criteria are currently being developed for standards (including enforcement procedures and penalties) for (1) The construction and licensing of public and private facilities for the treatment of alcohol abuse and alcoholism and (2) For other community services or resources available to assist individuals to meet problems resulting from alcohol abuse. Comments and suggestions concerning the scope and content of the criteria will be welcomed.

§ 54a.213 State plan; personnel administration.

(a) *Merit system personnel.* The State plan shall provide for the establishment and maintenance of personnel standards on a merit basis for persons employed by by the State agency in the administration or supervision of the administration of the State plan. Conformity with Standards for a Merit System of Personnel Administration, 45 CFR Part 70, issued by the Secretary of Health, Education, and Welfare, including any amendments thereto, and any standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 (Pub. L. 91-648; 84 Stat. 1915) modifying or superseding such standards, will be deemed to meet this requirement as determined by said Commission. Laws, rules, regulations, and policy statements, and amendments thereto, effectuating such methods of personnel administration shall be incorporated by reference in the State plan.

(b) *Equal employment opportunity.* Equal employment opportunity will be assured in the State merit system and affirmative action provided in its administration. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline or any other aspect of personnel administration because of political or religious opinions or affiliations or because of race, national origin, or other nonmerit factors will be prohibited. Discrimination on the basis of age or sex or physical disability will be prohibited except where specific age, sex or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration. The State merit system must include procedures for appeals in cases of alleged discrimination to an impartial body whose determination shall be binding upon a finding of discrimination. The State must develop an affirmative action plan to assure such equal employment opportunity which shall be subject to inspection, comment and approval by the Secretary. Such plan shall contain such information and be completed on such date as the Secretary may prescribe.

(c) *Nondiscrimination on the basis of prior alcohol abuse.* The State shall contain an assurance that the State will establish policies and procedures to assure that no qualified applicant for a position supported in whole or in part from funds made available from the State's allotment will be denied employment solely on the basis of having or not having a prior history of alcohol abuse.

(d) *Other personnel.* The State plan must include professional standards to be followed in hiring individuals (other than employees under a government merit system) to carry out activities related to the implementation of the State plan. Such standards shall include schedules or other bases upon which the salaries of such personnel are determined and paid which shall be in accord with the usual and customary practices in the State.

§ 54a.214 State plan; Nondiscrimination by federally assisted private and public general hospitals and outpatient facilities in the admission and treatment of alcohol abusers.

(a) The State plan must provide that the State agency will:

(1) Review admissions to private and public general hospitals and outpatient facilities to assist the Secretary in determining the compliance of such facilities with section 321 of the Act (42 U.S.C. 4581) which provides that alcohol abusers and alcoholics who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their alcohol abuse or alcoholism, by any private or public general hospital or outpatient facility (as defined in section 1633(6) of the Public Health Service Act, 42 U.S.C. 300s-3(6)) which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency, and

(2) Make periodic reports to the Secretary respecting such review at such time and on such forms as the Secretary may prescribe.

§ 54a.215 Assurances.

In addition to any other assurances required by law and the regulations of this subpart the State plan must contain the following assurances:

(a) *Maintenance of effort.* An assurance that Federal funds made available under sections 301-303 of the Act and the regulations of this subpart will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local and other non-Federal funds that would in the absence of such Federal funds to made available for the programs described in sections 301-303 of the Act and will in no event supplant such State, local, and other non-Federal funds. A State will be considered to be in substantial compliance with such assurance if the Secretary finds that the aggregate level of State, local, and other non-Federal funds expended for alcohol abuse prevention, treatment, and rehabilitation services and activities carried out under the State plan with Federal assistance made available under sections 301-303 of the Act is no lower for any fiscal year than the aggregate level of those expenditures in the immediately preceding fiscal year, except that the Secretary may take into consideration the extent to which the level of such funds for any fiscal year may have included funds for an activity of a nonrecurring nature.

(b) *Community service.* Assurances that all facilities, programs, and services supported in whole or in part with funds made available under sections 301-303 of the Act and the regulations of this subpart will be:

(1) Responsive to the needs of all members of the population to be served and made available to them without discrimination on the grounds of sex, creed, duration of residence, or ability or inability to pay for services;

(2) So publicized as to be generally known to the population to be served; and

(3) So located as to be readily accessible to the population to be served.

(c) *Records and reports.* An assurance that the State agency will comply with the provisions of 45 CFR Part 74 relating to records and reports.

(d) *Certification, accreditation, or licensure requirements.* Assurance that State certification, accreditation, or licensure requirements, if any, applicable to alcohol abuse and alcoholism treatment facilities and personnel take into account the special nature of such programs and personnel, including the need to encourage the development of nonmedical modes of treatment and the need to acknowledge previous experience when assessing the adequacy of treatment personnel.

(e) *Performance standards.* Reasonable assurance that prevention or treatment programs supported by funds made available under section 302 of the Act have provided to the State agency a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such prevention or treatment programs or projects.

(f) *Women and youth.* Assurance that prevention and treatment programs within the State will be designed to meet the need of women and individuals under the age of eighteen for alcohol abuse and alcoholism prevention and treatment.

(g) *Relocation assistance.* An assurance that the State agency will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (Pub. L. 91–646) and the applicable regulations issued thereunder (45 CFR Part 15).

Subpart C—Special Grants for Implementation of the Uniform Alcoholism and Intoxication Treatment Act [Reserved]

Subpart D—Project Grants for the Prevention and Treatment of Alcohol Abuse and Alcoholism

AUTHORITY: 42 U.S.C. 4577.

§ 54a.401 Applicability.

This subpart applies only to grants under section 311 of the Act (42 U.S.C. 4577) for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

§ 54a.402 Definitions.

All terms not defined herein shall have the same meaning as given them in § 54a.102. As used in this subpart:

(a) "Council" means the National Advisory Council on Alcohol Abuse and Alcoholism established pursuant to section 217 of the Public Health Service Act (42 U.S.C. 218).

(b) "Nonprofit" as applied to a private entity means that no part of the net earnings of such entity inures or may lawfuly inure to the benefit of any shareholder or individual.

(c) "Project period" means the total period of time for which support for a project has been recommended as specified in the grant award document. Such recommendation does not commit or obligate the Federal government to any addition, supplemental or continuation support beyond the current budget period.

(d) "Budget period" means the interval of time (usually 12 months) into which the project period has been divided for budgetary and reporting purposes and for which the Government has made a financial commitment to fund a particular project.

§ 54a.403 Eligibility.

(a) *Eligible applicants.* To be eligible for a grant award under this subpart, an applicant must be a public or nonprofit private entity.

(b) *Eligible projects.* To be eligible for a grant award under this subpart, an eligible applicant must propose a project which is designed:

(1) To demonstrate innovative approaches to solving the problems of alcohol abuse and alcoholism such as:

(i) New methods and programs for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics;

(ii) The adaptation of existing services to meet the needs of specific population groups; or,

(iii) Methods for initiating or improving delivery systems for alcohol abuse and alcoholism prevention, treatment, and rehabilitation services at local, State, or regional levels (including projects designed to develop methods for the effective coordination of all alcoholism training, treatment, and prevention and research resources available within a health service area established pursuant to section 1511 of the Public Health Service Act, 42 U.S.C. 300*l*);

(2) To provide prevention, treatment, or rehabilitation services for persons with alcohol abuse and alcoholism problems, with special emphasis on currently underserved populations and individuals in geographic areas where such services are not otherwise adequately available, including the training of persons to provide such services;

(3) To educate and train professional or nonprofessional personnel for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics (including personnel attempting to meet certification requirements of public or private accreditation or licensure, or requirements of third-party payors);

(4) To provide alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services through, or in cooperation with, law enforcement personnel, schools, courts, penal institutions and other public agencies; or

(5) To provide, on a local, State or national basis, counseling and education activities for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcholic abusers and alcoholics.

§ 54a.404 Application.

(a) Each eligible entity desiring a grant under this subpart shall submit an application in such form and at such time as the Secretary may prescribe.[1] The application shall contain a full and adequate description of the proposed project and of the manner in which the applicant intends to conduct the project and carry out the requirements of this subpart, a budget and justification of the amount of funds required, and such other pertinent information as the Secretary may require.

(b) The application shall be executed by an individual authorized to act for the applicant and to assume for the applicant the obligations imposed by the terms and conditions of any award including the regulations of this subpart.

(c) An application to the Secretary from an applicant within a State must:

(1) Provide assurance that a copy of the application has been forwarded for review by the State agency designated under section 303 of the Act, if that designation has been made;

(2) Include evidence that all applicable requirements for submitting the application for review under Title XV of the Public Health Service Act (42 U.S.C. 300k–1–300n–5) have been met.

(3) Include evidence that the requirements of Part I of Office of Management and Budget Circular No. A–95 have been satisfied.

§ 54a.405 Project requirements.

To be considered for approval under this subpart, an application must, as relevant to the particular project proposed:

(a) Contain an assurance that all activities to be carried out under the grant will be substantially administered by or under the supervision of the applicant.

(b) Contain an assurance that Federal funds made available under the Act will not supplant non-Federal funds otherwise available for carrying out the activities which are eligible for assistance under this subpart and that such funds will, to the extent practical, be used to increase the level of funds otherwise available for such activities. A recipient of assistance under this subpart will be considered to be in substantial compliance with such assurance if the Secretary finds that the aggregate level of non-Federal funds available to and spent by an applicant to which Federal grant funds are made available under the Act and the regulations of this subpart is no lower for any fiscal year than if it was for the immediately preceding fiscal year, except that the Secretary may take into consideration the extent to which the level of such funds for any fiscal year may have included funds for an activity of a nonrecurring nature.

[1] Prevention grant applications and instructions may be obtained from the Director of the National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, Rockville, Maryland 20857. Treatment grant applications and instructions may be obtained from the designated State Alcoholism Authority for the State in which the applicant is located or directly from the National Institute on Alcohol Abuse and Alcoholism.

(c) Contain an assurance that no qualified applicant for a position supported in whole or in part from grant funds made available under this subpart will be denied employment solely on the basis of having or not having a prior history of alcohol abuse or alcoholism.

(d) Provide for such methods of administration as the Secretary prescribes as necessary for the proper and efficient operation of the project, including the requirements prescribed by the regulations of this subpart.

(e) Describe fiscal control and fund accounting procedures which meet the requirements prescribed by the Secretary for assuring proper disbursement of and accounting for Federal funds paid to the applicant, including the requirements of the regulations of this subpart.

(f) Provide evidence satisfactory to the Secretary of the need for the particular type of project proposed.

(g) Describe how the project will serve or support the provision of services to a particular community, area, or population group.

(h) Provide, in the case of treatment projects, an estimate of the number of persons to be served by each program element, i.e., inpatient, outpatient, intermediate care, etc. for each budget period of the project period.

(i) Provide, in the case of treatment projects, an estimate of the costs per unit of service, i.e., inpatient day, outpatient hour, intermediate care day, etc. for each budget period of the project period.

(j) Describe the facilities (including the location thereof) which will be utilized in the conduct of the project.

(k) Describe the extent to which the project will utilize existing community resources (including community mental health centers).

(l) Describe how the project will be integrated with, and, involve the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals, including individuals representative of the population to be served by the project. The description must specify how such agencies, organizations, institutions, and individuals have been given an opportunity to participate in the development of the project and will be given an opportunity to participate in the implementation and evaluation of such project.

(m) Propose a performance standard (or standards) to measure, or research protocol to determine, the effectiveness of services provided under the project.

(n) Agree to provide client demographic, treatment service, and resource data, as required, for the routine monitoring of treatment projects at the Federal level.

(o) Describe how the project will become self-sufficient.

(p) Provide assurance that all services provided under the project will be made available on a voluntary basis (to the extent possible) without the imposition as a condition of eligibility for services of any durational residence or referral requirement and that services will be made available in such manner as to protect the dignity and rights of individuals.

(q) Provide assurance that no person shall be denied services by reason of his inability to pay therefor, but that the applicant shall:

(1) Comply with 42 CFR 50.101–50.106 which, among other things, require each project to establish a plan to: (i) Institute sound fiscal management procedures so that it can recover to the maximum extent feasible third-party revenues to which it is entitled as a result of services provided; (ii) Garner all other available Federal, State, local and private funds; and (iii) Charge beneficiaries according to their ability to pay for services provided, without creating a barrier to those services; and

(2) Otherwise seek, whenever possible, to provide care under public and private health insurance plans.

(r) Contain a plan for the performance of informational and educational activities to inform the community or population to be served of the availability of services under the project and to promote continuing participation in the project by persons to whom alcohol abuse and alcoholism prevent, treatment, and rehabilitation services may be beneficial.

(s) Include a description of the standards and qualifications which will be required for personnel and facilities utilized in carrying out the project.

(t) Indicate whether a substantial number of individuals in the population served by the project are of limited English-speaking ability and, where a substantial number are of limited English-speaking ability, describe how the project will:

(1) Utilize the services of outreach workers fluent in the language spoken by a predominant number of such individuals, and

(2) Develop a plan and make arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and

(3) Identify an individual who is employed by, or available to, the project on a full-time basis who is fluent both in that language and English and whose responsibilities shall include providing guidance to the individuals of limited English-speaking ability and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.

(u) In the case of applicants which received assistance under the Community Mental Health Centers Act, contain assurances satisfactory to the Secretary that the recipient will undertake to develop and maintain such new and existing relationships, including affiliation agreements, with community mental health centers and providers of alcohol services in its service area as are sufficient to assure the availability of mental health and alcohol services to the population served by the recipient.

§ 54a.406 Evaluation and grant award.

(a) Within the limits of funds available for such purpose, the Secretary, after taking into account the comments, if any, of the State agency designated under section 303 of the Act and of appropriate peer review groups, may award grants to cover all or part of the cost of those projects which have been recommended for approval by the Council and which will in his judgment best promote the purposes of section 311 of the Act, giving special consideration to those projects for prevention and treatment of alcohol abuse and alcoholism by women and by individuals under the age of eighteen and taking into consideration the following factors, among others, as relevant to the particular project proposed:

(1) The administrative and management capability and competence of the applicant;

(2) The ability of the applicant to provide care of good quality taking into account factors such as the adequacy of the applicant's facilities and staff;

(3) The extent to which the activities to be carried out under the project are needed to provide, or support the provision of alcohol abuse and alcoholism prevention, treatment, and rehabilitation services in the community or population to be served;

(4) The relative availability of non-Federal resources within the community or population to be served and the degree to which those resources are committed to the project and will progressively supplant Federal funds; and

(5) The degree to which the project application adequately meets the applicable requirements set forth in §§ 54a.-404 and 54a.405.

(b) The amount of any award shall be determined by the Secretary on the basis of his estimate of the sum necessary for all of a designated portion of the direct costs of the project plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either:

(1) On the basis of his estimate of the actual indirect costs reasonably related to the project; or

(2) On the basis of a percentage of all or a designated portion of the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs.

Such award may include an estimated provisional amount for indirect costs or for designated direct costs such as fringe benefit rates subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary.

(c) All grant awards shall be in writing, shall set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee.

(d) Neither the approval of any project nor the award of any grant shall commit or obligate the United States in

any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support (i.e., support for a subsequent budget period within the project period), grantees must make separate applications at such times and on such forms as the Secretary may direct.

§ 54a.407 Payments.

The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses incurred or to be incurred in the performance of the project, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.

§ 54a.408 Expenditure of grant funds.

(a) Any funds granted pursuant to the subpart, and any non-Federal funds required as a condition of the grant to be expended in the project, shall be expended solely for carrying out the approved project in accordance with section 311 of the Act, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74.

(b) Any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward with the prior approval of the Secretary and be available for obligation during subsequent budget periods of the project period. The amount of a subsequent award will take into consideration the amount remaining in the grant account. At the end of the last budget period of the project period, any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

§ 54a.409 Grantee accountability.

(a) *Accounting for grant payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records which identify adequately the source and application of funds for grant or subgrant/subcontract supported activities. These records shall contain information pertaining to grant or subgrant/subcontract awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart. However, when the amount awarded for indirect costs is based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct costs incurred.

(b) *Accounting for royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant, or from patents or inventions conceived or first actually reduced to practice in the course of or under the grant shall be accounted for as follows:

(1) Royalties received during the period of grant support as a result of copyrights or patents shall be retained by the grantee and, in accordance with the terms and conditions of the grant, be disposed of under either or a combination of the following options:

(i) Used by the grantee for any purposes that further the objectives of the legislation under which the grant was made.

(ii) Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

(2) Royalties received after the completion or termination of grant support shall be disposed of as follows:

(i) Patent royalties shall be governed by agreements between the Assistant Secretary for Health, Department of Health, Education, and Welfare, and the grantee pursuant to the Department's patent regulations (45 CFR Parts 6 and 8).

(ii) Copyright royalties may be retained by the grantee, unless the terms and conditions of the grant or a specific agreement negotiated between the Secretary and the grantee provide otherwise except State or local government grantees which receive royalties in excess of $200 a year shall return the Federal share of the excess amount (computed by applying the percentage of Federal participation in the cost of the grant supported project to the excess amount) to the Federal government, unless a specific agreement provides otherwise.

(c) *Audit*—(1) *State and local governments.* Where the grantee is a State or local government as those terms are defined in 45 CFR 74.3, audits shall be conducted as provided in 45 CFR 74.61(h)(1). A copy of the report of each such audit shall be provided to the Secretary within 30 days of its receipt by the grantee.

(2) *Grantees other than State and local governments.* Where the grantee is not a State or local government as so defined, an independent audit shall be conducted by a certified public accountant at least annually not later than 60 days after the close of the budget period. A copy of the report of each such audit shall be provided to the Secretary within 90 days after the close of the budget period.

(3) *Costs of Audits.* The costs of audits conducted pursuant to paragraphs (1) and (2) of this paragraph are allowable costs chargeable to the grant as direct or indirect costs, as appropriate. The estimated direct costs of the annual audit, if any, should be shown as a separate line item in the budget for each year of support requested in the application.

(d) *Grant closeout.*—(1) *Date of final accounting.* In addition to such other special and periodic accounting as the Secretary may require, a grantee shall render, with respect to each approved project, a full account, as provided herein, as of the termination of grant support which shall be (i) The end of the budget period if a continuation grant is not made, (ii) The end of the project period or (iii) The date of any termination of grant support pursuant to Subpart M of 45 CFR Part 74.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of (i) Any amount not accounted for pursuant to paragraphs (a) and (b) of the section; and (ii) Any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74. Such total sum shall constitute a debt owed by the grantee to the United States and shall be recovered from the grantee or its successors or assigns by setoff or other action as provided by law.

§ 54a.410 Publications and copyrights.

(a) *Copyright.* Except as may otherwise be provided under the terms and conditions of the award, the grantee is free to copyright any book or other copyrightable materials developed under the grant subject to a royalty-free, nonexclusive, and irrevocable license of the Department of Health, Education, and Welfare to reproduce, publish, alter or otherwise use, and to authorize others to use the work for government purposes. In any case in which a copyright has been obtained, the Secretary shall be so notified.

(b) *Publications.* Any reports, papers, statistics, or other materials developed from work supported in whole or in part by an award made under this subpart shall be submitted to the Secretary. The Secretary may make such materials available and disseminate the material on as broad a basis as practicable, and in such form as to make such materials understandable.

§ 54a.411 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interest of public health or the conservation of grant funds.

§ 54a.412 Matching rates. [Reserved]

Subpart E—Grants for National Alcohol Research Centers [Reserved]

[FR Doc.77-2655 Filed 1-28-77;8:45 am]

federal register

MONDAY, JANUARY 31, 1977

PART V



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

PUBLIC HOUSING PROGRAM; DEVELOPMENT PHASE

Traditional Public Housing Program

Title 24—Housing and Urban Development

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

[Docket No. R-77-426]

PART 841—PUBLIC HOUSING PROGRAM; DEVELOPMENT PHASE

Promulgation

On November 18, 1976, the Department of Housing and Urban Development (HUD) published for comment in the FEDERAL REGISTER at 41 FR 50946, a proposed amendment to Chapter VIII of Title 24 of the Code of Federal Regulations adding a new Part 841, "Traditional Public Housing Program."

HUD received over 100 responses to the November 18, 1976 publication. All of these comments have been carefully considered and certain changes have been made in the regulations as a result of these comments and other pertinent considerations. The following is a discussion of the principal comments and changes. The section numbers refer to the numbers as contained in this final rule, except for several references to the numbers in the proposed rule where necessary to understand a particular explanation.

1. Subsection (c), entitled "References," has been added to § 841.101 to include the two regulations previously cited and to add a reference to 24 CFR, Part 891, since comments indicated that there was a lack of understanding of the statutory constraints on the allocation process required pursuant to section 213 of the Housing and Community Development Act of 1974.

2. Comments indicated a general belief that only the program covered by this regulation is subject to the requirement of meeting unmet needs in an area. Section 841.103(a) has been changed by the addition of the phrase "coordinated with assistance provided under other programs subject to Section 213 of the HCD Act of 1974" to make it clear that all such programs must be administered to respond to unmet needs.

3. Many comments indicated that the title of § 841.103(c) "Restrictions on use of high-rise elevator structures", created the impression that the regulations unduly restricted the use of such structures for elderly housing. The title has been changed to "Use of high-rise elevator structures" and the second sentence has been changed from the negative "shall not be used unless" to the positive "may be used if." The requirement for a Field Office determination that high-rise elevator construction is appropriate has not been changed, since section 805 of the Senate Report on the Housing and Community Development Act of 1974 stated that HUD would be required "to determine, on the basis of land costs, safety and security and availability of community service factors, the appropriateness of a high-rise housing project designed primarily for the elderly or handicapped."

4. Sections 841.105, 841.108 and 841.109 of the proposed regulations have been combined into § 841.107, Site and Construction Standards, in response to comments which indicated that it would be desirable to combine the statutory requirement of economical and efficient design and construction with the rules applicable to site selection and to construction standards. The language has been revised to make it clear that economy in construction is not to be achieved by sacrificing durability of construction and efficiency of project operation. In line with the foregoing principles concerning the addition of extra durability and other special features, Appendix A has been revised to emphasize that determination of prototype costs is to be based not only on HUD Minimum Property Standards but also on these special features. The Handbook will further emphasize the importance of including in the information provided to developers the extra features on which the prototype cost determination is based and a statement that proposals will be evaluated accordingly.

5. The Department is publishing separately a regulation on site and neighborhood standards and when the final rule on this subject is published, it will replace the Project Selection Criteria referred to in § 841.107(b).

6. Paragraph (a) of § 841.106 of the proposed rule has been moved to § 841.115 in the final rule. Section 841.108(a) now includes a list of the various PHA contracts which require prior HUD approval.

7. In addition to editorial changes, the reference to 24 CFR, Part 811 has been deleted from § 841.110(a), since only regular PHAs using regular public housing financing are expected to participate in this program. Section 841.110(b) has been changed to require that the application include "an executed Cooperation Agreement." The purpose of this change is to require, at the application stage, the commitment of the local governing body which would eventually be required and to save the time involved in going to the local governing body twice, first for the resolution and second for the actual execution of the Cooperation Agreement.

8. In response to comments questioning the completeness of the list of examples of what would constitute "capacity to provide adequate administration," it was determined to delete the specific examples in § 841.111(a) and to provide appropriate guidance in the Handbook.

9. Section 841.111(b) has been changed in the interest of clarity and, in response to a number of comments, § 841.111(f) has been changed to emphasize local needs in selecting applications.

10. Numerous comments pointed out that HUD as well as the PHA and other parties should be required to adhere to the Time Schedule. Section 841.112 has been amended accordingly.

11. Section 841.113(a) entitled "Preliminary Loan," has been changed to state that the maximum loan is $200 per unit ($400 per unit in Alaska), which is expected to be sufficient for turnkey projects, but that the Field Office is authorized to increase these maximums to $500 per unit ($1,000 per unit in Alaska) where justified by special circumstances, which could include use of the conventional method. Section 841.115(b) of the proposed rule has been deleted, since the first sentence is included in § 841.108(a) and the second is more appropriately stated in the Handbook.

Numerous comments suggested that repayment of a preliminary loan should not be required if the project fails to reach ACC. A preliminary loan must be repaid since it is a loan and HUD has no legal authority to provide such funds as a grant. Normally, the loan is repaid by inclusion in the development cost of the resulting project. Where an approvable project does not result, the loan is repaid by inclusion in the development cost of a subsequently approved project of the PHA. The suggestion that funds from the Operating Reserve could be used for this purpose was rejected because such use would be illegal under the ACC and the U.S. Housing Act of 1937.

12. Section 841.114(c) was changed to modify the requirement that the developer must own the site prior to execution of the turnkey Contract of Sale. The substituted requirement, which has been in effect for a number of years, provides that the developer must acquire ownership of the site prior to commencement of construction.

13. For the sake of clarity and completeness, § 841.115 has been changed by deleting the reference to the Cooperation Agreement as a part of the Development Program, adding a sentence on inclusion in development cost of funds necessary to cover the preliminary loan (moved from subsection 841.117(d)(2) of the proposed rule), and specifying the amount of the contingency allowance to be included in development cost for turnkey (1%) and for conventional (5%) projects.

14. The second sentence of § 841.115 (b)(2) has been substituted for the equivalent sentence in the proposed rule to clarify that prototype cost limits cannot be revised on the basis of cost for a single project, but only on the basis of areawide construction costs.

15. To clarify that off-site facilities may be included in the development costs of turnkey projects, the first sentence of § 841.115(b)(4) has been modified by substituting "project" for "PHA" and "development" for "developer."

16. Section 841.117(c) of the proposed rule contained a "financial feasibility test" which a proposed project had to meet as a condition for approval. This test required that the project's estimated expenses not exceed the estimated income for the first five years without the use of operating subsidy. The comments objected almost unanimously to the imposition of this test stating, essentially, that public housing cannot function without operating subsidy and that it is unrealistic to expect low-income families to pay the full cost of the housing.

In response to these comments, substantial changes have been made in the final rule. In resolving this difficult issue, the Department took into account the provisions of the Housing and Community Development Act of 1974 on this sub-

ject and the substantial legislative history indicating Congressional intent.

Section 6(c) of the U.S. Housing Act, as amended by the Housing and Community Development Act of 1974 requires that:

> Every contract for annual contributions shall provide that . . . the public housing agency shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management practices will be followed in the operation of the project, including requirements pertaining to— .
>
> (A) the establishment of tenant selection criteria designed to assure that, within a reasonable period of time, the project will include families with a broad range of incomes and will avoid concentrations of low-income and deprived families with serious social problems, but this shall not permit maintenance of vacancies to await higher income tenants where lower income tenants are available.

The explanatory Senate Committee report (S. Rept. 93-693, dated February 27, 1974) at page 40 states that:

> While it is expected that public housing agencies will continue to give particular attention and priority to very low income families, the Committee expects that in the long run we would have more housing developments which are not occupied solely by the very poor, but by a cross section of lower income households, representing a variety of household types. Experience has demonstrated that a cross-section of occupancy is an essential ingredient in creating economically viable housing as well as a healthy social environment. It is recognized by the Committee that existing public housing in many of our largest cities has become a concentration of very poor families and often predominantly of families receiving public assistance. The provisions of this Act make it possible to develop new public housing with a cross section of low income families. At the same time it is clear that steps must also be taken to alter the occupancy in existing public housing to achieve a similar cross section of occupancy. It is the intent of the Committee that the Secretary of HUD take appropriate steps to assist public housing agencies to achieve this cross section of occupancy in existing public housing within a reasonable time period. However, the Committee does not approve the imposition of occupancy requirements which have the effect of denying admission to any family on the basis that its income is too low [emphasis added].

The Department considers the foregoing to be clear Congressional intent to achieve a cross section of incomes in order to create "economically viable housing", which would thereby reduce as much as possible the need for operating subsidies. To accomplish this, PHAs must rent new public housing projects with an economic mix of families so that those with sufficient income to pay above the "break-even amount" (the rent level at which operating revenues cover operating expenses) will balance the lower income families whose incomes are too low to pay the break even portion of the operating expenses. In this connection, the Senate Report clearly distinguishes between new and existing projects. Existing projects are to be given a "reasonable time period" to achieve a cross section of occupancy, and occupancy requirements are not to deny admission to any family on the basis that its income is too low; these provisions are intended to allow existing projects time to adjust. With respect to new projects, the intent of the Committee is clearly stated in the underscored sentence of the above quotation: "The provisions of this Act make it possible to develop new public housing with a cross section of low income families."

Aside from the concern of the Congress for creation of "economically viable housing," the legislative history is quite clear that there was another objective; that is, the creation of a "healthy social environment" and to get away from "concentration of very poor families and often predominantly of families receiving public assistance."

Many of the comments assumed that families with sufficient income to pay rents above the "break-even amount" were not low income families and were not receiving subsidy because they were paying enough to cover operating expenses. This is, of course, not the case since all tenant families must be low-income families and are subsidized by the capital cost of the housing and the benefits of local property tax exemption.

Accordingly, § 841.115(c) of the final rule has been modified to require that a project be financially feasible without operating subsidy for the first year of operation except when a determination is made that estimated rental income resulting from occupancy on the basis of such cross section is insufficient to meet anticipated operating expenses. As to payment of operating subsidy in subsequent years, the final rule requires that the PHA demonstrate that it has used its best efforts to maintain the projected cross section of families and to otherwise maintain the projected financial position. These revisions should meet the criticism of the prohibition of operating subsidies for the first five years of operation and at the same time carry out the Congressional intent expressed in the above-quoted statutory language and Senate Committee report.

A number of comments expressed concern about the capacity of public housing agencies to meet the requirements of admitting and maintaining a cross section of families to assure financial stability because of longstanding waiting lists which may not include enough higher income families. The principle of using "income ranges" in selecting from a waiting list or preference classes has existed since the inception of the public housing program. Although there have been court decisions questioning the legality of using income ranges, those decisions no longer apply in the light of the 1974 statutory changes quoted above. It is the position of the Department that, in meeting the federal requirement for an economic mix, public housing agencies are legally authorized and required by the regulation and the annual contributions contract to use income ranges in selecting families from existing waiting lists, and if there are not a sufficient number of eligible applicants in a particular range or ranges, to advertise for additional families in the required income ranges. The necessity of advertising for additional families should be ascertained sufficiently in advance (during the period that the project is being planned and developed and from time to time thereafter) to avoid the existence of vacancies which under the statute would require the admission of lower income families.

A number of comments criticized the regulation because it applied a policy to public housing which the Department was not applying to Section 8 projects. The Department considers Section 8 a different approach to housing assistance and does not believe a policy appropriate to public housing should necessarily be adapted to the Section 8 program.

17. A number of comments indicated confusion as to the requirements for obtaining construction financing by the PHA. Section 841.116(b) has been rewritten so that it is clear that the established methods of obtaining financing for turnkey and conventional projects will continue to be available.

18. In response to numerous comments, § 841.202(b) has been rewritten to state that where a PHA owns a site the PHA may restrict turnkey proposals to that site and that in all other cases proposals may be restricted to a preselected site if this is justified by the PHA and approved by the Field Office.

19. The second sentence of § 841.204 of the proposed rule has been deleted in response to comments that the sentence over-emphasized cost at the expense of other factors that should be weighed in evaluating proposals.

20. Many comments objected to the requirement of § 841.301 that the PHA shall use the turnkey method unless the PHA can demonstrate that the conventional method is less costly. The Department has determined that, in general, use of the turnkey method is the quickest, most efficient and most economical method. In response to comments that projects constructed by use of the turnkey method have been of poor quality design and construction and unsuitable for long-term public housing use, the regulations, procedures and forms have been revised to require higher standards of design, quality and durability and to strengthen construction inspection requirements. In response to comments indicating that in some areas use of the turnkey method may not be possible for a variety of reasons, § 841.301 has been amended to permit use of the conventional method where the PHA demonstrates and the Field Office determines that the turnkey method "cannot be used."

21. The second sentence of § 841.401 has been deleted as unnecessary and a definition of substantial rehabilitation has been added.

22. Section 841.406, entitled "Prequalified Contractors," of the proposed rule has been deleted. HUD will consider permitting use of such a procedure on a case-by-case basis where the PHA considers this would be helpful, but the procedure is considered to be of limited applicability.

23. Several comments noted the absence of a homeownership section. Homeownership under this program will be the subject of separate regulations.

24. Several comments stated that Housing Assistance Plans (HAPs) were inadequate. These comments will be considered by HUD in evaluation of the regulations governing the preparation and review of HAPs.

25. There were a number of comments on management concerns, which are addressed in other HUD regulations in Chapter VIII. The title of these regulations was changed to indicate these regulations cover the Development Phase. The subject of tenant participation in management and operation is under review by HUD.

26. Many comments noted the lack of specific standards with respect to the "density" and "scattered" aspects of projects. Since there is wide variation among localities in assessing these aspects, the regulations do not specify standards. Section 841.103(b) has been clarified and the Handbook will provide further guidance to PHAs and the Field Office in making their determinations.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. In addition, a Finding of Inapplicability of inflation impact statement requirements has been made in accordance with HUD procedures. The Findings of Inapplicability are available for inspection with the Rules Docket Clerk.

The proposed rule stated that the new Part 841 would incorporate relevant material from 24 CFR Part 275 and 24 CFR Part 845 and that the final rule would delete all or part of these regulations. All of 24 CFR Part 275, including Appendix A, has been incorporated in Part 841, except for § 275.8. The amendment to Part 275 will be accomplished by a separate rule. This final rule includes the acquisition and/or rehabilitation of HUD-owned properties and properties with HUD-held or insured mortgages, including relocation provisions derived from § 845.412 thereof. Accordingly, Part 845 is being deleted from Chapter VIII.

One fourth of the program year has already passed and it is important that this program for which Congress has appropriated $120,000,000 be implemented expeditiously in accordance with the intention of the Congress. Thus, the regulations are being made *effective* February 7, 1977.

Accordingly, Title 24, Chapter VIII is amended to delete Part 845 and a new Part 841 is added to Chapter VIII reading as follows:

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Sec.

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Appendix A—Prototype Cost Limits for Low-Income Housing

AUTHORITY: Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); U.S. Housing Act of 1937 (42 U.S.C. 1437).

Subpart A—General Requirements

§ 841.101 Applicability, scope and references.

(a) *Applicability.* The U.S. Housing Act of 1937, as amended, authorizes the U.S. Department of Housing and Urban Development (HUD) to provide financial and technical assistance to public housing agencies for the development and operation of low-income housing projects. This Part states the regulations under which such rental projects are to be developed by a Public Housing Agency (PHA) with financial assistance pursuant to Sections 4 and 5 of the Act under an Annual Contributions Contract (ACC). The regulations applicable to other types of projects, including modernization, Indian Housing, Turnkey III homeownership opportunities and Section 8 projects are contained in other parts of this chapter.

(b) *Scope.* Subpart A of this part sets forth the general requirements and the basic policies for the development of projects by a PHA. Subparts B and C of this part set forth the procedures for the construction of a project. Subpart D of this part sets forth the procedures for acquisition of an existing project (properties that do not require substantial rehabilitation) or acquisition of a project requiring substantial rehabilitation and the procedures for accomplishing necessary rehabilitation work.

(c) *References.* For information on income limits for admission to and occupancy of projects and rental requirements under this part, refer to 24 CFR Part 860; on the payment of operating subsidy, refer to 24 CFR Part 890; and on the allocation of housing assistance funds, refer to 24 CFR Part 891.

§ 841.102 Definitions.

(a) *Act.* The U.S. Housing Act of 1937 (42 U.S.C. 1437).

(b) *Annual Contributions Contract (ACC).* A contract (on the form prescribed by HUD) for loans and annual contributions, execution of which creates legal obligations between HUD and a PHA, under which HUD finances the development and provides financial assistance for operation of a project under the Act and the PHA agrees to comply with HUD requirements for the development and/or operation of the project. The amount of the maximum annual contribution is the amount charged against contract authority and this amount multiplied by the number of annual contributions over the term of the ACC is the amount charged against budget authority.

(c) *Cooperation Agreement.* An agreement (on the form prescribed by HUD) between a PHA and local governing body assuring tax exemption and certain local governmental cooperation and services in respect to the development and operation of a low-income housing project under the Act and providing for payments in lieu of taxes.

(d) *Housing Assistance Plan (HAP).* (1) A HAP meeting the requirements of § 570.303(c) of the Community Development Block Grant (CDBG) regulations (24 CFR Part 570), which is submitted by local government as part of the block grant application, and is approved by the Field Office Director.

(2) A HAP, meeting the requirements of § 570.303(c), submitted by a local government not participating in the CDBG Program and approved by the Field Office Director.

(e) *HCD Act.* The Housing and Community Development Act of 1974 (42 U.S.C. 5301).

(f) *HUD.* The Department of Housing and Urban Development, including the Regional Office and the Area or Insuring Office (herein called Field Office) which has been delegated authority under the Act to perform functions pertaining to this part.

(g) *Preliminary Loan Contract.* A contract (on the form prescribed by HUD) between HUD and the PHA under which HUD loans funds to the PHA, up to a stated limit, to pay the costs of preliminary surveys and planning of a project.

(h) *Program Reservation.* A written notification by HUD to the PHA, which is not a legal obligation, expressing HUD's determination, subject to fulfillment by the PHA of all legal and administrative requirements within a stated time, to enter into a new or amended Preliminary Loan Contract or ACC covering the stated number of housing units, or such lesser number as is consistent with the amount of contract and budget

authority reserved by HUD with respect to the Program Reservation.

(i) *Project.* An entire undertaking to provide housing and necessary appurtenances under the Act, including all real or personal property, funds and reserves, rights, interests and obligations, and related activities.

(j) *Public Housing Agency (PHA).* Any state, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing and is determined by HUD to be eligible to undertake projects under this part. Other regulations which govern the operation and management of projects by a PHA are set forth in 24 CFR Chapter VIII, as amended from time to time.

§ 841.103 Types of projects.

(a) *Determination of type or project.* Assistance under this Part shall be used to meet the needs of household types in the jurisdiction of the PHA whose needs are not being met under other programs subject to Section 213 of the HCD Act proportionately to their share of total housing needs in the jurisdiction of the PHA, as shown by the approved HAP or HAPS applicable to the jurisdiction, or in the absence of such HAPs, as determined by HUD. In determining the extent to which the needs of any household type are being met, units proposed or not yet completed shall be counted only if there is a commitment or reservation of funds or contract authority for the provision of federal or other assistance.

(b) *Low-density housing for families with children.* Projects approved under this part for families with children, including large families (families requiring three or more bedrooms), shall to the maximum extent practicable consist of low-density housing (e.g., non-elevator structures, scattered sites or other types of low density developments appropriate in the locality).

(c) *Use of high-rise elevator structures.* High-rise elevator structures shall not be provided for families with children regardless of density unless the Field Office makes a determination that there is no practical alternative. High-rise buildings for the elderly or handicapped may be used if a determination is made by the Field Office that such construction is appropriate taking into consideration land costs, safety and security, and the availability of community services.

§ 841.104 Civil rights and equal opportunity.

(a) *Title VI and Title VIII and Executive Order 11063.* Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and Executive Order 11063, which prohibit discrimination on the basis of race, color, creed or national origin in federally assisted programs, and Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601), which prohibits discrimination based on race, color, religion, sex or national origin in the sale or rental of housing, apply to PHAs under this part.

(b) *Handicapped individuals.* Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination in federally assisted programs against any otherwise qualified individual solely by reason of a handicap, as defined by the Secretary of Health, Education, and Welfare, applies to PHAs under this part.

(c) *Executive Order 11246.* Contracts for construction work in connection with Projects under this part are subject to Executive Order 11246 (30 FR 12319), as amended by Executive Order 11375 (32 FR 14303), and applicable implementing regulations (24 CFR, Part 130; 41 CFR, Chapter 60), rules and orders of HUD and Office of Federal Contract Compliance Programs of the Department of Labor. Executive Order 11246 prohibits discrimination and requires affirmative action to ensure that employees or applicants for employment are treated without regard to their race, color, religion, sex or national origin.

(d) *Section 3 of the HUD Act of 1968.* The projects under this part are subject to Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u), which requires that, to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with a project be awarded to business concerns which are located in or owned in substantial part by persons residing in the project area.

(e) *PHA's employment practices.* In connection with the development or operation of any project, the PHA shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The PHA shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex or national origin. The PHA shall comply with all HUD requirements against discrimination with respect to employment by the PHA or by contractors of the PHA. The PHA shall adopt and promulgate regulations with respect to the PHA's employment practices which shall be in compliance with this paragraph. A copy of these regulations shall be posted in the PHA office and a copy shall be submitted to HUD promptly after adoption by the PHA.

§ 841.105 Prevailing wage rates.

Not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276) shall be paid to all laborers and mechanics employed in the development of the project. Not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable state or local law) by HUD, shall be paid to all architects, technical engineers, draftsmen and technicians employed in the development of the project.

§ 841.106 Relocation and acquisition.

Projects shall be developed in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) (42 U.S.C. 4601) and HUD policies and requirements thereunder (24 CFR Part 42). Development Cost may include the cost of compliance with the Uniform Act as well as the actual reasonable moving expenses of a family which is temporarily moved from a project site during construction and is returned to the site after completion (see § 841.406 in the case of acquisition of a HUD-owned property or a property with a HUD-held or HUD-insured mortgage).

§ 841.107 Site and construction standards.

(a) *Economy and efficiency.* Each project, including the site and site improvements, shall be developed in such a manner that the project will not be of elaborate or extravagant design or materials, and the project shall be developed and administered to promote serviceability, efficiency, economy and stability and to achieve the economic and social well-being and advancement of the tenants.

(b) *Site standards.* (1) Project sites shall be subject to the requirements with respect to sites set forth in the Project Selection Criteria (24 CFR Part 200, Subpart N). The physical characteristics and cost of the site and the availability of utilities and of access roads to the site shall facilitate economical construction and operation of the project.

(2) Participation in this program requires compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the National Historic Preservation Act (Pub. L. 89-665), the Archeological and Historic Preservation Act of 1974 (Pub. L. 93-219), Executive Order 11593 on Protection and Enhancement of the Cultural Environment (including the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR Part 800), the Clean Air Act (42 U.S.C. 1857 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.) and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.).

(c) *Construction Standards.* (1) In accordance with section 6(b) of the Act, the design of a project shall include: "(i) The extra durability required for safety and security and economical maintenance of such housing, (ii) The provision of amenities designed to guarantee a safe and healthy family life and neighborhood environment, (iii) The application of good design as an essential component of such housing for safety and security as well as other purposes, (iv) The maintenance of quality in architecture to reflect the standards of the neighborhood and community, (v) The need for maximizing the conservation of energy for heating, lighting, and other purposes, (vi) The effectiveness of existing cost limits in the area, and (vii) The advice and recommendations of local housing producers."

(2) The foregoing shall be in addition to the minimum standards stated in the HUD Minimum Property Standards (24 CFR Part 200, Subpart S), or HUD minimum Design Standards for Rehabilitation for Residential Properties, as applicable, and applicable state and local laws, codes, ordinances and regulations.

(3) Projects for the elderly or handicapped shall comply with Section 209 of the HCD Act and projects for congregate or single room occupant housing shall comply with the appropriate HUD guidelines and standards.

§ 841.108 Contracts requiring HUD approval.

(a) *Construction contracts.* The PHA shall not, without the prior written approval of HUD, enter into, execute or approve any Preliminary Contract of Sale, Contract of Sale or Construction Contract. These contracts and the contracts for architectural and/or inspection services must be on the forms prescribed by HUD.

(b) *Other contracts requiring HUD approval.* The PHA shall not, without the prior written approval of HUD, enter into, execute or approve any agreement or contract for (1) Personal, management, legal or other services with any person or firm where the initial period or term of the agreement or contract (including any renewal) is in excess of three years, or (2) Where the amount of the agreement or contract is in excess of the amount included for such purpose in the HUD-approved development cost budget or operating budget or an amount specified from time to time by HUD, as the case may be, or (3) Where the agreement or contract is for legal or other services in connection with litigation.

§ 841.109 Notification of Housing assistance availability (NOHAA).

In the context of the constraints on the use of housing assistance funds, including HAPs and local needs (see 24 CFR Part 891), the Field Office shall determine the geographic areas in which the housing is to be located, the extent to which assistance is to be made available for new construction, acquisition with substantial rehabilitation or acquisition of existing housing and the sizes and types of housing. As promptly as possible, the Field Office shall send to the appropriate PHAs a NOHAA stating the availability of housing assistance for which they may apply, including information reflecting the Field Office's determinations and the deadline date for submission of an Application. To the extent feasible, a copy of the NOHAA should be sent to the Chief Executive Officers of local governments in the applicable geographic area, representatives of the media and organizations interested in housing and urban development. Appropriate instructions, forms and other program information necessary to prepare an Application shall be sent by the Field Office to each PHA.

§ 841.110 Application submission.

(a) *Eligibility.* To be eligible to participate under this part, an entity shall demonstrate that it meets the definition of a PHA and has the required legal authority to perform all the functions of a PHA under this part. Generally, the entity will have been created pursuant to a state housing authorities law. In such cases, a reference in the Application to ACCs previously entered into will be sufficient to establish prima facie eligibility. Where the eligibility of such an entity has not been previously approved by HUD or where the entity was not created pursuant to a state housing authorities law, the Field Office shall advise the entity of the documents that must be submitted to establish eligibility. The evidence that the entity has the required legal authority shall include citations to and copies of state or local law, the charter or other organizational papers establishing the entity and an opinion from counsel that the entity has all the legal authority required to develop and operate a low-income project under this part.

(b) *Application.* To apply for a Program Reservation, a PHA shall submit an Application (on the form prescribed by HUD), which shall identify the number and types of units, the site or location insofar as it has been determined and its relationship to HAPs and site requirements; state whether new construction, acquisition with substantial rehabilitation or acquisition of existing housing is proposed; state the proposed production method which in the case of new construction shall be the turnkey method unless adequate justification is furnished; show that the household types for whose needs the project will be developed will be in accordance with § 841.103(a); and furnish a statement that the project will be developed in accordance with § 841.103 with any justification required thereunder. If the Application identifies a site or sites, the Chief Executive Officer of the unit of general local government in which the proposed housing is to be located should have been requested pursuant to Section 213 of the HCD Act by the PHA to provide a letter stating his finding as to consistency with the locality's approved HAP, or in the absence of a HAP as to whether there is or will be available in the area public facilities and services adequate to serve the proposed project. Where such letter has been provided, it shall be attached to the PHA's Application. The Application shall also be accompanied by an executed Cooperation Agreement. If a Cooperation Agreement already exists for the location sufficient to cover the number of units in the Application, a statement to this effect may be included in the Application.

(c) *Preliminary loan.* The Application for a Program Reservation may include an application for a preliminary loan, which must be accompanied by a resolution of the local governing body approving the application for a preliminary loan. Such an application shall state the amount requested and explain the purpose for which these funds are to be used. (See § 841.113).

§ 841.111 Field Office review and approval of applications.

(a) *Prerequisites to application approval.* The Field Office shall begin processing of complete Applications promptly after receipt. Each Application will be evaluated on the basis of all pertinent factors under this part. In addition to meeting the requirements of § 841.110, an Application shall be approved if the Field Office determines that:

(1) The PHA's Application meets the requirements of § 841.103.

(2) The PHA's Application is likely to meet the requirements for approval of the Development Program under § 841.115(c).

(3) The PHA has the capability to provide adequate administration of the development and operation of the project and other HUD-assisted projects of the PHA are in compliance with all applicable HUD requirements.

(b) *Designated site.* If specific sites are designated for the proposed project in the Application, the Field Office may approve the Application, while deferring approval on the site, or may withhold decision on the Application until after approval of the site. In either event, the Field Office shall promptly initiate the necessary action to obtain compliance with Section 213 of the HCD Act and A-95:

(1) For purposes of compliance with Section 213, Review of Applications for Housing Assistance; Allocation of Housing Assistance Funds (24 CFR Part 891; published in 41 FR 35660, August 23, 1976) shall be followed.

(2) For A-95 clearance, Implementation of OMB Circular A-95 (24 CFR Part 52; published in 41 FR 41874, September 23, 1976) shall be followed.

(c) *Notification of deficiencies.* If the evaluation discloses deficiencies that can be corrected, the Field Office shall notify the PHA in writing of the deficiencies and give the PHA a reasonable opportunity to correct the deficiencies.

(d) *Notification of approval.* The Field Office shall issue a Program Reservation to the PHA whose Application is approved, specifying new construction, acquisition with substantial rehabilitation or acquisition of existing housing, the production method and the location. If the Application is approved for fewer units than requested, the Program Reservation shall be accompanied by a statement of the reasons for not approving the number of units requested. The Program Reservation shall set a time limit of not to exceed one year within which the PHA must submit an approvable Development Program. The Field Office shall cancel the Program Reservation if the time limit is exceeded unless the Field Office determines, for good cause, to extend the time limit.

(e) *Notification of disapproval.* Any PHA whose Application was not approved by the Field Office shall be sent a letter notifying the PHA of the determination and of the reasons therefor.

(f) *Deficiency or excess of available housing assistance.* (1) If the available

contract authority and budget authority are not sufficient for all the approvable Applications, the Field Office shall approve the Applications with respect to localities and number and types of units most nearly in accord with the requirements of section 213 of the HCD Act.

(2) Where approved Applications are or become insufficient to utilize fully the available contract authority and budget authority, the Field Office may give further consideration to other Applications, affording PHAs an opportunity to remedy any deficiencies, or the Field Office may solicit Applications from other appropriate PHAs for localities to which the housing assistance may be reallocated.

§ 841.112 Time schedule.

Promptly after issuance of a Program Reservation, the PHA and the Field Office shall hold a Project Planning Conference at which they shall mutually agree upon a Time Schedule, consistent with the deadline stated in the Program Reservation, of all actions to be taken by the PHA and HUD during planning and construction of the project. The PHA and Field Office shall adhere to the Time Schedule, and any deviation shall be explained in the project file.

§ 841.113 Preliminary loan.

(a) *Amount.* If a Program Reservation is issued, the Field Office may approve a preliminary loan to pay the cost of preliminary surveys and planning (including the cost of HUD-approved appraisals) necessary to prepare a Development Program. The maximum amount of the preliminary loan shall be $200 per unit ($400 per unit in Alaska); however, where the PHA is able to justify a higher amount because of special circumstances, the Field Office may permit a maximum amount of $500 per unit ($1,000 per unit in Alaska). The Field Office shall review the PHA's explanation set forth in its Application of the need for funds and shall approve a preliminary loan in the amount which the Field Office determines is a reasonable expenditure for the accomplishment of tasks that are clearly necessary to prepare the Development Program. Where the maximum amount approvable by the Field Office is insufficient, a request may be submitted to the Assistant Secretary for Housing-Federal Housing Commissioner for authorization to provide additional preliminary loan funds. Any such request shall be supported by full justification for the proposed expenditures.

(b) *Repayment of preliminary loans.* The amount of preliminary loan funds advanced by HUD to the PHA are included in the development cost of a project and covered by the development loan funds under the ACC. In the event the project fails to reach ACC, the total amount of preliminary loan funds advanced to the PHA shall be repaid to HUD by the PHA from any funds or assets available for this purpose.

§ 841.114 Site approval.

(a) *Tentative site approval.* The PHA shall request tentative Field Office approval for each site by submitting a Preliminary Site Report (on the form prescribed by HUD). The PHA may submit the Preliminary Site Report with the Application. Unless A-95 and Section 213 compliance was completed at the time of the Application, the Field Office shall obtain compliance by forwarding copies of the Preliminary Site Report in accordance with § 841.111(b) and Tentative Site Approval shall not be given until the response periods for A-95 and Section 213 have ended. Tentative site approval shall not be given unless HUD's environmental requirements have been met. The Field Office shall notify the PHA as soon as possible of tentative site approval or disapproval of the proposed sites or portions thereof. The notfication shall specifically state any conditions to be met for final site approval. A notification of disapproval shall state the reasons for disapproval.

(b) *Final site approval.* To obtain final site approval, the PHA shall submit documentation that conditions, if any, of tentative site approval have been met, request a HUD appraisal (unless previously requested) and submit title information, site surveys and evidence of site control which are satisfactory to the Field Office. For acquisition projects under Subpart D of this part, the appraisal shall be of the "as is" value of the property. The Field Office shall not give final site approval or approve a Development Program until all of these requirements have been satisfied. Final site approval shall not constitute authorization to acquire a site or property.

(c) *Site acquisition.* The PHA shall not authorize a turnkey developer to acquire a site or make a commitment to acquire a site until after execution of the ACC. The PHA shall not acquire a site or make a commitment for acquisition until after execution of the ACC. Ownership of the site by the PHA or developer as required by the production method being used shall be accomplished prior to execution of the Construction Contract for conventional or prior to commencement of construction for turnkey.

§ 841.115 Development program.

(a) *Description.* A Development Program is a statement of the basic elements of a project, which is prepared by the PHA (on the form and attachments prescribed by HUD) and includes: (1) Site documentation required by § 841.114(b), (2) Preliminary Plans and Specifications (or Work Write-Ups for acquisition projects under Subpart D of this part), (3) Estimate of Total Development Cost, (4) Demonstration of Financial Feasibility, and (5) Updating of Administrative Capability of the PHA. The Development Program shall be adopted by the PHA and submitted to the Field Office for approval.

(b) *Development cost.* (1) The Total Development Cost is the sum of all HUD-approved costs for planning administration, land acquisition, relocation, demolition, construction and equipment, their necessary financing (including interest and other carrying charges, if any, to the point authorized by HUD), initial operating deficit, and any other costs necessary to carrying out the development of the project. It shall include funds necessary to cover any preliminary loan funds advanced to the PHA. Development cost may include on-site streets and driveways, on-site utilities, non-dwelling facilities, a contingency allowance (not to exceed 1% for turnkey or 5% for conventional) and insurance premiums for the first three years.

(2) For new construction projects, dwelling construction and equipment cost shall not exceed 110 percent of the appropriate prototype cost for the area published by HUD (Appendix A). When the PHA finds that the Project Prototype Cost Limit, calculated by using the latest costs published in the FEDERAL REGISTER, is inadequate to produce an approvable estimated dwelling construction and equipment cost, the PHA may request that the published prototype costs be revised. Specific justification and cost data must accompany the request.

(3) For acquisition projects under Subpart D of this part the Total Development Cost shall not exceed 90 percent (or appropriately lower percentage if the acquired project has less than a 40-year useful life) of the imputed development cost of a comparable hypothetical newly constructed low-income housing project unless the PHA demonstrates that a higher amount is necessary for the acquisition and rehabilitation of properties in accordance with a locally established plan for neighborhood preservation and revitalization and such higher amount is approved by the Assistant Secretary for Housing.

(4) Where the project would be required to bear a part or all of the cost of off-site facilities if it were a private development, the cost of such facilities may be included in the Total Development Cost; provided that the Field Office determines that the off-site facilities are a necessary appurtenance to the project and the amount included is limited to the lower of: (i) The HUD approved estimate of the cost of such facilities, or (ii) The enhancement in value of the project site attributable to such facilities. Where the cost of off-site facilities is required to be borne by the local government without cost to the project, whether because of normal practice or by virtue of the Cooperation Agreement, the cost of such facilities may not be included in Total Development Cost, but the Field Office may arrange for a HUD loan evidenced by an Off-Site Facilities Note; provided that the Field Office determines that the off-site facilities are a necessary appurtenance to the project and the amount is limited to the lower of (A) The HUD approved estimate of the cost of such facilities, or (B) The enhancement in value of the project site attributable to such facilities; and provided, that the PHA submits legally enforceable commitments, acceptable to HUD, to repay the cost of such facilities from sources other than annual contributions or project income.

(c) *Financial feasibility test and operating subsidies.* (1) The Development

Program shall be approved if the Field Office determines that the project is financially feasible based on the PHA's demonstration, in the form prescribed by HUD, that the project's estimated operating expenses do not exceed the estimated operating income without the use of operating subsidy, or as provided in paragraph (c) (3) and (4) of this section.

(2) The estimate of operating expenses shall be the annual average of the projected operating expenses for the first three years of operation based on the operations of a comparable well-managed project and other HUD standards for operation, including, as required by section 6(c)(4) of the Act,

(i) The establishment of satisfactory procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of nonpayment of rent; and

(ii) The establishment of effective tenant-management relationships designed to assure that satisfactory standards of tenant security and project maintenance are formulated and that the PHA (together with tenant councils where they exist) enforces those standards fully and effectively.

(3) The estimate of operating income shall be the projected income for the first fiscal year of operation without use of operating subsidy based upon 95 percent occupancy by a tenant body selected in accordance with regulations (based on sections 3 and 6(c)(4) of the Act and 24 CFR Part 860) which are designed to achieve:

(i) The establishment of tenant selection criteria designed to assure that the project will include families with a broad range of incomes and will avoid concentrations of low-income and deprived families with serious social problems, but this shall not permit maintenance of vacancies to await higher income tenants where lower income tenants are available; and

(ii) Occupancy of at least 20 percent of the dwelling units by very low-income families.

(4) Pursuant to paragraph (c)(3) of this section, the PHA shall determine the range of low-income families residing in the county, or jurisdiction of the PHA if data is available, by household types (elderly/non-elderly) and by income intervals. The percentage distribution of these families by established income intervals shall be recorded. The PHA shall determine the estimated rental income of the project by projecting occupancy which replicates as nearly as feasible the percentage distribution of families (provided that at least 20% of the families shall be very low-income) and by applying its current rent determination standards to the median net income of such families in each income intervals. If this analysis shows that the estimated rental income would be insufficient to meet estimated operating expenses, the PHA may request the approval of the required operating subsidy.

(5) Requirements or preferences for those living in the jurisdiction of the PHA at the time of application are permissible subject to the following: No requirement or preference may be based upon the identity or location of the housing which is occupied or proposed to be occupied by the applicant nor upon the length of time the applicant has resided in the jurisdiction; applicants who are working or who have been notified that they are hired to work in the jurisdiction shall be treated as residents of the jurisdiction.

(6) The PHA shall be committed to selection of tenants, achievement and maintenance of project occupancy and operation of the project in accordance with the foregoing principles and as indicated in connection with its projections of income and operating expenses.

(7) No request for operating subsidy based upon an operating deficit with respect to the project for the first fiscal year which is substantially in excess of the amount, if any, included in the approved Development Program shall be considered by HUD unless the PHA clearly shows to the satisfaction of HUD that such operating deficit was due to changes in circumstances (e.g., a deficiency of relatively higher income applicants notwithstanding best efforts by the PHA to obtain such applicants) which (i) could not reasonably have been foreseen, or (ii) were beyond the control of the PHA to prevent or mitigate, and in either case (iii) were reported to HUD promptly at the time of their occurrence.

(8) Any application for operating subsidy after the first fiscal year shall include a showing that the PHA has used its best efforts to comply with its commitment stated in paragraph (c)(6) of this section.

§ 841.116 Annual contributions contract.

(a) *Timing.* The ACC shall be based on the HUD-approved Development program. The ACC for a project shall not be executed until the PHA has adopted and HUD has approved the Development Program. The PHA shall not enter into any Construction Contract, Preliminary Contract of Sale, Contract of Sale, contracts for rehabilitation work or contracts to acquire a property until after execution of the ACC. Following execution of an ACC, no modifications may be made in a Development Program except in accordance with procedures prescribed by HUD.

(b) *Development funds.* HUD will provide or will assure the provision of development loan funds pursuant to its obligation to make loans as stated in the ACC. Annual contributions payable by HUD for debt service shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the PHA to finance the development or acquisition cost of the project. In no case shall such annual contributions be in excess of the maximum sum specified in the ACC, nor shall the number of annual contributions be greater than the number authorized by the ACC, nor shall the annual contributions be paid over a period in excess of forty years. Where the Field Office has determined that an acquisition project under Subpart D of this part has less than a forty year useful life, the term of the ACC and the number of payments shall be appropriately reduced.

(c) *Repayment.* In the event that a project does not reach the point where annual contributions are payable by HUD, the amount of development loan funds advanced to the PHA by HUD or other sources shall be repaid by the PHA from any funds or assets available for this purpose.

§ 841.117 Construction requirements.

(a) *Economy.* The PHA shall complete development of the project in accordance with the approved Development Program at the lowest possible cost and in no event at a cost in excess of the Total Development Cost approved by HUD.

(b) *Changes in contracts.* The PHA shall not order or agree to any changes in or additions to the work required under the Construction Contract or Contract of Sale except as authorized by the provisions of these contracts or with prior HUD approval.

(c) *Construction inspections.* (1) The PHA shall be responsible for inspections during construction which shall be performed by an architect or other qualified person with the frequency and in accordance with such standards as HUD shall prescribe for the production method involved. The PHA shall forward copies of all inspection reports to the Field Office with comments on actions taken to remedy deficiencies.

(2) Field Office representatives shall make on-site inspections as required by HUD. A copy of each inspection report shall be sent to the PHA with recommendations of actions to be taken by the PHA.

(d) *Final inspection and acceptance of project.* (1) The contractor or developer shall notify the PHA in writing as to the date when the contract work or stages when applicable, including agreed to off-site work, will be completed and ready for final inspection. If the PHA determines that the state of the work is as represented, the PHA shall promptly notify the Field Office. The final inspection shall be made jointly by the representatives of the PHA, the Field Office and the contractor or developer.

(2) If the inspection discloses no deficiencies other than punch list items or items awaiting seasonal opportunity to complete, the PHA shall submit for Field Office approval an Interim Certificate of Completion, which shall detail the items, and a proposed time schedule agreed to by the contractor or developer and the PHA for completion of the items. Upon Field Office approval, the PHA may release the monies to the contrac-

tor or developer less the withholdings required by the contract.

(3) The contractor or developer shall complete the punch list items and items awaiting seasonal opportunity in accordance with the HUD-approved time schedule for completion of the items. The contractor or developer will be paid for such items only after inspection and acceptance by the PHA and the Field Office; the PHA and Field Office shall not accept any items if there is a dispute as to whether such items have been completed. If the PHA is satisfied that the applicable requirements of the contract have been met, the PHA shall submit to the Field Office a Final Certificate of Completion and upon receiving Field Office approval shall release to the contractor or developer the amounts withheld with respect to such items in accordance with the applicable provisions of the contract.

(e) *Warranties.* The Construction Contract or Contract of Sale shall specify the warranty period applicable to all items of construction, including items covered by manufacturer's and supplier's warranties, and shall provide for assignment to the PHA of all manufacturer's and supplier's warranties. The PHA shall inspect each dwelling unit not less often than every three months during the contractor's or developer's warranty period or periods beginning three months after the date of the approved Interim Certificate of Completion, provided that there shall be a final inspection in time to exercise rights before expiration of the warranties. These inspections shall also cover all items under manufacturer's and supplier's warranties and, to the extent feasible, the PHA shall check the condition of items covered by these warranties so as not to lose any rights under them.

Subpart B—Turnkey Method—New Construction

§ 841.201 Description.

Under the Turnkey method, the PHA, following issuance of a Program Reservation, advertises for developers to submit proposals to provide a completed project, including site, as described in the PHA's Invitation for Proposals and the developer's packet. The PHA selects, subject to HUD approval, the best of the proposals received, taking into consideration site, cost, design, the developer's experience and other evidence of ability to complete the project. After HUD approval of the proposal selected by the PHA, the working drawings and specifications are agreed to by the developer, the PHA and HUD, and the developer and the PHA enter into a Contract of Sale. The developer is fully responsible for all development and construction, including the provision of necessary financing. Upon completion of the project in accordance with the Contract of Sale, the PHA purchases the project from the developer.

§ 841.202 Invitation for proposals.

(a) *Preparation and distribution.* The PHA shall prepare and submit to the Field Office the Invitation for Proposals and the developer's packet containing full project information and detailed minimum submission requirements which shall be in full compliance with the provisions of this part and as approved by HUD. Upon approval by the Field Office, the PHA shall publish the Invitation at least weekly for two consecutive weeks in a local newspaper of general circulation and shall also distribute, to the extent feasible, copies of the Invitation to the media, trade associations, local minority organizations and developers and builders. The PHA shall furnish a copy of the developer's packet to all parties indicating interest in responding to the Invitation. The Invitation shall specify a deadline by which proposals must be received by the PHA and a date, time and place for opening of proposals.

(b) *Preselected sites.* The PHA may, if approved by the Field Office, preselect a site. The PHA's request to preselect a site shall identify the site and shall include a justification stating the reasons why preselection is requested. Preselected sites must receive final site approval from the Field Office prior to publication of the Invitation for Proposals. If the preselected site is owned by the PHA, the PHA's Invitation may limit proposals to that site. If the site is not owned by the PHA, the PHA shall specify in its request whether it proposes to limit proposals to the preselected site and, if so, the reasons for such limitation. The Field Office shall promptly advise the PHA of its determination and the reasons for the decision. Where preselection is approved, the PHA's Invitation shall identify the preselected site, invite developers to submit proposals with regard to that site and specify whether or not proposals with respect to other sites may be submitted.

§ 841.203 Opening of proposals.

The PHA shall open all proposals received before the deadline, at the time and place specified in the Invitation; proposals received after the deadline be returned unopened. The PHA shall send copies of each opened proposal to the Field Office.

§ 841.204 Evaluation and selection.

(a) *Evaluation.* The PHA shall evaluate each opened proposal on the basis of cost, site, design and amenities and experience of the developer and/or builder. The PHA shall tentatively select the best of the proposals and submit to the Field Office its rationale for the tentative selection with a request for HUD approval.

(b) *Preliminary Site Report.* The PHA's submission of its tentative selection shall be accompanied by a Preliminary Site Report in accordance with § 841.114 for the site or sites in the tentatively selected proposal.

(c) *Field Office review.* The Field Office shall review the PHA documentation and selection, process the Preliminary Site Report to tentative site approval in accordance with § 841.114(a) and notify the PHA of approval or disapproval of the selection.

(d) *Selection.* (1) After obtaining HUD approval, the PHA shall notify the developer of the selection and shall set a date for a conference at which the parties will discuss the steps necessary to obtain final site approval and the documents to be prepared for a subsequent negotiation conference.

(2) The PHA shall prepare a statement setting forth the factors which contributed to the selection of the developer and make the statement available for public inspection.

§ 841.205 Negotiation conference.

(a) At this conference the developer will advise the PHA whether he will want a Preliminary Contract of Sale before having the working drawings and specifications prepared. If so, the parties shall agree on a purchase price for the site and a price for the architectural and engineering services and on a negotiated price of the project based on the preliminary plans and specifications. This price for the project may be reduced after submission and review of the working drawings and specifications.

(b) If the developer is prepared to negotiate the purchase price and other project requirements on the basis of working drawings and specifications which have been reviewed and approved by HUD, this shall be done and there will be no need to agree on the purchase price for the site or for the architectural and engineering services or to execute a Preliminary Contract of Sale.

§ 841.206 Development Program and ACC.

On the basis of the developer's proposal and any modifications as a result of the negotiations, the PHA shall prepare the Development Program which shall be submitted to and reviewed by the Field Office to assure that all requirements have been met. After approval of the Development Program, the Field Office shall prepare and process the documents required for execution of the ACC.

§ 841.207 Contract of sale or preliminary contract of sale.

Following execution of the ACC, the parties shall execute the Contract of Sale or the Preliminary Contract of Sale (on the forms prescribed by HUD). If the final price for the project was negotiated on the basis of working drawings and specifications, the PHA and the developer shall execute a Contract of Sale. If the Development Program included only preliminary plans and specifications, the PHA and the developer may execute a Preliminary Contract of Sale which states their mutual obligations during the period that the working drawings and specifications are being prepared. Subsequently, after HUD review and approval of the working drawings and specifications, the final price for the project shall be determined and the PHA and the developer shall execute the Contract of Sale.

§ 841.208 Construction requirements.

The requirements concerning changes in the Contract of Sale, inspections during construction, acceptance and warranties are stated in § 841.117. The PHA shall contract with an architect (on the form prescribed by HUD) for the performance of inspection services during construction.

Subpart C—Conventional Method—New Construction

§ 841.301 Justification and Description.

(a) The PHA shall use the turnkey method for new construction unless the PHA can demonstrate in its Application and the Field Office determines (1) That the conventional method will permit development of the project at direct and indirect costs, including consideration of total development cost and administrative costs of the PHA and HUD, that are less than would be required under the turnkey method, or (2) That the turnkey method cannot be used. Force account cannot be used for new construction projects.

(b) Under the conventional method, the PHA contracts with an architect to prepare plans and specifications for a proposed project on a site owned by the PHA. Following HUD approval of the plans and specifications, the PHA advertises for bids from contractors to build the project and awards the Construction Contract to the lowest responsible bidder, subject to HUD approval. The contractor provides assurance in the form of 100 percent performance and payment bonds, or other security approved by HUD, such as a letter of credit or escrow. The contractor receives progress payments from the PHA during construction and a final payment upon completion in accordance with the Construction Contract.

§ 841.302 Site selection.

Following issuance of a Program Reservation, the PHA shall, if it has not already done so, select sites in accordance with the criteria stated in 841.107 and shall request site approval in accordance with 841.114. The PHA may option a site during this process.

§ 841.303 Development Program and ACC.

The PHA shall contract with an architect (on the form prescribed by HUD). The architect shall prepare schematic design plans and specifications in accordance with § 841.107 and as prescribed by the PHA. Based on these plans, the architect shall prepare a detailed estimate of project construction cost covering all work to be included in the construction contract. After review and approval by the Field Office of these plans and estimates, the PHA shall prepare and submit the Development Program as specified in § 841.115. The Field Office shall review the Development Program to assure that all requirements have been met. Upon approval of the Development Program, the Field Office shall prepare and process the documents required for execution of an ACC.

§ 841.304 Construction contract and bidding documents.

Following execution of the ACC, the PHA and its architect shall prepare the construction and bid documents and submit them to the Field Office for approval. The Field Office shall determined that the bidding documents, the procedures for inviting bids, the proposed Construction Contract and attachments and all drawings and specifications are in compliance with HUD requirements. Following HUD approval, the PHA shall publish the advertisement for bids. A standard package of bid documents shall be issued to each prospective bidder.

§ 841.305 Award of contract.

The PHA shall award the Construction Contract to the lowest responsible bidder after obtaining HUD approval of the proposed award. Following the receipt of Field Office approval, the PHA and contractor shall execute the Construction Contract and the PHA shall issue the Notice to Proceed directing the contractor to commence work.

§ 841.306 Construction requirements.

The requirements for changes in construction contracts, inspections during construction, acceptance and warranties are stated in § 841.117.

Subpart D—Acquisition Method

§ 841.401 Description.

(a) Under the acquisition method, the PHA acquires a property which may or may not require substantial rehabilitation to serve as low-income housing.

(b) To qualify as substantial rehabilitation, the rehabilitation work with respect to a structure shall comprise at least one or more of the following:

(1) Major repair or replacement of mechanical equipment and/or plumbing;

(2) Extensive resurfacing of walls and/or floors;

(3) Extensive structural repair; or

(4) Major alterations.

§ 841.402 Property selection.

(a) *Types of Property.* Structures of various types may be appropriate for use in an acquisition project, including non-housing structures which may be converted to housing use. Structures, other than those assisted under the Act, owned by HUD, a PHA, or city, county or state government, as well as properties with HUD-held or HUD-insured mortgages, are eligible for selection.

(b) *Other considerations.* In addition to § 841.107, the PHA in its property selection shall consider:

(1) The design and quality of original construction as well as the degree, complexity and cost of rehabilitation necessary to place the property in acceptable physical condition, and

(2) The feasibility of relocating site occupants during and after rehabilitation, and availability of funds for this purpose, if applicable.

§ 841.403 Rehabilitation standards.

Projects shall be rehabilitated in compliance with § 841.107 and all acquired projects must comply with HUD regulations issued pursuant to the Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4801).

§ 841.404 Acquisition procedure.

The property to be acquired shall meet the criteria set forth in §§ 841.402 and 841.403. The PHA shall request site approval in accordance with § 841.114. Following final site approval and approval of the property, the PHA shall prepare and submit a Development Program (which shall include the cost of work) in accordance with § 841.115. Upon approval, the Field Office shall prepare and process the documents required for execution of the ACC. The Field Office shall arrange the closing at which the purchase of the property shall be accomplished.

§ 841.405 Methods of accomplishing repair or rehabilitation.

(a) Either the turnkey (Subpart B) or the conventional (Subpart C) method may be used.

(b) Force account, whereby the PHA uses its existing staff or hires additional personnel to perform the work, may be used for rehabilitation work on acquisition projects only in exceptional cases. Its use must be justified and the PHA must demonstrate in its Application that it has the capability to successfully implement this procedure. An exceptional case could be a project or unit or work of unusually small size, a project involving properties requiring only minor rehabilitation or a project involving individual small structures requiring major rehabilitation where it is necessary to utilize many separate sets of detailed plans and specifications or other contract documents and the work of preparing, advertising, awarding and administering such contracts would be disproportionately difficult, time-consuming and high in cost. Force account work shall be subject to Davis-Bacon wage rates. Force account may be combined with a conventional Construction Contract for other portions of the rehabilitation. The Field Office may specify special conditions or procedures designed to assure timely completion of the work within the approved development cost.

§ 841.406 Relocation on acquisition of HUD-Owned properties or properties with HUD-held or HUD-insured mortgages.

(a) *Applicability.* This section is applicable only to acquisition of HUD-owned properties or properties with HUD-held or HUD-insured mortgages.

(b) *Applicability of Uniform Act.* Any tenant in occupancy on the date the PHA acquires the real property as part of the project and who thereafter moves from the real property shall be considered a displaced person within the meaning of the Uniform Act, unless the tenant is permitted to continue in occupancy of a dwelling in accordance with

paragraph (c) and (d) of this section. The relocation of any displaced person shall be carried out in compliance with 24 CFR Part 42, as modified by the special policies contained in this section.

(c) *Preliminary notice to each tenant.* Not later than 30 days after the date of execution of the applicable ACC, the PHA shall issue to each tenant a written communication which shall:

(1) State that the PHA intends to acquire the real property occupied by the tenant and has entered into a contract with HUD under which the funds necessary to acquire the property will be made available;

(2) Inform the tenant whether or not it appears that the tenant will be required to relocate permanently as a result of the PHA's acquisition of the real property;

(3) State that the communication is not a notice to vacate the real property and that, if the tenant moves for any reason, except after being issued a notice of displacement as described in paragraph (e) of this section, the tenant will not be considered a displaced person under the Uniform Act;

(4) Indicate that as soon as feasible, but not later than 10 days following the date of acquisition of the real property, the tenant will receive from the PHA an appropriate notice as specified under paragraph (d) and (e) of this section, as the case may be (the provisions of such notice or notices as are referred to shall be generally described in the communication);

(5) Generally describe the relocation payments and other assistance for which the tenant would be eligible, if displaced under the Uniform Act, including conditions of eligibility therefor; and

(6) Inform the tenant of the policies contained in paragraphs (e)(3), (e)(4)(ii) and (e)(4)(iii) of this section.

(d) *Notice of right to continue in occupancy.* Not later than 10 days after the date of acquisition of the real property, the PHA shall furnish each tenant who will not be displaced a written notice of the tenant's right to continue in occupancy, which contains the following conditions:

(1) The tenant shall have the right to lease and occupy a decent, safe and sanitary dwelling which is either the tenant's current dwelling or another dwelling located within the same building or nearby building identified as part of the same project, for a period of at least four years beginning on the date of acquisition, or the date the dwelling is placed in decent, safe and sanitary condition, or the date of termination of any temporary relocation, whichever is later, for so long as the tenant complies with the terms of the lease and the rules, regulations and procedures of the PHA except for those establishing standards and criteria for continued occupancy related to income. Rents for such tenants shall be determined in accordance with applicable HUD regulations but in no event shall the rent exceed an amount established by the PHA and approved by HUD which shall represent an unsubsidized rent for the units occupied by such tenants taking into consideration the fixed annual contribution, projected operating expenses and the amount of local property taxes if the property were not exempt. Notwithstanding the provisions of any ACC, pursuant to the Act, which may be inconsistent with this section, the PHA is authorized to permit tenants to remain in occupancy subject to the provisions of this section. The PHA will assure that at the beginning of such four year period the dwelling is decent, safe and sanitary as determined under the housing quality standards set forth at 24 CFR § 882.109.

(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.

(3) The tenant shall not be required to move from the dwelling unless the move is necessary to permit rehabilitation or demolition. If such move is required to be made, (i) Not more than one temporary relocation by the tenant shall be required, (ii) The temporary relocation shall not exceed one year in duration, (iii) The PHA shall make available to the tenant for the temporary period decent, safe and sanitary housing meeting the standards of Sec. 882.109, and (iv) The PHA shall pay the actual reasonable expenses, including any moving costs or increase in rent incurred by the tenant in connection with the temporary relocation.

(4) If the PHA fails to comply with any requirement to which it is committed in accordance with this notice, the tenant shall automatically be deemed to have been issued a notice of displacement as described in paragraph (e) of this section and to be entitled to relocation payments and other relocation assistance under 24 CFR Part 42, as modified by the special policies contained in this section.

(e) *Notice of displacement.* To be eligible as a displaced person for relocation payments and other assistance under the Uniform Act, the tenant must be issued a written notice of displacement as described in this paragraph.

(1) *Timing of notice.* Not later than 10 days after the date of acquisition of the real property, the PHA shall issue to each tenant who will be displaced a written notice of displacement. The notice shall be effective not later than the date of acquisition.

(2) *Contents of notice.* The notice shall state that if the tenant moves from the real property on or after the effective date of the notice, the tenant will be considered a displaced person under the Uniform Act and will be entitled to certain relocation payments and other assistance, which shall be generally described, including the maximum allowable dollar amount or range of each payment for which the tenant will apparently be eligible, any conditions of eligibility, and the procedures for obtaining the payment. The basis of the computation of a replacement housing payment, as set forth in paragraph (f) of this section, shall also be fully described.

(3) *Tenant request for notice of displacement.* At any time after the execution of the ACC, a tenant may request the PHA to issue a notice of displacement. Within 30 days after receiving the tenant's request, the PHA shall consider the tenant's stated reasons for making the request and shall either issue a notice of displacement or a written statement denying the request and stating the reasons for denial.

(4) *Automatic notice of displacement.* A person shall be deemed to have been issued a notice of displacement, effective immediately or on the date of acquisition, whichever is earlier, if the PHA:

(i) Within 30 days after the date of execution of the ACC, fails to issue to the tenant the preliminary notice described in paragraph (c) of this section, except that subsequent issuance of a preliminary notice as described in paragraph (c) of this section shall have the effect of cancelling the notice of displacement; or

(ii) Within 10 days after the date of acquisition of the property, fails to issue to the tenant either the written notice of displacement described in paragraph (e) of this section, or the written notice of the right to continue in occupancy described in paragraph (d) of this section; or

(iii) Fails to fully meet its commitments as set forth in the notice of the right to continue in occupancy as described in paragraph (d) of this section.

(f) *Computation of replacement housing payment.* If a tenant is displaced, the computation of any replacement housing payment for rental assistance under 24 CFR 42.95(c)(1) shall be based upon the cost of renting a publicly owned or subsidized replacement dwelling, if available and offered to the displaced tenant, which meets all of the requirements of the term "comparable replacement dwelling" as defined in 24 CFR 42.20(b) except the requirement at § 42.20(b)(3) that it be "on the private market." The offer of an actual, available, comparable, subsidized or publicly owned unit must be documented in the relocation case file, if such unit is used for purposes of calculating the replacement housing payment.

(g) *Notice of determination not to acquire.* If, after execution of the ACC, the PHA determines not to acquire the property, the PHA shall serve a written notice on each tenant occupying the property. The notice shall state that the PHA has determined not to acquire the property and that any tenant moving from the property thereafter will not be eligible as a displaced person for relocation payments and assistance under the Uniform Act.

(h) *Manner of notices.* Any notice which the PHA is required to provide under this section shall be personally served, receipt documented, or sent by certified or registered first-class mail, return receipt requested.

(i) *Temporary relocation costs.* Actual reasonable expenses, including any costs for moving or any increase in rent, incurred in connection with any temporary relocation carried out in accordance with paragraph (d)(3) of this section shall be

borne as a development cost of the project.

APPENDIX A—PROTOTYPE COST LIMITS FOR LOW-INCOME HOUSING

A. UNIT PROTOTYPE COST

1. Prototype cost comprises the cost of dwelling structures, account No. 1460, and dwelling equipment, account No. 1465, as described in Handbook 7510.1, chapter 3, section 15, which include their pro rata share of the builders' fee and overhead, insurance, social security, sales tax, and bonds.

2. Prototype cost does not include the costs of site acquisitions, site improvement, nondwelling structures or spaces (and equipment), planning (architectural-engineering fees, permit fees, inspection, and similar costs), relocation, interest or local authority administrative costs, all of which are described in Handbook 7510.1, chapter 3, section 15.

3. The determination of prototype cost shall consider:

(a) Compliance with applicable HUD Minimum Property Standards and planning and design criteria described in HUD Handbook 7417.1, chapter 5. Currently copies of HUD Handbooks are maintained and available for public inspection in the Office of Public Information, room 1104, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410, and in each of the Department's regional, area and insuring offices.

(b) The additional cost to provide, as required by section 6(b) of the Act:

"(1) The extra durability required for safety and security and economical maintenance of such housing,

(2) The provision of amenities designed to guarantee a safe and healthy family life and neighborhood environment,

(3) The application of good design as an essential component of such housing for safety and security as well as other purposes,

(4) The maintenance of quality in architecture to reflect the standards of the neighborhood and community,

(5) The need for maximizing the conservation of energy for heating, lighting, and other purposes,

(6) The effectiveness of existing cost limits in the area, and

(7) The advice and recommendations of local housing producers.

B. PROJECT PROTOTYPE COSTS

1. The project prototype cost is the sum of the unit prototype costs for the dwellings of various sizes and types comprising the project. The total cost of dwelling construction and equipment (accounts 1460 and 1465), and the related proportionate share of the contingency established by any development cost budget shall not exceed the sum of 105 percent of the project prototype costs for the dwellings to be constructed.

2. A request for approval of a cost which exceeds the 105 percent cost limitation but which is not in excess of the statutory 110 percent cost limitation may be submitted to the Regional Administrator. Such requests shall be supported by a detailed justification with respect to the particular project, taking into account all of the circumstances involved and demonstrating that such approval is necessary and desirable in carrying out the objectives of the Act.

3. If it is found at any time between annual updates that all or part of the current prototype cost for a Field Office jurisdiction are unworkable, the procedures outlined in HUD Handbook 7417.1, chapter 5 will be followed for requesting revisions.

4. Development cost budgets, main construction contracts, preliminary contracts of sale and contracts of sale will not be approved unless an appropriate prototype cost for the area is published in the FEDERAL REGISTER.

(NOTE.—For FEDERAL REGISTER page references to the list of Prototype Per Unit Cost Schedules issued under this Appendix but not carried in the Code of Federal Regulations, consult the List of CFR Sections affected.)

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

Issued at Washington, D.C., January 18, 1977.

Effective Date. This rule is effective on February 7, 1977.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing, Federal Housing Commissioner.

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federal register

MONDAY, JANUARY 31, 1977

PART VI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

■

LAND REGISTRATION

Proposed Revision of Exemption and Disclosure Regulations

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[24 CFR Part 1710]

[Docket No. R-77-412]

LAND REGISTRATION

Proposed Revision of Exemption and Disclosure Regulations

Notice is hereby given that pursuant to the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.) it is proposed to amend Chapter IX of 24 CFR. Under this proposal, certain technical and substantive changes would be made in Part 1710 of Title 24.

On August 4, 1976, the Assistant Secretary for Consumer Affairs and Regulatory Functions published advance notice of a proposal to initiate rulemaking. The objective is a substantial revision of the exemption and disclosure regulations of the Office of Interstate Land Sales Registration (OILSR). It is felt that these proposals will exempt subdivisions for which registration is not necessary in the public interest and simplify registration for other developers and will give the purchasers a much readable and meaningful Property Report.

An effort has been made, based on many of the comments received, to eliminate needless repetition of disclosure in the Property Report and the rest of the Statement of Record. Also, developers will be required to answer only those questions in the Property Report that pertain to their particular subdivision and will be of interest to a potential purchaser there. It is hoped that the new format of the Property Report, including a revised cover page, a Special Risks and Notices section and an index page, will provide the purchaser with a more understandable disclosure document. Based on comments, long and complicated information such as the financial statement has been eliminated from the Property Report.

The sections of the regulations which are affected by the proposed technical and clarifying changes are as follows:

In § 1710.1 the definitions of the term "sale" is proposed to be amended. It has been OILSR's policy and practice in litigation to adhere to the theory of an ongoing sale for purposes of the statute of limitation provisions of the Act in fraud cases. The amendment of the term "sale" will clarify the Agency's position with regard to the period of time covered by a sale. A sale shall continue while the purchaser is making payments on his obligation or arrangement or until a deed has been delivered by the developer, whichever comes later.

Section 1710.11(c) now extends this same policy to the time requirements for obtaining a § 1710.11 exemption. This change is proposed to avoid loopholes in the regulations which were not intended by Congress. Under the previous definition of "time of sale" the developer could sell lots encumbered by a mortgage (if the deed passed within 120 days and payments were placed in escrow) or developers could sell lots that were free and clear of all liens, encumbrances, and adverse claims at the time the sales contract was signed, but were later encumbered so that at the time the deed was delivered, the purchaser would not receive real estate with a free and clear title. Section 1710.11(c)(1) would be amended to avoid either situation; the real estate must remain free and clear until the obligation or arrangement has been paid in full or until a deed has been delivered, whichever comes later.

Furthermore, § 1710.11(b)(1) would be amended to eliminate the requirement of having the developer file each acknowledged statement and developer's affirmation within 31 days after the expiration of the calendar year in which the sale or lease was made. The comments received indicated that developers found this method burdensome. Section 1710.11(b)(1) would be amended to require the developer to file a single approved copy of the Statement of Reservations, Restrictions, Taxes, and Assessments along with an affidavit stating that the Statement is a true representation of the Statement provided to each purchaser. This procedure will eliminate the need for the developer to file copies of each Statement; instead, paragraph (b)(1)(iii) will permit the developer to file only a copy of the purchaser's acknowledgement evidencing receipt of the Statement. Additionally, the developer will continue to be required to affirm that the purchaser made an on-the-lot inspection of the real estate prior to signing the purchase agreement.

Several comments were received objecting to OILSR's policy of denying a developer's § 1710.11 exemption application if the real estate is subject to a reservation in a land patent, as is the case with much land west of the Mississippi River. A reservation in a land patent is an encumbrance; since it is not one of the "liens, encumbrances or adverse claims" specifically omitted by section 1403(10) of the Act, a developer may not qualify for this exemption. However, it is felt that these subdivisions may now be able to qualify for the new §§ 1710.14(a)(2) or (a)(3) exemptions.

The previous § 1710.13(c) exempted the sale or lease of lots in a subdivision provided their number was less than 50 lots and not more than five percent of the developer's total lots in the subdivision platted of record and provided that the other lots in the subdivision were exempted pursuant to § 1710.10(c) or § 1710.10(i). Based on the comments received, § 1710.13(c) is proposed to be amended to increase the five percent limitation to ten percent.

A new § 1710.13(d) is proposed to provide an exemption for a lot or lots sold by the developer to a person engaged in the land sales business. To qualify for this exemption the sale must be to a person who is going to resell the lot(s) in the normal course of his business. The term "business" is viewed as an activity of some continuity, regularity and permanency or means of livelihood. It was thought that the protections afforded by the property report need not be extended to the sophisticated businessman who is engaged in the land sales business. Section 1710.13(d), however, does not permit an exemption when the sale is made to an individual purchaser who is merely buying the lot for investment purposes to be sold sometime in the future. Such an individual would not be considered to be engaged in the land sales business.

Considerable comment was received with respect to § 1710.14. It was suggested that the previous § 1710.14(a)(2) exemption should be revised and a new exemption created for subdivisions in which all improvements and amenities are installed and free and clear title provided to the purchasers. In response to these requests, § 1710.14 has been substantially revised.

The previous § 1710.14(a)(2) would be deleted and replaced by a new limited offering exemption. This new limited offering exemption is designed to provide an exemption for the small developer who seeks to promote his subdivision locally without using sophisticated marketing techniques to attract purchasers residing outside the local community.

Section 1710.14(a)(2) would apply to subdivisions with less than 150 lots in which the plan of promotion and disposition is directed to persons residing within the local community in which the subdivision is located. In the previous limited offering exemption, developments with a local market which included residents of more than one state often were precluded from obtaining this exemption. Section 1710.14(a)(2) would permit interstate sales if the logical promotion in the local market includes residents of more than one state (e.g., a local community located on a state border). OILSR would carefully examine the advertising and promotional media and methods used by a developer to determine whether his sales program is geared to attract residents of the local community or whether that promotion is more broadly based. If the latter is found to be the case, the exemption would be denied.

Additionally, the purchaser must make an on-site inspection of the real estate prior to purchase and the developer must affirm the inspection in accordance with the format set forth in § 1710.103. The developer must deliver to the purchaser a general warranty deed unencumbered by any mortgage or liens.

The developer must specify within the terms of the purchase agreement whether improvements such as roads, sewers, water, utilities or amenities will be provided by the developer or if the responsibility for such installation has been left to the purchaser. Furthermore, the purchase agreement must contain a 15-day cooling off period in which the purchaser may cancel the agreement for any reason and receive a complete refund of all monies paid; the developer must specifically notify the purchaser of this cooling off period by providing a non-waivable provision in the purchase agreement.

In order to qualify for this exemption the developer may not use sophisticated

marketing techniques such as direct mail or telephone solicitation, offers of gifts, dinners, trips or such other forms of promotion as a means to induce purchasers to visit the subdivision or purchase a lot.

A new developmental exemption is proposed as § 1710.14(a)(3). This exemption would exempt subdivisions where the improvements and amenities have been completed prior to the time of sale and, where the developer is able and is contractually obligated to provide a general warranty deed.

Specifically, § 1710.14(a)(3) would exempt subdivisions which have less than 300 lots promoted via a common promotional plan. As in the proposed § 1710.14 (a)(2), the developed must direct his plan of promotion and disposition to persons residing in the local community in which the subdivision is located, he must be able and contractually obligated to deliver a general warranty deed free and clear of any encumbrances or liens and the purchaser must make an on-site inspection to be affirmed by the developer in the format as set forth in § 1710.103.

A developer could not qualify for this exemption unless each lot is situated on a paved road or street dedicated to the local governing body; the subdivision must have drainage structures and fill approved by the local governing authority necessary to prevent flooding; electric power must extend to each lot and the developer must provide potable water and sanitary sewage disposal facilities that meet the requirements of the local governing authority. If recreational facilities are promised, such facilities must have been completed or the developer must place funds in escrow or obtain an irrevocable letter of credit to assure their completion before commencing sales.

All of the requirements of paragraphs (a)(3)(v) through (a)(3)(xi) of § 1710.-14 must be met before a single lot may be sold pursuant to this proposed exemption. However, only 30 percent of the lots in the subdivision have to fulfill the requirements of paragraphs (a)(3)(v) through (a)(3)(ix) at the time of application for this exemption, provided that for the remaining lots, funds are in escrow with an independent institution having trust powers or an irrevocable letter of credit from a lending institution exists assuring completion of the roads, drainage structures and fill necessary to prevent flooding, electric power, and water and sewage disposal facilities. It should be re-emphasized that while only 30 percent of the lots have to meet the requirements of paragraphs (a)(3)(v) through (a)(3)(ix) at the time the developer files for the exemption, no single lot may be sold until it has satisfied all of these requirements. This procedure would be established to avoid requiring the developer to reapply for the exemption when he is ready to develop the remaining lots in the subdivision.

Procedurally, § 1710.14 (c) and (d) are proposed to instruct developers on how to obtain an exemption order pursuant to this section. The paragraph (c) dealing with the termination of a § 1710.14 exemption has been redesignated paragraph (e).

Section 1710.103 would be amended to require the developer's affirmation when filing for §§ 1710.14(a)(2) and 1710.14 (a)(3) exemptions.

Comments were received requesting the establishment of a brokers' exemption for real estate brokers selling lots in scattered locations where no one site consisted of more than 50 lots even though the lots were sold via a common promotion, the theory being that there would be difficulty in writing a statement of record and property report when a few lots were scattered in numerous locations. While OILSR appreciates the developer's dilemma in trying to comply with the Act's registration requirements, a brokers' exemption is not proposed. The registration requirements should not hinge on whether or not an offering is comprised of scattered lots. But, in those cases where no affirmative action is necessary to protect the public interest or prospective purchasers, OILSR feels that the No-Action letter's case-by-case review is preferable to a general brokers' exemption.

Section 1710.20 would be amended to reflect the changes in the disclosure sections later in this part. Old paragraphs (b) and (c) have been combined into one new paragraph (b) to make it clear that the property report is part of the statement of record. New § 1710.110 dealing with annual notice requirements is cited in both paragraphs (b) and (c) to clarify that the annual notice requirement is for both the Federal registration and registrations made through state filings.

Section 1710.26 would be amended to make the requirements for initial state filings applicable to all amendments and consolidations to existing state filings. Thus, the new disclaimer page, signature page and financial information required for initial state filings will now be required for all consolidations and amendments to existing state filings.

Section 1710.101 is proposed to be amended to delete § 1710.101(8) and to move the signature lines and all that follows to immediately after subparagraph (7). This proposed change is to make this section consistent with the proposed changes to § 1710.11.

The old § 1710.105 and § 1710.110 dealing with statement of record and property report format and instructions are proposed to be deleted and several new sections dealing with new disclosure requirements for the statement of record are added.

The proposed new § 1710.105 deals with the format and instructions for the statement of record. This amendment makes it clear that the statement of record consists of the property report and twelve other sections containing additional questions and documentation. This section contains the format for the statement of record which includes the format for the property report. The format also includes the affirmation the developer is required to sign at the end of the statement of record. This proposed amendment also contains technical instructions for completion of the statement of record. The instructions state that the responses in the property report must be in short narrative statements and that the headings and subheadings in the format must be followed. The instructions also state that the Secretary may require such further material information, documentation or certification as may be necessary in the public interest or for the protection of purchasers. The instructions further permit the Secretary to modify the format to accomodate states which accept the Federal filing. Whenever documentation required by the statement of record cannot be obtained, a statement giving the reasons therefor must be furnished along with the best alternative documentation.

Section 1710.106 is a proposed new section dealing with the introductory pages in the property report. Based on comments received, it was felt that the old style of the property report was often confusing to purchasers. It is hoped that the new requirements for the cover page will be less cumbersome and more readable. Section 1710.106(b) sets forth the requirements for the table of contents on the second page of the property report which will be of great assistance to purchasers in understanding the contents of the property report. Section 1710.106(c) deals with the requirements for the third page of the property report which is headed by a special risks section. This section provides warnings to purchasers and contains a special warning dealing with environmental concerns of the subdivision. Many comments were received indicating that there was already adequate environmental disclosure in the property report and the statement of record. However, a study ("Subdividing Rural America: Impacts of Recreational Lot and Second Home Development") conducted for agencies including HUD and CEQ, found that recreational subdivision development may create a variety of adverse environmental impacts, depending upon the subdivision's design, location, buildout rate and sales objectives. Although the relationship, if any, between those impacts and these regulations is remote, the Secretary believes that an environmental warning could be useful to purchasers in cases where there are no studies indicating the environmental impact of the subdivision. The remainder of the third page and a fourth page, if necessary, will be reserved for a special notices section. This section will be used by OILSR to alert purchasers to particular areas of interest about the subdivision and illustrations of these notices are given in this section.

Section 1710.107 is a proposed new section dealing with disclosure topics found in the property report. With the exception of the General Information section, most responses are to be in a short narrative form. Unlike the old property report format, the questions asked are not to be repeated in the body of the property report which the purchaser receives. It is hoped that this new format will shorten the length of the

property report considerably. This section also eliminates several of the sections found in the old property report form and eliminates the need for a developer to provide extraneous information that does not apply to his particular subdivision.

Paragraph (b) dealing with subdivision characteristics and climate and paragraph (c) dealing with land use and control give some additional environmental disclosures. Paragraph (d) dealing with roads provides for two charts which it is felt will improve the readability of the property report for purchasers. In § 1710.107(e) dealing with utilities there has been an emphasis on questions concerning water and sewage disposal. Section 1710.107(8) dealing with recreational facilities also provides for a chart which it is expected will be helpful to purchasers. Section 1710.107(i) provides for additional information for the property report. Subparagraphs (4)–(8) are to be answered only if they apply to the subdivision.

Section 1710.107(j) provides for a Cost Sheet and a signature page. Based on the comments received, it was felt that a cost sheet summarizing the expenses for a purchaser would be helpful. This cost summary and the purchaser's signed receipt will appear at the end of the property report. This section also requires an agent's certification to be signed by the salesman in the presence of the purchaser. Based on comments, the requirement that a financial statement be attached to the property report has been deleted, but the developer must make a copy available to the purchaser at any time if he wishes it, pursuant to § 1710.-107(1)(3).

Section 1710.108 is proposed to provide for additional information and documentation to be found in the statement of record. The headings in this section parallel the headings found in the property report section and this section essentially provides the additional information and documentation to support the statements made in the property report section. Based on comments, there has been a substantial effort made to eliminate documentation. Among the documents eliminated from the old requirements are: copies of state property reports and registration statements; diagrams of cross-sections of streets and curbs; financial statements or pro forma financial statements for non-publicly regulated water suppliers, suppliers of sewage treatment services and property owners' associations; construction contracts for water systems; rate schedules for non-publicly regulated electricity suppliers; articles of incorporation and by-laws for non-publicly regulated water suppliers and suppliers of sewage treatment services; rate schedules for non-publicly regulated telephone service suppliers; copies of construction contracts, bond or enscrow agreements for installation of telephone service facilities and information regarding television service.

Based on many comments received, § 1710.108(1)(3) dealing with financial statements has been modified. The most significant change deals with raising the level for requiring certified audited financials from $500,000 to $1,500,000 for the offering.

A new § 1710.110, Annual Notice Requirement, is proposed to be added to require developers to submit a brief statement by January 31 of each year (1) giving OILSR notice whether the developer is still doing business or the subdivision has been sold out, and (2) either certifying that no material changes have occurred in the offering or stating that material changes have occurred and that amendments are enclosed or will be immediately forthcoming. This notice requirement is being proposed in order to reduce the necessity for OILSR action against developers who fail to submit amendments disclosing material changes, as required, and to eliminate inactive subdivisions from the inventory of effective registrations.

Section 1710.115, State Property Report Disclaimer, is proposed to be amended in consonance with the proposed amendments dealing with §§ 1710.-106 and 1710.107. Both the format for the disclaimer page and the language of the HUD disclaimer are proposed to be changed, and a developer certification is proposed to be added to the receipt at the bottom of the page.

Section 1710.120, Statement of Record—State Filing, is proposed to be amended in consonance with the newly proposed § 1710.108. In this case, the proposed changes are predominantly technical, due to the reorganization and renumbering of documentation requirements.

Section 1710.125, Partial Statement of Record, is proposed to be amended in consonance with the provisions of § 1710.108(a). In addition, the Affirmation and Agreement in this section has been amended to delete the paragraph which stated that the developer agreed to file the remaining portions of the Statement of Record if the Secretary determined the offering was not exempt. The reason for this deletion is that in the event the Secretary determines that the offering does not qualify for the particular exemption sought, a developer might pursue alternate methods of exempt sales, rather than register.

The proposed effective date of the regulations would apply prospectively but would require compliance by developers of effective registrations on a monthly basis during 1978. An updated filing would be made in the anniversary month of the month in which the most recent effective date of a registration or amendment was obtained. The proposed effective date would not affect the viability of exemptions previously obtained or in process.

Interested persons are invited to participate in this rulemaking proceeding by submitting written comments or suggestions to the Rules Docket Clerk, Office of the Secretary, Department of Housing and Urban Development, Room 10141, 451 7th Street, S.W., Washington, D.C. 20410. All communications should refer to the Office of Interstate Land Sales Registration, Land Registration, and the date of publication. It is requested, though not required, that all written communications be submitted in triplicate.

These proposals only modify certain sections in Part 1710 and the remaining sections should be read together with these proposals. When published in final, all of Part 1710 will be published for the ease of the public in understanding the regulations. Particular attention is invited with respect to the revised exemption procedures in § 1710.14, the revised format for disclosures in the Property Report set forth in §§ 1710.105, 1710.106, 1710.107, the modification of the documentation requirements of the Statement of Record offered in § 1710.108 and the annual notice requirement in § 1710.110.

OILSR expects in the future to modify and expand the exemption guidelines to be consistent with final regulations. These guidelines would define common promotional plan and local community and would provide more examples to give assistance to developers. OILSR is also considering issuing proposed regulations that would modify the fee schedule.

All communications received by April 30, 1977 will be considered before taking action on the proposed rules. Also, public hearings may be scheduled to hear comments on the proposed rules. If public hearings are scheduled, notice will appear in the FEDERAL REGISTER and various general and special circulation newspapers and periodicals. The proposals contained in this notice may be changed in light of comments received. A copy of each written submittal will be available for public inspection during business hours at the above address.

A draft environmental impact statement is being forwarded to the Council on Environmental Quality and will be circulated for comment.

This notice of proposed rulemaking is issued under the authority of section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); section 1419, Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1718.

It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A–107.

Accordingly, Part 1710 of Chapter IX of 24 CFR is amended as follows:

1. In Section 1710.1 paragraph (n) is proposed to be amended as follows:

§ 1710.1 Definitions.

* * * * *

(n) "Sale" means any obligation or arrangement for consideration to purchase or lease a lot directly or indirectly. A sale shall continue until the obligation or arrangement has been paid in full or a deed has been delivered, whichever comes later. The term "sale" or "seller" include in their meanings the terms "lease" and "lessor."

* * * * *

2. In § 1710.11 paragraphs (a)(2), (b)(1) and (c)(1) is proposed to be amended to read as follows:

§ 1710.11 Statutory exemptions—determination required.

(a) * * *

(2) Each and every purchaser has made a personal on-the-lot inspection of the real estate which he purchased or leased, prior to the signing of a contract to purchase or lease, and the developer submits his written affirmation to that effect, in the format set forth in § 1710.-103.

* * * * *

(b)(1) Within 31 days after the expiration of the calendar year in which the sale or lease is made, the developer shall file with the Secretary

(i) One copy of the approved Statement of Reservations, Restrictions, Taxes, and Assessments;

(ii) An affidavit stating that the Statement submitted is a true representative copy of the Statement provided to each purchaser;

(iii) One copy of each purchaser's acknowledgement required by paragraph (a)(5) of this section; and

(iv) The developer's affirmation required by paragraph (a)(2) of this section.

* * * * *

(c) For the purposes of this section:

(1) "Time of sale or lease" is the period which begins with the purchaser entering into an obligaton or arrangement for consideration to purchase or lease a lot directly or indirectly and continues until the obligation or arrangement has been paid in full or a deed has been delivered, whichever comes later.

* * * * *

3. In § 1710.13 paragraph (c) is proposed to be amended and a new paragraph (d) is added to read as follows:

§ 1710.13 Regulatory exemptions.

* * * * *

(c) The sale or lease of lots in the subdivision: *Provided,* That the number of such sales or leases is less than fifty lots and not more than ten percent of the developer's total lots in the subdivision platted of record, *and provided further:* * * *

(d) The sale or lease of lots to a person engaged in the land sales business.

The foregoing exemptions are available * * *

4. Section 1710.14 is proposed to be revised to read as follows:

§ 1710.14 Regulatory exemptions—exemption order required—limited offering.

(a) The Secretary may exempt from the protection of purchasers by reason division or any lots in a subdivision which otherwise would be covered by the provisions of this part, by issuing an exemption order in writing to the effect that the enforcement of this part with respect to such subdivision or lots is not necessary in the public interest and for the prtoection of purchasers by reason of the small amount involved or the limited character of the public offering, if he determines that:

(1) The request for the exemption order is limited to a single transaction; or

(2) All the following criteria are met:

(i) There are less than 150 lots in the subdivision.

(ii) The plan of promotion and disposition shall be directed to persons residing within the local community in which the subdivision is located.

(ii) Each and every purchaser shall make a personal on-the-lot inspection of the real estate to be purchased or leased, before signing a contract to purchase or lease, and the developer submits his written affirmation to that effect, in the format set forth in § 1710.103.

(iv) The developer shall convey title to the purchaser by general warranty deed unencumbered by any mortgage or other liens and the contract shall so provide.

(v) The developer shall state specifically within the terms of the purchase agreement whether roads, sewers, water, utilities and amenities will be provided by the developer.

(vi) The purchase agreement shall contain a non-waivable provision for a period of 15 days from the date the agreement is signed by the purchaser in which the purchaser may cancel the agreement and receive a refund of all considerations paid.

(vii) There are no direct mail or telephone solicitations. There are no offers of gifts, dinners, trips, or other such forms of promotion to induce purchasers to visit the subdivision or purchase a lot; or

(3) All the following criteria are met:

(i) There are less than 300 lots in the subdivision.

(ii) The plan of promotion and disposition shall be directed to persons residing within the local community in which the subdivision is located.

(iii) Each lot shall satisfy paragraphs (a)(3)(v) through (xi) of this section at the time of sale.

(iv) At least 30 percent of the lots in the subdivision shall satisfy paragraphs (a)(3)(v) through (ix) of this section at the time of application for this exemption. With respect to the remaining lots, the developer has funds in escrow with an independent institution having trust powers or has an irrevocable letter of credit from a lending institution to assure that paragraphs (a)(3)(v) through (ix) of this section will be satisfied.

(v) Each lot shall be situated on a paved road which has been dedicated to the local governing body and that body has accepted such road or street for maintenance.

(vi) The subdivision shall have drainage structures and fill necessary to prevent flooding and such structures shall have been approved by the local governing authority.

(vii) Electric power shall be extended to each lot.

(viii) Potable water and sanitary sewage disposal shall be available for each lot and meet the requirements of the applicable governing authority.

(ix) All recreational facilities for the subdivision shall be complete or the developer shall have funds placed in escrow with an independent institution having trust powers or have an irrevocable letter of credit from a lending institution to assure completion of all recreational facilities.

(x) The developer shall convey title to the purchaser by general warranty deed unencumbered by any mortgage or other liens and the contract shall so provide.

(xi) Each and every purchaser shall make a personal on-the-lot inspection of the real estate to be purchased or leased, before signing a contract to purchase or lease, and the developer submits his written affirmation to that effect, in the format set forth in § 1710.103.

(b) To obtain an order by the Secretary under paragraph (a)(1) of this section, the developer shall:

(1) File a partial Statement of Record—request for exemption in accordance with § 1710.125. The partial Statement of Record shall not operate as registration under the Act.

(2) Pay the filing fee required by § 1710.35(g).

(3) Submit a comprehensive statement: (i) Identifying the lots which are subject of the exemption request and setting forth the reasons supporting the request. The developer shall enumerate and identify prior sales, if any.

(ii) Describing the advertising and promotion media and methods used or to be used in connection with the sale or lease or offers to sell or lease lots in the subdivision. The statement shall describe the area and states in which the newspapers and periodicals are distributed, or in which broadcasts of radio or television stations are received, or to which mailings or other promotional materials are directed. If the request is for the exemption of a single transaction, the statement shall include the details of that transaction only.

(iii) Stating whether any of the holders of an ownership interest in the land, or the developer or any principals in the holder or developer, are directly or indirectly involved in any other subdivision. If so, the statement shall identify the subdivision by name, location and OILSR number or numbers, if any.

(4) Submit such additional information as the Secretary may require in order to make his decision.

(c) To obtain an order by the Secretary under paragraph (a)(2) of this section, the developer shall:

(1) Submit the materials required by paragraphs (b)(1), (b)(2) and (b)(3) of this section.

(2) File a copy of the developer's affirmation in the format set forth in § 1710.103 for each signed purchase agreement within 31 days after the expiration of the calender year in which the sale or lease is made.

(3) File a sample copy of the general warranty deed to be delivered to the purchaser.

(4) File a sample copy of the purchase agreement.

(5) Submit such additional information as the Secretary may require in order to make his decision.

(d) To obtain an order by the Secretary under paragraph (a)(3) of this section, the developer shall:

(1) Submit the material required by paragraphs (b)(1), (b)(2) and (b)(3) of this section.

(2) Submit the materials required by paragraph (c)(2) and (c)(3) of this section.

(3) If required by paragraphs (a)(3)(iv) or (a)(3)(xi), submit a copy of the escrow agreement or irrevocable letter of credit.

(4) Submit letters from responsible officials of the proper local governing body or authority substantiating that the requirements of paragraphs (a)(3)(v), (a)(3)(vi), (a)(3)(vii) and (a)(3)(viii) of this section are satisfied.

(5) Submit such additional information as the Secretary may require in order to make his decision.

(e) Any exemption order issued pursuant to the provisions of this section shall be limited to the facts, affirmations, and methods of operation as represented in the request, and any material change in or deviation therefrom shall automatically terminate the effect of such exemption order.

5. Section 1710.20 is proposed to be amended as follows:

§ 1710.20 Statement of record including property report-form and filing.

The requirements for registering a subdivision, by filing a Statement of Record including a Property Report with the Secretary and obtaining the Secretary's determination of a date when such filing becomes effective, are as follows:

(a) *Filing.* A Statement of Record relating to a subdivision shall be filed with the Secretary by personal delivery or by certified mail, return receipt requested, addressed as shown in § 1710.2.

(b) *Form of Statement of Record.* The Statement of Record shall include the Property Report and be filed in the form, and shall be supported by the documentation, required by §§ 1710.105, 1710.106, 1710.107, 1710.108, and 1710.110. The Statement of Record shall also include such other information as the Secretary may require as being reasonably necessary or appropriate for the protection of purchasers.

(c) *State filings.* Instead of the forms required by paragraph (b) of this section, a Statement of Record and Property Report may be in the form required by State authorities if filed in accordance with the provisions of §§ 1710.25, 1710.110, 1710.115, and 1710.20.

(d) *Effective date—Property Report.* The Property Report shall be considered to be a part of the Statement of Record for the purpose of determining the effective date and the suspension of the effective date thereof.

6. Section 1710.26(b) is proposed to be amended so that everything after the numerical listing of States reads as set forth below:

§ 1710.26 State filings—acceptable filings.

* * * * *

(b) * * * The requirements of §§ 1710.25, 1710.115 and 1710.120 shall apply to all amendments and consolidations which are filed or required to be filed in connection with initial filings which have been effected with States and accepted by the Secretary.

§ 1710.101 [Amended]

Section 1710.101 is proposed to be amended by deleting paragraph (8). The signature lines and the parenthetical phrase that follows are moved to immediately follow paragraph (7).

8. Section 1710.103 is proposed to read as follows:

§ 1710.103 Affirmation — purchaser's on-the-lot inspection format.

The affirmation required by § 1710.11(a)(2) shall be submitted in the form set forth below and may be submitted as a separate document or as an attachment to the purchaser's acknowledgement of receipt of the Statement of Reservations, Restrictions, Taxes and Assessments. The affirmation required by §§ 1710.14(a)(2)(iii) and (a)(3)(x) shall be submitted in the form set forth below.

* * * * *

9. Sections 1710.105 and 1710.110 are proposed to be deleted in their entirety, and new §§ 1710.105, 1710.106, 1710.107, 1710.108 and 1710.110 are proposed to be added as follows:

§ 1710.105 Statement of record—format and instructions.

The Statement of Record required by § 1710.20 shall contain the Property Report and 12 other sections containing some additional questions, documentation and an affirmation as set forth in §§ 1710.106, 1710.107 and 1710.108. It shall be prepared in accordance with the format and instructions below. For ease of reference, the appropriate citation where specific instructions can be found appears in the margin to the right.

(a) *Format*—Statement of records.

Property report	*Citation*
Cover page	1710.106(a)
Table of contents	1710.106(b)
Special risks and notices	1710.106(c)
General information	1710.107(a)
(1)	
(2)	
(3)	
(4)	
(5)	
Subdivision characteristics and climate	1710.107(b)
(1) Topography and physical characteristics	
(2) Drainage and flooding	
(3) Nuisance and safety hazards	
(4) Climate and natural hazards	
Land use and control	1710.107(c)
Roads	1710.107(d)
Utilities	1710.107(e)
(1) Water	
(2) Sewage disposal	
(3) Electric	
(4) Telephone	
(5) Gas	
(6) Garbage and trash disposal	
Recreational facilities	1710.107(f)
Local services	1710.107(g)
Title	1710.107(h)
Additional information	1710.107(i)
(1) Property owners association	
(2) Resale program	
(3) Financial information	
(4) Violations, bankruptcies, and litigation	
(5) Special improvement districts	
(6) Time sharing	
(7) Foreign subdivisions	
(8) Leases	
Cost sheet and signature page	1710.107(j)
Additional information and documentation for statement of record	1710.108
(a) General information	1710.108(a)
(1) Administrative information:	
(i)	
(ii)	
(iii)	
(iv)	
(v)	
(vi)	
(2) Subdivision information:	
(i)	
(ii)	
(iii)	
(iv)	
(v)	
(3) Developer information:	
(i)	
(ii)	
(iii)	
(iv)	
(v)	
(4) Supporting documentation:	
(i)	
(ii)	
(iii)	
(b) Subdivision characteristics and climate	1710.108(b)
(1)	
(2)	
(3)	
(c) Land use control	1710.108(c)
(1)	
(2)	
(3)	
(4)	
(d) Roads	1710.108(d)
(1)	
(2)	
(3)	
(4)	
(e) Utilities	1710.108(e)
(1) Water	
(2) Sewage disposal	
(3) Electricity	
(4) Telephone	
(5) Gas	
(6) Garbage and Trash Disposal	
(f) Recreational facilities	1710.108(f)
(g) Local Services	1710.108(g)

Property report	Citation
(h) Title	1710.108(h)
(1)	
(2)	
(3)	
(4)	
(5)	
(6)	
(i) Additional information	1710.108(i)
(1) Property owners' association	
(2) Resale program	
(3) Financial information	
(i)	
(ii)	
(4) Violations, bankruptcies and litigation	
(5) Special improvement districts	
(6) Time sharing	
(7) Foreign subdivision	
(8) Leases	
(9) Methods of sales and proposed range of selling prices or rents	
(10) Taxes and assessments	
(j) Cost sheet and signature page	1710.108(j)
(k) Affirmation	1710.108(k)

I hereby affirm that I am the Senior Executive Officer of the developer of the lots herein described or will be the Senior Executive Officer of the developer at the time lots are offered for sale or lease to the public, or that I am the agent authorized by the Senior Executive Officer of such developer to complete this statement (if agent, submit written authorization to act as agent):

That the statements contained in this Statement of Record and any supplement thereto, together with any documents submitted herewith, are full, true, complete, and correct;

That the developer is bound to carry out the promises and obligations set forth in this statement of record and property report or that I have clearly delineated the proposals for which the developer is not bound and stated who is or will be responsible, if anyone; and

That the fees accompanying this application are in the amount required by the rules and regulations of the Office of Interstate Land Sales Registration.

That the developer will, by January 31 of each year, give the Secretary an annual notice concerning the status of the filing in accordance with the regulations.

(Date)

(Signature)

(Corporate seal if applicable)

(Title)

Property report

WARNING: Section 1418 of the Interstate Land Sales Full Disclosure Act (82 Stat. 598, 15 U.S.C. 1717) provides: "Any person who willfully violates any of the provisions of this title or of the rules and regulations or any person who willfully, in a statement of record filed under, or in a property report issued pursuant to, this title, makes any untrue statement of a material fact * * *, shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."

(b) Instructions.

(1) For each part of the Property Report and the rest of the Statement of Record, the heading or subheading given in the instructions shall be printed as set forth in the format. Unless otherwise noted, each question in the Property Report must be answered in a short narrative statement from which the question asked can be ascertained.

(2) All statements made in the Property Report section of the Statement of Record must be made in plain concise language that an uninformed purchaser can understand but must disclose all pertinent facts. Potential consequences to a purchaser must be made clear even though not specifically asked for in the instructions. Whenever the Statement of Record requires a summary or statement of terms or items, such statement or summary must be presented in a clear and concise manner.

(3) In addition to the information expressly required to be stated in the Statement of Record, there shall be added, and the Secretary may require, such further material information, documentation and certifications, if any, as may be necessary in the public interest and for the protection of purchasers or necessary in order to make the statements not misleading in the light of circumstances under which they are made. Further, the Secretary may authorize modifications to the content and format of the statement of record in order to accommodate states which agree to utilize the Federal property report as meeting state disclosure requirements.

(4) Whenever a response to a question in the Property Report section of the Statement of Record exceeds eight lines, it shall be generally broken into more than one paragraph.

(5) Whenever the documentation required by the Statement of Record cannot be obtained, a statement giving the reasons therefor must be furnished in place of the exhibit, along with the best alternative documentation available. However, the following documentation must be provided before the filing will be considered to constitute a Statement of Record:

(i) The property report required by §§1710.106 and 1710.107.

(ii) The general development plan required by § 1710.108(a)(4).

(iii) The Articles of Incorporation and list of officers and directors required by §1710.108(a)(3).

(iv) The subdivision map and topographical map or maps required by § 1710.108(b)(1).

(v) The title evidence required by § 1710.108(h)(1) and (2).

(vi) The copies of contracts or sales agreements and deeds or leases required by § 1710.108(h)(3).

(vii) The financial statements required by § 1710.108(i)(3).

(6) Proposed amenities (as opposed to amenities already provided for the subdivision) may not be included in the Statement of Record unless the developer has clearly stated that they are merely proposals and disclosed conditions of completion (such as successful sales of lots) and whether he is obligated or who else is obligated, if anyone, to complete the amenity.

(7) If a statement of record filing is to be consolidated pursuant to § 1710.22, the developer shall submit a new Statement of Record, except that supporting documentation may be incorporated by reference in those instances where it is applicable to both the original filing and to the additional lots to be offered. Incorporation by reference shall be accomplished by placing in the subsection in which the documentation ordinarily appears the OILSR number of the previous filing and the identity of the exhibit. In all other respects, the consolidated Statement of Record shall conform to the format requirements for an initial Statement of Record filed under these regulations.

(8) All amendments, pre-effective and post-effective, shall be prepared and filed in accordance with § 1710.23(b) of these regulations.

(9) The Statement of Record shall be bound with the Property Report section on top, including any additional exhibits which may be required to be delivered with the Property Report, followed by the documentation section and having the affirmations placed at the end.

(10) The Statement of Record shall be on good quality, unglazed white or pastel paper of a size no smaller than 8 x 10½ inches and no larger than 8½ x 14 inches with margins no less than one inch at the top, one inch at the sides and ½ inch at the bottom. It shall be in blue, blue-black, or black ink, and the type size shall not be smaller than 10 point baded type of uniform font and in an easily readable style. Statements of Record shall be properly signed and dated. The developer shall include the date of typing or preparation of the page in the lower right-hand corner of each page of the Statement of Record. The final printed version of the Property Report which is delivered to lot purchasers shall be verbatim to that found effective with this Office and shall have no covers, pictures, emblems, logograms, or identifying insignia other than as required by these regulations. The Special Notices heading in the Property Report format may be omitted if the Secretary does not require anything to be contained under that heading in the particular Property Report.

(11) Deeds, title policies, subdivision plat or maps and other documentary information required to be contained in the documents section of the Statement of Record need not be on the same size paper as the Property Report, but if larger, should be folded to a size no larger than 8½ x 14 inches. The supporting documents required by these regulations shall each be separated and identified by affixing a tab on the right side of the cover sheet of the exhibit and by identifying on the tab the section number of the Statement of Record instructions to which the documentation corresponds. The pages of each exhibit shall be numbered sequentially, beginning with page one. If additional data is later provided for incorporation into or amendment to an exhibit, the pages of the additional data also must be numbered sequentially, beginning with the number following the last number already in the exhibit. If the data in one exhibit is applicable to more than one section of instructions, the developer may substitute as an exhibit in the second case a statement incorporating the earlier exhibit by reference.

(12) No part of the Statement of Record may be used to insert advertising or promotional material which tends to counteract facts adverse to the interests of the buyer or lessee.

(13) Within 20 days of the date upon which the Statement of Record is allowed to become effective by the Secretary, three copies of the Property Report, in the identical form in which it will be distributed to prospective purchasers, shall be filed with the Secretary. Three copies of any subsequent reproduction, alteration, duplication or reprint of the Property Report shall be filed with and found effective by the Secretary prior to its use if such subsequent reproduction, duplication or reprint contains any change in content or form.

§ 1710.106 Property Report, Introductory Pages.

(a) *Cover Page for Property Report.*

The cover page of the Property Report shall contain the following language in red ¼ inch type at the top of the page:

"PURCHASERS SHOULD READ THIS DOCUMENT BEFORE SIGNING ANYTHING."

In the middle of the cover page the name of the subdivision, the developer's name and the effective date of the Property Report should appear in ¼ inch type.

The following disclaimer should appear at the bottom of the cover page in ⅛ inch type:

Federal law requires that you receive this information prepared by the developer. The information contained in this Report is subject to change. The Department of Housing and Urban Development has not given approval to this subdivision nor made any determination as to the value of this property, if any.

If you receive this Property Report less than 48 hours prior to signing a contract or agreement, you have until midnight of the third business day following the consummation of the transaction to void the contract or agreement by notice to the seller.

(b) *Table of contents.* The second page of the Property Report shall be a table of contents prepared as follows:

TABLE OF CONTENTS

	Page
Special risks notices	
General information	
Subdivision characteristics	
Land use and control	
Roads	
Utilities	
Water	
Sewage disposal	
Electric	
Telephone	
Gas	
Garbage and trash disposal	
Recreational facilities	
Local services	
Title	
Additional information	
Property owners' association	
Resale program	
Financial information	
Violations, bankruptcies, litigation	
Special improvement districts	
Time-sharing ownership	
Foreign subdivisions	
Leases	
Cost sheet and signature page	

(1) At the top of the third page, a section headed "Risks of Buying Land" shall be set forth. The following statements shall comprise this section and shall be set forth in the following manner. Item 4 may be omitted or modified if an environmental study or impact statement showing little or no adverse envinronmental impact is submitted with the Statement of Record, § 1710.108(c).

(i) The future value of land is uncertain. DO NOT expect the value to increase.

(ii) The developer will not try to resell your lot for you unless he so states in this Property Report.

(iii) Even though the developer may not fulfill his promises you may still have to pay the full amount of your obligation to a bank or other third party.

(iv) This subdivision may have an adverse impact on the surrounding environment. The degree of the impact will depend upon the location and size of the subdivision and the rate of development. You may wish to consider what effect this subdivision will have on plant and animal life, air and water quality, noise levels and use of local services and recreational facilities.

(2) The remainder of the third page will be resreved for a section requiring disclosure of a particularly significant information in the form of Special Notices. The Special Notices which will be required and the exact wording of the Notices will be at the discretion of OILSR based upon information submitted in the file or obtained from other sources. Notwithstanding the discretion of OILSR, the developer is under an affirmative obligation to highlight any significant fact and the consequences to purchasers arising out of unusual or potentially adverse circumstances.

The following is a list of situations which will ordinarily require Special Notices and the type of information which would be expected in the Notice. This list is for the purpose of illustration only and is not meant to be all-inclusive.

(i) If the developer has not made financial arrangements to assure the completion of facilities, include a Notice to the effect that no money has been set aside in any bond, escrow or trust account for the completion of (insert name of facility or facilities) and that there is no assurance that the developer will be able to complete the facility.

(ii) If the developer has not documented whether there is sufficient water to serve the entire anticipated population of the subdivision and whether the water is pure or of acceptable quality, include a Notice to the effect that there is no assurance that there will be sufficient drinkable water for purchasers.

(iii) If the developer states that it has no responsibility for providing roads, water, electricity or sewage disposal and that it will be the purchasers responsibility to obtain and pay for such services, include a Notice to that effect, stating that the costs may be extremely high, and the services perhaps economically unfeasible.

(iv) If the developer failed to provide copies of the required permits, approvals or licenses for the installation of any facility, include a Notice to the effect that a permit, approval or license is required for the installation of (name of facility), that the developer has failed to obtain the permit approval or license and that there is no assurance that the facility will be completed or usable by lot owners.

(v) If septic tanks are the planned method of sewage disposal and the developer failed to submit documentation to show that spetic tanks will fuction properly on each and every lot or that the use of spetic tanks has been approved for each and every lot in the subdivision, include a Notice to the effect that there is no assurance that a septic tank can be used on each and every lot in the subdivision.

(vi) If there is an encumbrance on lots in the subdivision and the encumbrance contains no release provisions, include a Notice to the effect that even when a purchaser has paid in full for his lot there is no assurance that he will be able to obtain free and clear title.

(vii) If the developer is involved in litigation or is a party to disciplinary proceedings which may be of particular interest to purchasers, include a Notice which states the nature of the litigation or disciplinary proceeding and the possible effect that it will have on the developer or the subdivision, if any.

(viii) If the developer's financial statements indicate that it has experienced a deficit in retained earnings or an operating loss in the past year, include a Notice to the effect that a loss has been experienced and that the developer may be unable to complete facilities or discharge financial obligations.

(ix) If the developer has filed a petition under the Bankruptcy Act, include a Notice which indicates the nature of the problem and the potential consequence to purchasers.

§ 1710.107 Property Report: Disclosure Topics.

(a) *General information.*

Insert and complete the following format:

(1) This subdivision is located in (township, county and state).

(2) Developer's name:
Developer's address:
Developer's phone number:

(3) Purchasers should call _____ to obtan information from the developer or make complaints.

(4) The estimated total number of lots planned for this subdivision is _____.

(5) The number of lots covered by this Property Report is _____.

(b) *Subdivision Characteristics and Climate—(1) Topography and Physical Characteristics.*

Describe the general topography and major physical characteristics of the subdivision and state the elevation of the highest and lowest lots in the subdivision. This answer must specifically state whether there are any physical features of the land, such as steep slopes, unstable or expansive soil conditions, rock outcroppings, etc., which will necessitate the use of special construction techniques or foundation work or fill to build a residential structure or otherwise use any lot in the subdivision. If such conditions exist, identify the lots affected, the nature of the special construction techniques or foundation work and the estimated costs to a lot purchaser for such work.

(2) *Drainage and Flooding.*

(i) State whether any lots or portions of lots in the subdivision are covered by water at any time of the year. If so, answer the following:

(A) Identify the affected lots and state when they are covered by water.

(B) Is any drainage or use of fill required to render the lots suitable for residential construction?

(C) Who will be responsible for draining or filling these lots? If the lot purchaser is responsible, what is the estimated cost?

(ii) State whether the subdivision is located within a flood plain or in an area designated by any local, state or Federal agency to be flood prone. If so, answer the following:

(A) Identify the affected lots and state the frequency with which these lots have been flooded.

(B) Is flood insurance available for new construction on these lots and is it required by any government agencies or private lending institutions for new construction?

(C) What is the cost of flood insurance, if any?

(iii) Is the subdivision subject to any type of flood control or flowage easements?

(iv) Does the developer have a program or plan to control soil erosion, sedimentation and periodic flooding throughout the subdivision? If the developer has such a plan, answer the following:

(A) Describe the facilities which have or are to be installed e.g., artificial drains, storm sewers or flood control channels. If these facilities have not been installed, what is the percentage of completion, the estimated month and year of completion and the assurance of completion, if any?

(B) Has the developer's plans or program been approved by the appropriate government officials and is the developer obligated to comply with the plan? If so, state the nature of the obligation.

(3) *Nuisances and Safety Hazards.*

(i) State whether any on-site or off-site land uses adversely affect the subdivision. Any unusual or unpleasant noises, odors, pollutants or other nuisances should be specifically identified.

Examples of unusual noises which might affect the subdivision include proposed or existing industrial activity, airports or other transportation facilites, animal pens, entertainment centers, or the like. Examples of unpleasant odors include noxious smoke, chemical fumes, stagnant ponds or marshes, slaughterhouses, and sewage treatment facilities. Any such conditions should be accurately described and fully explained identifying their origin and location and whether they are proposed or existing. If they are existing, state whether temporary (estimate duration) or permanent.

(ii) State whether any unusual safety factors or any proposed plans, private or governmental, of which the developer is aware, for construction of any facility which may create a nuisance or adversely affect the use of the land.

Examples of unusual safety factors which could affect the subdivision include physical hazards such as dilapidated or abandoned properties, unsafe construction, air or vehicular traffic hazards, danger from fire or explosion, and radiation hazards. Any such conditions should be accurately described identifying their origin and location and whether they are proposed or existing. If they are existing, state whether temporary (estimate duration) or permanent.

(4) *Climate and Natural Hazards.*

(i) State the temperature ranges for winter and summer including high, low and mean. Also state the average annual rainfall and snowfall.

(ii) State whether the area in which the subdivision is located is subject to any natural hazards or has been formally identified by any local, state or federal agency as being in an area of special natural hazard (tornadoes, hurricanes, earthquakes, mudslides, forest fires, brush fires, avalanches, etc.).

If so, answer the following:

(A) What has been the frequency of the hazards mentioned above?

(B) Is insurance available for these hazards? If so, what is the cost for this insurance?

(c) *Land Use and Control.*

(1) Has the subdivision plan been approved by local authorities and recorded among the land records of the county? If so, identify the agencies which have approved the subdivision and state the recording data of the plat(s).

(2) List the permissible uses of the property based upon the restrictive covenants and local zoning ordinances and state whether the lots can now be used for the purposes for which they are being sold?

(3) Must a lot purchaser obtain a building permit before he may construct on his lot? If so, state the name and address of the agency from which the permit must be obtained.

(4) Has each lot in the subdivision been surveyed? Has each individual lot been staked or marked so that a lot purchaser can identify the boundary lines of his lot? If not, what is the estimated cost to a lot purchaser to obtain a survey and have the boundary lines staked or marked?

(5) If an environmental study has been prepared which shows impacts on the environment from this subdivision, summarize the impacts on air and water pollution, plant and animal life.

(d) *Roads.*

(1) Complete the following chart in accordance with the instructions for the nonpublicly maintained access roads to the subdivision and for all the roads within the subdivision whether public or private:

Access roads	Percent complete	Type of surface currently	When complete	Surface width currently	When complete	Estimated completion date (month and year)	Completion financially assured
Access							
Within subdivision							

If there are separate units or sections being offered in the subdivision and if the description of the type of roads or the completion information is different for any unit, list the units sequentially and complete the chart for each. Give the month and year for all estimated completion dates and if the roads were previously scheduled for completion and the date was not met, give both the new estimated date and the earlier date or dates.

(2) Below the chart, write a separate narrative statement regarding the roads. Include information which answers the following questions:

(i) Who is responsible for constructing the roads?

(ii) Will the purchaser be required to pay any of the cost of construction? If so, estimate the cost.

(iii) Who is responsible for maintaining the roads?

(iv) Will the purchasers be required to pay any of the cost of maintaining the roads other than through property taxes? If so, state the estimated monthly cost to a purchaser for maintenance and state to whom paid.

(v) Is each lot in the subdivision now accessible by conventional automobile over legal rights-by-way? If not, identify all lots which are not accessible.

(3) Complete the following chart by listing the nearest established communities and the county seat. If the subdivision is located within the boundaries of a city or town, so state. State the population of each community and the distance over paved and unpaved roads from the center of the subdivison to each community.

Nearby communities	Population	Distance over paved roads	Distance over unpaved roads	Total

(e) *Utilities.*

(1) *Water.* (i) State how water will be supplied to each lot (e.g., central distribution system, individual well, etc.) and what is the name, street address and telephone number of the supplier, if supplied by a central distribution system, state whether system is completed. If not complete, state the percentage of completion.

(ii) State whether there is a sufficient supply of drinkable water available to serve the anticipated population of the subdivision. If undocumented, state that there is no assurance that there will be a sufficient supply of drinkable water to serve the anticipated population of the area. If there are unpleasant tastes or odors, so state.

(iii) State whether there are any approvals, licenses or permits from government agencies required for the method of water supply. If so, identify the responsible authority and state whether such approvals, licenses or permits have been obtained.

(iv) State the total costs to a lot purchaser to obtain water. If a central distribution system is to be used to supply the lots, state the connection charges, tap-in fees, availability fees, etc., and the rates for water. State whether the water rates are publicly regulated. If an individual well, cistern or other individual system is to supply the water, state the total cost of installation, storage facilities and all necessary equipment.

(v) Include in this description answers to any of the following items which are applicable:

(A) If a central distribution system is proposed, but not complete, state the estimated month and year of completion and the estimated month and year the system will be out in operation, who is responsible for completion and the assurance of completion (e.g., escrow, trust, etc.) if any.

(B) If a central distribution system is proposed or completed, state whether the facilities will be extended to each individual lot.

(C) If a central distribution system is proposed or completed, state whether individual wells will be permitted. If permitted, state whether a lot purchaser will be required to connect to the central system or be assessed for its operation or maintenance.

(D) If water is to be supplied by an individual private well, state whether there is any assurance that a lot purchaser can install a productive well on his property. If the lot purchaser is unable to install a productive well on his lot, state whether the developer will refund the purchase price of the lot.

(2) *Sewage Disposal.* (i) What methods of sewage disposal are to be used in the subdivision (e.g., central system, individual onsite systems such as septic tanks, etc.). If supplied by a central system, is the system complete? If not complete, state the percentage of completion and the number of lots presently served.

(ii) Are any approvals, licenses or permits from governmental agencies required for the method of sewage disposal? If so, identify the responsible authority and state whether such approvals, licenses or permits have been obtained.

(iii) State the total costs of a lot purchaser to obtain sewage service regardless of the method used. If a central system is to be used to service the lots, state the connection charges, tap-in fees, availability fees, etc. State whether the sewage rates are publicly regulated, if not, state the charge. If an individual on-site system is to be used, identify the type of system and state the total cost of installing and maintaining that system.

(iv) Also include in this description answers to any of the following items which are applicable:

(A) If a central system is proposed, but not complete, state the estimated month and year the system will be put into operation, who is responsible for completion and the assurance of completion (e.g., escrow, trust, etc.) if any.

(B) If a central system is proposed or completed, will individual on-site systems be permitted? If permitted, will a lot purchaser be required to connect to the central system or be assessed for its operation or maintenance?

(C) If a central system is proposed or completed, will sewage facilities be extended to each individual lot?

(D) If sewage disposal is to be by individual on-site systems, have the local authorities approved the use of such systems on each and every lot? State whether there is assurance that on-site systems will function satisfactorily on each and every lot? Have any percolation tests or similar tests been performed on the lots to determine the suitability of the soils for on-site disposal? State the results of these tests, if any. If the lot purchaser is unable to install an on-site disposal system on his lot, will the developer refund the full purchase price of the lot?

(3) *Electric.* (i) State whether electric lines have been extended and service is available to each lot in the subdivision. If so, state the name of the supplier.

(ii) If electric lines and service are not available to each lot, describe how purchasers can obtain electrical service and state the total costs to a lot purchaser to obtain electricity including line extension charges, connection charges, tap-in fees and availability fees.

(iii) Also include in this description answers to any of the following which are applicable:

(A) If the system is not completed, the estimated month and year of completion and operation, percentage currently completed, who is responsible for completion and the assurance of completion (e.g., escrow, trust, etc.) if any.

(B) If an individual electrical supply system is proposed (e.g., generator, soc power, etc.) describe the system, the costs to be borne by lot purchasers and whether any permits, licenses or approvals must be and/or have been obtained from any Governmental agency.

(4) *Telephone.* (i) State whether telephone lines and service is available to each lot in the subdivision. If so, state the name of the supplier.

(ii) If telephone lines and services are not presently available to each lot, describe the plans for installation and give the total cost to a lot purchaser to obtain service including line extension charges, connection charges, tap-in fees and availability fees.

(iii) If the system is proposed but not completed, give the estimated month and year of completion and operation, percentage currently completed, who is responsible for completion and the assurance of completion (e.g., escrow, trust, etc.) if any.

(5) *Gas.* (i) State whether gas lines presently serve each lot in the subdivision. If so, give the name of the supplier. If no service is planned, simply state Natural Gas Is Not Available in This Subdivision.

(ii) If gas lines do not serve each lot but are proposed, state the total costs to a lot purchaser to obtain gas service including line extension charges, connection charges, tap-in fees and availability fees. Also include the estimated month and year of completion and operation, percentage currently completed, who is responsible for completion and the assurance of completion (e.g., escrow, trust, etc.) if any.

(iii) If an alternate source of fuel such as propane or butane is available, disclose the alternate fuel and the cost to be borne by lot purchasers including installation, connection and tank rental charges.

(6) *Garbage and Trash Disposal.* Describe the method and costs to purchasers of garbage and trash disposal.

(f) *Recreational facilities.*

(1) Complete the following chart for each recreational facility according to the instructions:

Facility	Percent complete	Estimated completion date	Completion financially assured?	Buyer's cost of assessments

(i) Identify the facility.

(ii) Percentage of completion.

(iii) If the facility is not complete, state the estimated completion date (month and year). If a facility was previously scheduled for completion and the date was not met, state the new estimated completion date and the old date.

(iv) If the facility is not complete, state whether there is any financial assurance of completion. If so, state the type of assurance, i.e., bond, escrow or trust.

(v) State the buyer's cost or assesment for using the facility. These costs could include a property owners' association assessment, the developer's maintenance assessment or a per-use fee. If the cost information is lengthy, you may use an asterisk and include the cost information in a paragraph below the chart.

(2) Below the chart, write a separate narrative statement regarding the recreational facilities which answers the following questions:

(i) If the facilities are not complete, who is responsible for the construction of the facilities and is the developer contractually obligated to purchasers to provide these recreational facilities?

Will the purchaser be required to pay any of the cost of construction? If so, estimate the cost.

(ii) Who will be responsible for the operation and maintenance of the facilities?

(iii) Who will own the facilities? State when or under what conditions the developer will convey title.

(iv) State whether there is a mortgage or lien on any of the facilities.

(v) If title is to be conveyed to the property owners' association, will the developer convey the title free and clear and without charge.

(vi) Has the developer obtained the necessary permits for construction of the facilities? If not identify the facilities for which permits have not been obtained.

(vii) Who will be permitted to use the recreational facilities (e.g., lot owners, guests, employees of developer, general public, etc.)?

(g) *Local Services.*

Complete the following chart in accordance with the instructions provided below:

Service	Currently available	Location or address	Distance from center of subdivision
Fire protection			
Police protection			
Elementary school			
Junior high school			
High school			
Hospital facilities			
Physicians and dentists			
Shopping facilities			
U.S. Postal Service			

If fire protection is not available year-round, include the following statement below the chart: "Since fire protection is not available on a year-round basis, a fire insurance policy may not be available or the cost of obtaining such a policy may be increased."

(h) *Title.*

(1) *Type and Delivery of Deed.* (i) What instrument will be used to convey title? If a quit-claim deed will be used, make the following statement: Title will be conveyed by Quit Claim Deed. Quit Claim deeds give no assurance of clear title to the land.

(ii) How long after the purchaser signs a sales contract will he receive a deed?

(2) *Encumbrances.* (i) State whether any of the land in the subdivision is subject to a blanket lien. If yes, identify the type of lien (e.g., deed of trust, mortgage, mechanics lien), the holder of the lien and the lots encumbered by the lien. Also state how such liens might affect a purchaser's title if not released or subordinated to the purchaser's property interest.

(ii) Highlight the restrictive covenants, easements and other encumbrances that burden the lots covered by this Property Report. Copies of the actual covenants or title exceptions showing recording data, must be available to purchasers upon request but should not be attached to the Property Report.

(iii) If the developer does not hold title to all the land in the subdivision, identify the other title holder and his relationship to the developer. Describe any potential effects on purchasers.

(3) *Payments and Conditions.* (i) If the developer will not have the sales contract officially attested or if the applicable jurisdiction will not record sales contracts, state that the sales contract will not be recorded and why it will not be recorded.

(ii) If the sales contract may be recorded, so state; state whose responsibility it is to record; if the responsibility is the purchaser's, state the approximate cost of recordation.

(iii) State whether purchasers' deposits or down payments are placed in escrow or otherwise protected. If yes, describe the arrangement, including the name and address of the escrow holder or similar person.

(iv) State whether purchasers' installment payments are placed in escrow or otherwise protected. If yes, describe the arrangement, including the name and address of the escrow holder or similar person.

(v) For the purposes of this topic the questions regarding an escrow agreement or similar protection may be answered affirmatively only if the money is in the custody of an independent third party, allowing a purchaser to receive a return of money paid in the event of the developer's failure to convey title or the developer's default on any obligation which would otherwise result in the purchaser's loss of that money.

(vi) If the developer is furnishing an owner's title insurance policy to the purchaser, so state. If not, state that if the purchaser wants to know the condition of title to his lot, it is his responsibility to obtain an attorney's title opinion or a title insurance policy.

(vii) Explain any prepayment penalties or privileges.

(viii) What are the developer's remedies against a defaulted purchaser? In setting forth this information, include the financial impact on the purchaser as well as the nature of the remedies.

(i) *Additional Information.* This section contains paragraphs and statements concerning various miscellaneous factors. Information about parts 1, 2 and 3 is required to be included in this section.

Include discussions of any of the topics in 4, 5, 6, 7, and 8 is they apply to the subdivision.

(1) *Property Owners' Association.* If a property owners' association is not operating or planned, include a statement to that effect. If a property owners' association is currently operating or is planned, include a brief discussion about it. The discussion should answer the following questions:

(i) What is the name of the organization?

(ii) What was or will be the date of its formation?

(iii) What are or will be the functions of the association?

(iv) Describe the capability of the association to meet is present or planned financial obligations.

(v) Will the association hold architectural control over the subdivision?

(vi) Is membership voluntary? What are the requirements for membership?

(vii) What are the current charges for membership and the provisions for increasing charges?

(viii) What is the voting right of each lot purchaser?

(ix) What is the voting right of the developer?

(x) Is or will the association be independent of the developer?

(2) *Resale Program.* State whether the developer promises to resell lots for purchasers, and, if so, state the number of sales during the last year and the average price. Discuss any restrictions which may hinder a purchaser in selling his lot, such as restrictions against the posting of signs.

(3) *Financial Information.* (i) If the developer has incurred an operating loss or deficit in retained earnings during the last year, so state and provide the amounts. If the financial condition of the developer is such that it may be unable to complete any promises or proposals, so state and give the potential impact to purchasers.

(ii) Make the following statement:

Financial statements for the period (insert data) are available from developer entity upon request.

(4) *Violations, bankruptcies and litigation.* (i) State if any of the persons who hold an ownership interest in the land or developer or any officer or director of the developer have been disciplined, debarred, or suspended by any governmental body or agency, or indicted or convicted by any court for violation of a Federal, State, or local law or regulation in connection with activities relating to land sales, land investment, securities sales, construction or sale of homes or home improvements or any other similar or related activity. If so, describe the action.

(ii) State whether within the last 13 years any of the persons who hold an ownership interest in the land or developer or any officer or director of the developer filed a petition in bankruptcy or had an involuntary petition of bankruptcy filed against him or been an officer or director of a company which has become insolvent or has voluntarily or involuntarily filed in bankruptcy? If so, describe the action.

(iii) List all litigation of which the developer is aware which, individually or in the aggregate, may have a material effect upon the developer or subdivision. Summarize the action. An amendment should be filed each time there is a development during the course of such litigation which may cause a material change to the developer or subdivision.

(5) *Special Improvement Districts.* Briefly discuss the pertinent information concerning any special improvements districts. The discussion must include statements concerning the costs and assessments to each lot owner, the nature of the improvements and the voting rights of the lot purchasers.

(6) *Time Sharing.* Describe any arrangements which provide for purchasers to share ownership of the lot.

(7) *Foreign Subdivisions.* If the owner or developer is a foreign corporation or the subdivision is located in a foreign country, include any of the following statements which are applicable:

(i) The owner of the subdivision is a foreign corporation. You may have to seek legal remedies in the courts of a foreign country should it become necessary to enforce your contract.

(ii) The subdivision is located in a foreign country and your rights to your property may be affected.

(iii) It is necessary for an alien to obtain a license granted by the Government of (insert the name of the government of the country where the property is located) before he may live, work, own or manage a business in (insert name of country). (Describe the procedures for obtaining such a document and state the length of time that it will be effective.)

(iv) It is necessary to obtain a work permit, license to do business, or similar document from the Government of (insert the name of the government of the country where the property is located) before he may live, work, own or manage a business in (insert name of country). (Describe the procedures for obtaining such a document and state the length of time that it will be effective.)

(8) *Leases.* Discuss any lease provisions. In the discussion include answers to the following questions:

(i) What is the term of lease?

(ii) Will the lease be recordable?

(iii) Can the owner's or developer's creditors or others acquire title to the property free of any obligation to continue the lease? If yes, explain.

(iv) Describe whether rental payments are flat sums or graduated. Describe any provisions for increase of rental payments during the term of the lease.

(v) Are there any provisions in lease prohibiting assignments and/or subletting? If yes, describe.

(vi) Summarize termination provisions in the lease.

(vii) Does the lease prohibit the lessee from mortgaging or otherwise encumbering the leasehold?

(viii) Will lessee be permitted to remove improvements when lease expires?

(j) *Cost Sheet and Signature Page.*

(1) The last page of the Property Report shall contain cost information, agent certification and purchaser receipt, prepared in conformance with these instructions and the following format:

COST SHEET AND SIGNATURE PAGE

This cost sheet lists all costs you will be obligated to pay, including the purchase price of the lot. (Unit headings are for illustrative purposes.)

	Units I, II	Unit III	Payable to—
Purchase price of lot:	$.....	$.....	
1-time charges:			
1. Water tap-in fee	.....	.....	
2. Water well costs	.....	.....	
3. Sewer tap-in fee	.....	.....	
4. Septic system	.....	.....	
5. Electric service	.....	.....	
6. Other (identify)	.....	.....	
Total, purchase price	.....	.....	
Additional recurring (monthly) (annual) charges exclusive of utilities:			
1. Taxes	.....	.....	
2. Dues and assessments	.....	.....	
3. Recreational facility fees	.....	.....	
4. Garbage and trash collection	.....	.....	
Total (monthly) (annual) payment	.....	.....	

AGENT CERTIFICATION

I certify that I have made no representations to the person(s) receiving this Property Report contrary to the information contained in this Property Report.

Lot _____ Block _____ Section _____

Name of Salesperson.....

Signature.....Date.....

PURCHASER RECEIPT

IMPORTANT: READ CAREFULLY

Name of Subdivision: Effective Date:

The developer must give you a copy of this Property Report and give you an opportunity to read it before you sign any contract or agreement. By signing this receipt, you acknowledge that you have received a copy of the Property Report prepared according to the Rules and Regulations of the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development.

Received by.....Date.....
Street Address.....
City.....State.....Zip.....

Even though you received the Property Report you still have other important rights under the Interstate Land Sales Full Disclosure Act.

(2) The developer or its agent must complete the Cost Sheet schedule and agent certification in the presence of the purchaser, unless the transaction takes place through the mails with no personal contact. In the latter case, the schedule and certification should be completed before the Property Report is delivered to the purchaser. The person signing shall be the person most active in dealing with the prospective purchaser.

If any of the categories on the Cost Sheet do not apply to the particular subdivision or transaction, the developer or agent should write "NONE" in the blank.

Parenthetical notes, if necessary, may be added between the Cost Sheet and the Receipt, and minor modifications to the Cost Sheet format may be permitted, both at the discretion of the Secretary.

The certification and receipt on the bottom half of the page shall be trimmed with a red border one-eighth inch in size. The original shall be prepared in such a manner that it can be detached and retained by the developer after it is signed by the purchaser and so that the purchaser will also receive a copy of the receipt. This can be accomplished by designing the page so that an overlay covers the lower area of the page where the certification and receipt is printed. The printing on the overlay and the underlying part of the page should be identical so that a carbon can be inserted in between for the signatures, then the developer can remove the overlay and keep it for his files. The developer may use an identical copy of the full page if he desires. The developer shall retain the original receipt for each property report. Upon demand by the Secretary, the developer shall, without delay, make such files available for inspection by the Secretary, or he shall file copies of such receipts as the Secretary may specify.

§ 1710.108 Statement of Record—Additional Information and Documentation.

(a) *General Information.*

(1) *Administrative Information.* (i) Is this an initial, consolidated or amended filing for this subdivision with the Office of Interstate Land Sales Registration? If an additional offering of lots is being consolidated with a previously filed effective Statement of Record, identify the OILSR filing number for the original Statement of Record.

(ii) Are you submitting documentation to support a request for an exemption?

(iii) Has a Statement of Record or similar instrument been filed in any state or states? List the state or states.

(iv) Have any of the states listed in 3 above not permitted the filing to become effective or suspended the filing? If yes, give reasons cited by the state and also the developer's reasons, if different from those cited by the state.

(v) List the States in which you plan to offer lots for sale or lease. Have you registered or do you plan to register with each of these states?

(vi) Has the developer or the holder of any ownership made a filing with U.S. Securities and Exchange Commission (SEC). If a filing has been made, state the following:

(A) SEC identification number.

(B) Prospectus name.

(C) Date of filing.

(2) *Subdivision Information.* (i) What is the number of lots in this offering? Consolidated filings shall state the additional lots being offered and shall state the total number of lots included in previous filings on that subdivision.

(ii) What is the number of acres in this offering?

(iii) What is the total number of lots to be offered in the entire subdivision?

(iv) State the number of acres owned, the number of acres under option or similar arrangement for acquisition of title and the total number of acres to be offered pursuant to the same common promotional plan.

(v) State the approximate number of dwellings in the subdivision at the time of filing.

(3) *Developer Information.* (i) List the name, address, including business and home address, and the type and extent of interest of each holder of any ownership interest in the land included in this offering. (Individuals who have purchased or leased lots from the developer need not be listed.) If the holder is other than an individual, name the type of legal entity and list the interest and extent thereof, of each principal. "Principal" means any person or entity having a 10 percent or more financial interest.

(ii) If the developer does not own an interest in the land, list name and address of each individual or entity having an ownership interest in the developer. If the developer is not an individual, name the type of legal entity and list the ownership interest of each principal. "Principal" means any person or entity having a 10 percent or more financial interest.

(iii) List the principal officers and directors and authorized agent of the developer and the business and home address of each officer. The authorized agent shall be a resident of the U.S.

(iv) Are any of the persons listed in 1, 2 or 3 above directly or indirectly involved in any other subdivision? If so, identify the person and subdivision by name, location and OILSR number.

(v) Is the developer a subsidiary corporation? If so, identify the parent company by name and address. Is the parent company or any of its subsidiaries directly or indirectly involved in any other subdivision? If so, identify the subdivision name, location, OILSR number or numbers and date of filing.

(4) *Supporting Documentation.* (i) Submit a general plan including a map or plat showing the total land owned or under option or other similar arrangement for acquisition of title to the land. On the map, delineate the land included in this offering and the land upon which recreational and/or other common facilities will be located.

(ii) If the developer is a corporation, submit a copy of the articles of incorporation with all amendments. If the developer is a partnership, unincorporated association, joint stock company, or any other form of organization, submit copies of articles of partnership or association and all other documents relating to its organization.

(iii) If the authorized agent is other than the developer himself, submit documentation showing the appointment and authority of the individual designated as authorized agent.

(b) *Subdivision Characteristics and Climate.*

(1) Submit two copies of the current Geological Survey topographic map or maps of the largest scale available from the United States Geological Survey with an outline of the entire subdivision and this offering clearly indicated. Photo or xerox copies made by the developer are not acceptable. Do not shade the area on the maps which have been outlined.

(2) Submit a copy of the local authority's approval of the developer's plan to control soil erosion, sedimentation and periodic flooding.

(3) If drainage facilities are proposed, but not yet completed, submit the following:

(i) A copy of a bond or escrow agreement to assure completion of the facilities.

(ii) A synopsis of the proposed plans, which must include:

(A) A description of the system of collection of surface waters;

(B) A description of the steps to be taken to control soil erosion and sedimentation; and

(C) The estimated cost of the proposed facilities.

(c) *Land Use Control.*

(1) Identify the Federal, state and local agencies or similar organizations which have the authority to regulate or issue permits, approvals or licenses which may have a material effect on the developer's plans with respect to the proposed division of the land, facilities, proposed facilities, common areas, improvements or proposed improvements to the subdivision. State what permits, approvals or licenses are required by these agencies and whether they have been obtained by the developer.

If no agency regulates the division of the land or issues any permits, approvals of licenses with respect to improvements, so state.

Your answer shall specifically address itself to the areas of environmental protection agencies, environmental impact statements, Corps of Engineers permits to construct, dredge, bulkhead, affect the flow of, or otherwise change or affect bodies of water within or around the subdivision. Also, include any permits or licenses issued or required by Water Resources Boards or pollution control boards, river basin commissions, conservation agencies, or other similar organizations or entities.

(2) Submit two copies of a recorded plat map. If the plat has not been recorded, include a map prepared to scale, showing the proposed division, lot dimensions, and their relation to proposed and existing streets and roads. The plat shall contain sufficient engineering data to enable a surveyor to locate the lots. The unrecorded plat should contain the approval of the local authorities. The map must show:

(i) The lot dimensions in the standard unit of measure used where the land is located.

(ii) Each of the lots and any existing or proposed common areas or facilities must be clearly delineated on the map.

(iii) Any encroachments or rights-of-way, on or over the land, should be shown or noted on the map.

(iv) If the land is described by metes and bounds, or by lands of adjoining owners, abutting streets, ways, etc., its boundaries should be defined on the map by courses, distances and monuments, natural or otherwise, and the ownership and contiguous boundaries of adjoining lands and names of abutting streets, ways, etc.

(v) If it is necessary to identify the land with U.S. patent or a State grant which is the source of title, a map of the land being offered should be superimposed on a copy of the map of the U.S. survey or State grant.

(vi) If the land being offered is part of a larger tract described in an abstract, it should, when necessary for its identification, be shown drawn to a common scale on a map showing the larger tract and any successive diminishing tracts.

(vii) Flood plains and/or any flood control easements which affect the subdivision shall be identified and clearly delineated on the plat map.

(viii) The map shall be prepared by a licensed surveyor or engineer.

(ix) The developer shall place an X on each lot on the plat which is included in this offering and shall state the number of lots included on each page of the plat in the lower right-hand corner.

(3) Submit a copy of the permits, licenses, advisory opinions, or similar documents obtained from the Federal, State, or local agencies which are authorized to regulate or issue permits or licenses regarding the developer's plans concerning division of the land, facilities, common areas or improvements.

(4) Submit a copy of any environmental impact study for this subdivision which has been prepared by the developer or any government agency.

(d) *Roads.*

(1) If the developer is to complete access roads, submit a copy of any contracts, bonds or escrow agreements which guarantee completion. If the access roads are to be completed by the local government, submit a copy of a letter from the local authorities setting forth the plan for completion of access roads and maintenance.

(2) Submit copies of contracts for the completion of the road system within the subdivision and copies of the bond or escrow agreements to assure completion.

(3) Submit a copy of a letter from the local authority setting forth the plan for maintenance of the road system within the subdivision.

(4) If the roads are not complete, submit a synopsis of the proposed plans for construction of the roads in this offering. The synopsis shall specifically include but need not be limited to the estimated cost of the street system.

(e) *Utilities.*

(1) *Water.* (i) Submit a copy of a letter from the water supplier stating that he will supply the water, if applicable.

(ii) Submit a copy of an engineer's report or hydrological survey indicating the source and quantity of the water. This report or survey shall include a statement of whether the water supply is sufficient to serve the anticipated total population of the subdivision based upon the general plan submitted.

(iii) Submit a copy of a letter or report from a cognizant health officer which includes an analysis in layman's language of the chemical quality and bacteriological purity of water.

(iv) If water is to be supplied by a central distribution system, submit the following:

(A) A copy of bond or escrow agreement to assure completion of the system, if any.

(B) If not complete, describe the capacity of the system, storage facilities and the estimated cost of the system.

(C) A copy of any membership agreement or similar documents or contract, if any, by which the lot purchaser will be required or permitted to use the services of the water supplier.

(v) If water is to be supplied by individual, private wells, submit a copy of a letter from a well drilling company or contractor stating the estimated cost of installing an individual well, including pump and all necessary equipment.

(2) *Sewage Disposal.* (i) Submit a copy of a letter from the entity providing sewage service stating that he will supply the service.

(ii) If sewage disposal is to be provided by a central system, submit the following:

(A) A copy of a bond or escrow agreement to assure completion of the system, if any.

(B) A description of the proposed plans for construction of the system if not complete, including a description of the type of plant treatment and outfall location and the estimated cost of the system.

(C) A copy of any membership agreement or similar documents or contract by which the lot purchaser will be required or permitted to use the services of the sewage supplier.

(iii) If sewaged disposal is to be provided by individual on-site systems or if such systems will be permitted in the subdivision, submit the following:

(A) A copy of a letter from the local health authorities stating the methods of on-site sewage disposal which will be permitted.

(B) A copy of a letter or report from the local health authorities stating that each and every lot in the subdivision has been tested and approved for the installation of an on-site sewage disposal system.

(C) A copy of a letter from a contractor stating the estimated cost of installing an on-site system on a lot.

(3) *Electricity.* (i) Submit a copy of a letter from the electric company stating under what conditions service will be supplied, including when it will supply the electricity and at what costs.

(ii) Submit a copy of the contract between the developer and a third party for construction of electrical facilities and any bond or escrow to assure completion of the facilities.

(4) *Telephone.* Submit a copy of a letter from the telephone company stating the conditions for providing service.

(5) *Gas.* Submit a copy of a letter from the gas company stating under what conditions, and when and at what costs the service will be provided.

(6) *Garbage and Trash Disposal.* Submit a copy of a letter from the company or government agency which shall provide garbage and trash collection service stating that it will supply the service.

(f) *Recreational and Common Facilities.*

(1) Submit a copy of any contract for construction of the facilities and any bond or escrow arrangements to assure their completion.

(2) If the facilities are not complete, describe the facility and give the dimensions and the estimated cost.

(g) *Local Services.* No information required.

(h) *Title.*

(1) Submit title evidence in one of the following forms:

(i) A signed owners policy of title insurance, a guaranty or guarantee of title, or similar instrument issued by a title company, duly authorized by law to issue such instruments in the State in which the subdivision is located (the title policy or similar instrument must guarantee the title to the subdivision); or

(ii) A signed legal opinion stating the condition of title, prepared and signed by an attorney at law experienced in the examination of titles and a member of the Bar in the State in which the property is located. Title opinions which limit liability are not acceptable to satisfy the requirements of this part. The title evidence shall be dated no earlier than 20 business days preceding the date of this filing. If the title evidence is dated earlier than 20 days prior to the date of filing or the title evidence does not contain all of the information required by this part, the developer may submit an attorney's opinion of title covering the period from the date of the title evidence to a date no earlier than 20 business days preceding the date of the filing.

The title evidence shall include:

(A) An adequate legal description acceptable to the political subdivision for conveying the land included in this offering. The title evidence shall include a separate legal description of the property upon which there is or will be located any common areas or facilities which will be known or advertised as being available for the benefit or use of purchasers of lots. The legal description shall specifically identify as individual parcels, each of the lots included in this offering. If the filing is based on a proposed division of the land, the title evidence shall include a description of the perimeters of the proposed division of land. If at the time of recordation or transfer, the legal description is discovered to be in error, or is changed, an amendment must be filed correcting the statement of record. The legal description shall reference the plat maps included in the Statement of Record and specifically state the status of the legal and equitable title with respect to the land included within those plats. The reference to the recorded plat maps shall be a sufficient legal description if those plats clearly delineate the lots and any common areas or facilities. Reference to a proposed plat shall be a sufficient legal description if those plats clearly delineate the lots and any common areas or facilities and include an accurate description of the perimeters of the proposed division of the land.

(B) The name of the person(s) or other legal entity(ies) holding fee title to the property described.

(C) The name of any person(s) or other legal entity(ies) holding a leasehold estate or other interest of record in the property described.

(D) A listing of any and all exceptions or objections to the title, estate or interest of the person(s) or legal entity(ies) referred to in (B) or (C) above, including any encumbrances, easements, covenants, conditions, reservations, limitations or restrictions of record. (Any reference to exceptions or objections to title shall include specific references to the instruments in the public records upon which the exception is based.) When an objection or exception to title affects less than all of the property included in this offering, the title evidence should specifically note which lots are affected.

(E) Copies of all instruments in the public records specifically referred to in (D) above. (Abstracts of such instruments are acceptable if prepared by an attorney or professional or official abstractor qualified and authorized by law to prepare and certify to abstracts and if the abstracts contain the material portion of the recorded instruments to determine the nature and effect of such instruments.)

(F) A statement as to whether there is a holder of an ownership interest in land other than the developer. If so, include documentation which evidences the developer's authorization to develop and/or sell the land.

(G) State whether the blanket encumbrances, if any, contain release provisions. State the legal sufficiency of those release provisions with respect to the protection of lot purchasers. State whether those rights are personal in nature and may be terminated by a foreclosure purchaser or whether they run with the land. State whether the release provisions are a matter of public record. If so, list the recordation data.

(iii) A statement of which public records were searched. A search must be made of all public records which may contain documents affecting title to the land or developer's ability to deliver marketable title. The search must cover a period of at least 60 years and include an examination of at least the following:

(A) The records of the recorder of deeds or similar authority;

(B) U.S. Internal Revenue Liens;

(C) The records of the circuit, probate, or other courts including Federal courts and bankruptcy or reorganization proceedings which have jurisdiction to affect the title to the land;

(D) The tax records;

(E) Financing statements filed pursuant to the Uniform Commercial Code or similar law. If it is held that the financing statements do not affect the title to the land, include a statement of the legal authority for that opinion.

(2) Submit copies of any trust deeds, deeds in trust, escrow agreement or other instrument which purports to protect the purchaser in the event of default or bankruptcy by the developer on any instrument or instruments which create a blanket encumbrance upon the property.

(3) Submit a copy of all forms of contracts or agreements to be used in selling or leasing lots. The contracts or agreements, including promissory notes, must contain the following language in boldface type (which must be distinguished from the type used for the rest of the contract) on the face or signature page above all signatures: "You have the option to void your contract or agreement by notice to the seller if you did not receive a Property Report prepared pursuant to the rules and regulations of the office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, in advance of, or at the time of your signing the contract or agreement. If you received the Property Report less than 48 hours prior to signing the contract or agreement, you have the right to revoke the contract or agreement by notice to the seller until midnight of the third business day following the consummation of the transaction. A business day is any calendar day except Sunday and the following Business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving and Christmas."

(i) State if the developer has reserved the right to exchange or withdraw lots after a purchaser has signed a sales contract (e.g., for prior sales, failure to pass credit check). If so, indicate this authority by reference to the applicable paragraph in the sales contract.

(ii) State if there is any provision giving purchasers an option to exchange lots. If so, indicate by reference to the applicable paragraph in the sales contract.

(4) Submit a copy of the agreement, if not included in the sales contract, in which seller agrees with buyer to secure the release of lots from any blanket encumbrance.

(5) Submit copies of deeds and leases by which the developer will lease or convey title to the lots to purchasers or lessees.

(6) If the developer knows of any instruments not of record which if recorded would affect title to the subdivision, copies of those instruments should be submitted.

(j) *Additional Information.*

(1) *Property Owners' Association.* (i) List the current officers and directors of the association and state whether any of these persons are officers or employees of the developer.

(ii) If the association has been formed as a legal entity, copies of articles of association and bylaws or similar documents and a statement from the appropriate State authority confirming that the charter is in effect. If not formed, attach proposed articles of association and bylaws or similar documents.

(iii) Submit a copy of membership agreement or similar documents.

(iv) Submit financial statements if a Property Owners' Association exists; otherwise submit a statement of potential expenses and receipts. If the developer has no control over the association and cannot obtain this information, so state.

(2) *Resale Program.* No documentation required.

(3) *Financial Information.* (i) Submit a copy of the developer's financial statements for the last full fiscal year prepared by an independent account and interim statements for a period up to the most recent practicable date. Generally these statements should be no more than six months older than the date of the filing of the last pre-effective amendment. Copies of financial statements must be made available to prospective and past purchasers upon request. These financial statements must include a balance sheet, statement of profit and loss and a statement of changes in financial condition and shall be prepared in accordance with generally accepted accounting principles, as prescribed by the American Institute of Certified Public Accountants. The fiscal year statements must be prepared and audited by an independent licensed public accountant and shall include a certified opinion unless one of the following criteria is met:

(A) The aggregate price of the lots offered pursuant to the common promotional plan equals $1,500,000 or less and there are fewer than three hundred lots in the subdivision or

(B) All facilities and utilities necessary to make the lots immediately useable as homesites have been completed and free and clear title is available at the time of sale. Interim statements may be unaudited and prepared by company personnel. If the accountant refuses to render a certified opinion, disclaims any opinion, or otherwise qualifies his opinion, the Secretary, at her discretion, may accept the statements and require such additional disclosure as she deems necessary in the public interest or for the protection of purchasers.

If the last full fiscal year has ended within the last 90 days and audited statements are not yet available, the developer may, at his option, submit a copy of audited statements for the previous full fiscal year, plus unaudited statements for the period up to the most recent practicable date (generally no older than six months).

The developer shall submit new financial statements anytime that they disclose there may be change having a material adverse effect upon the developer or lot purchasers but in no event shall the developer fail to file new statements every 24 months. This provision does not relieve a developer from the responsibility for filing other amendments to disclose material changes. Developers who file audited statements must continue with audited statements throughout the duration of the registration.

If the developer is newly formed or in the development stages and has not had any significant operating experience, an unaudited or audited balance sheet and statement of receipts and disbursements of funds may be submitted. However, within 120 days after the end of the first full fiscal year, the developer shall comply with the requirements of this part for audited and certified statements.

If the developer is a subsidiary company and does not have audited financial statements, the Secretary may permit the use of the audited and certified statements of the parent company, provided that those statements are accompanied by an unconditional guaranty that the parent shall perform and fulfill the obligations of the subsidiary. If this procedure is adopted, then the developer shall submit the following:

The unaudited financial statements of the subsidiary.

The audited and certified financial statements of the parent company.

A properly executed guaranty in the form set forth in a form acceptable to the Secretary.

(ii) Describe the financing plan or plans that have been or are to be used in financing the on-site and off-site improvements proposed in the statement of record. Also, describe the financing plan that is to be used, and by whom, in the offering of lots for sale in this subdivision. Describe fully any other financing plan, and with whom, which may affect title to the lots, which is not covered above or elsewhere in this statement of record.

(4) *Violations, Bankruptcies and Litigation.* Submit a copy of the documents involved in the actions listed in Violations, Bankruptcies and Litigation referenced in the Property Report or if not noted in the Property Report, any action arising under the Interstate Land Sales Full Disclosure Act. This includes, but is not limited to, copies of the following:

A. Complaint;

B. Answer;

C. Decision or other disposition.

(5) Special Improvement Districts: No documentation required.

(6) Time Sharing: No documentation required.

(7) Foreign Subdivisions: No documentation required.

(8) Leases: Documentation included in Title section.

(9) *Methods of Sale and Proposed Range of Selling Prices or Rents.* (i) Describe the advertising and promotional media and methods to be used in connection with the sale or lease or offers to sell or lease lots in the subdivision.

(ii) Will the developer only make on-site sales or sales be made sight unseen?

(iii) Does developer have his own sales staff or has he contracted with a marketing or sales organization? Give the name and address of the marketing or sales organization and list the names and addresses of its principals.

(iv) What is the range of selling prices or rents for lots in the subdivision?

(v) Copies of all advertising material used to promote the subdivision. This material shall include but need not be limited to the following:

(A) Newspaper and magazine advertisements;

(B) Promotional letters which are given or sent to purchasers;

(C) The text of any radio, television, or billboard advertisements; and

(D) Promotional maps, brochures and handbills.

(10) *Taxes and Assessments*—(i) *Before Taking Title.* (A) Is the lot purchaser required to pay any property taxes or special assessments to any municipal, governmental or public body after signing the contract to purchase, and prior to delivery of an executed deed? If so, itemize the amounts or rates to be paid and to whom they must be paid.

(B) Is the lot purchaser required to pay any assessments, dues or other payments to the developer or any organization or entity (other than a Property Owner's Association) for the maintenance of common facilities or other purposes after signing the contract to purchase, and prior to delivery of an executed deed? If so, itemize the amounts or rates to be paid and to whom they must be paid.

(ii) *After Taking Title.* (A) Is the lot purchaser required to pay any property taxes or special assessments to any municipal, governmental or public body after signing the contract to purchase, and prior to delivery of an executed deed? If so, itemize the amounts or rates to be paid and to whom they must be paid.

(B) Is the lot purchaser required to pay any assessments, dues or other payments to the developer or other organization (other than a Property Owner's Association) for the maintenance of common facilities or other purposes after signing the contract to purchase and after delivery of an executed deed? If so, itemize the amounts or rates to be paid and to whom they must be paid.

(j) *Cost Sheet and Signature Page.* Submit a sample Cost Sheet and Signature Sheet which has been completed with regard to a typical lot in the subdivision.

(k) *Affirmation.* The affirmation shall be signed by the developer's senior executive officer or his duly authorized agent. The affirmation will appear as set forth in § 1710.105(a) Format, Statement of Record.

§ 1710.110 Annual Notice requirement for Statement of Record.

By January 31 of each calendar year, a developer registered pursuant to § 1710.20 or § 1710.25 shall submit for each of his registered subdivisions a short notice which will become part of the statement of record containing the following information:

(a) Subdivision name and location;

(b) Developer's name, address and telephone number;

(c) OILSR number;

(d) Effective date of most recent filing;

(e) Either:

(1) A statement that the developer is still engaged in land sales at the subject subdivision, and either that no material changes have occurred since the most recent filing or that amendments are being submitted to reflect material changes in the present registration; or

(2) A statement that the developer is no longer engaged in land sales at the subject subdivision and requests suspension of the registration for the subject subdivision; such a suspension shall become effective upon counter-signature on the notice by the Secretary or his designee, a copy of which will be mailed to the developer.

(f) The Notice shall be signed by the senior executive officer of the developer in a signature line above his typed name and title.

10. Section 1710.115 is proposed to be amended as follows:

§ 1710.115 State property report disclaimer.

If the developer is filing with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, pursuant to § 1710.25, the statement required by this section must be affixed to the front of the State property report prior to the report's delivery to each purchaser. With the exception of size, the statement shall be in a form as follows:

PURCHASERS SHOULD READ THIS DOCUMENT BEFORE SIGNING ANYTHING

(Name of subdivision)
(Developer's Name)

Federal law requires that you receive this information prepared by the developer. The information contained in this Report is subject to change. The Department of Housing and Urban Development has not given approval to this subdivision nor made any determination as to the value of this property, if any.

If you receive this Property Report less than 48 hours prior to signing a contract or agreement, you have until midnight of the third business day following the consummation of the transaction to void the contract or agreement by notice to the seller.

Agent Certification

I certify that I have made no representations to the person(s) receiving this Property Report contrary to the information contained in this Property Report.

Lot _____ Block _____ Section _____

Name of Salesperson .....

Signature .....Date.....

Purchaser Receipt

IMPORTANT READ CAREFULLY

Name of Subdivision: Effective Date:

The developer must give you a copy of this Property Report and give you an opportunity to read it before you sign any contract or agreement. By signing this receipt you acknowledge that you have received a copy of the Property Report prepared according to the Rules and Regulations of the Office of Interstate Land Sales Registration, U. S. Department of Housing and Urban Development.

Received by .....Date .....

Street Address.....

City.....State.....Zip.....

Even though you received the Property Report you still have other important rights under the Interstate Land Sales Full Disclosure Act.

The statement shall be on a separate page and shall be prepared in the format required by § 1710.105(b)(10). Final printed versions of the State property report and the Property Report disclaimer shall be submitted as required by § 1710.105(b)(13).

The language at the top of the page, "PURCHASER SHOULD READ THIS DOCUMENT BEFORE SIGNING ANYTHING", shall be printed in ¼ inch red type. Below that, the name of the subdivision and the developer's name should appear in ¼ inch black type. Following that, the two HUD disclaimer paragraphs should appear in ⅛ inch black type.

The certification and the receipt on the bottom half of the page shall be trimmed with a red border one-eighth inch in size. The original shall be prepared in such a manner that it can be detached and retained by the developer after it is signed by the purchaser and so that the purchaser will also receive a copy of the receipt. This can be accomplished by designing the page so that an overlay covers the lower area of the page where the certification and the receipt is printed. The printing on the overlay and the underlying part of the page should be identical so that a carbon can be inserted in between for the signature, then the developer can remove the overlay and keep it for his files. The developer may use an identical copy of the full page if he desires. The developer shall retain the original receipt for each Property Report. Upon demand by the Secretary, the developer shall, without delay, make such files available for inspection by the Secretary, or he shall file copies of such receipts as the Secretary may specify.

The Agent Certification must be completed by the developer or its agent in the presence of the purchaser, unless the transaction takes place through the mails with no personal contact. In the latter case, the certification should be completed before the Property Report is delivered to the purchaser. The person signing shall be the person most active in dealing with the prospective purchaser.

11. Section 1710.120 is amended as follows:

§ 1710.120 Statement of Record—State filing.

If the developer is filing pursuant to § 1710.25, there shall be filed with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, a statement as follows:

SEC. I. *State Filings.* The following information shall preface the State Statement of Record or similar instrument and shall be done in accordance with the format and general instructions set forth in § 1710.105 and contain the information required by § 1710.108(a), General Information, and § 1710.108(1)(3)(i), Financial Information.

SEC. II.A. Submit all of the information, documentation, and certifications or affirmations submitted to the State.

B. The contracts or agreements must contain the language required by § 1710.108(h)(3).

C. * * *

12. Section 1710.125 is amended by deleting the current provisions and inserting the following new provisions in lieu thereof:

§ 1710.125 Partial Statement of Record—request for exemption.

Requests for an exemption order or an exemption advisory opinion pursuant to § 1710.14 or § 1710.15 shall be prepared in accordance with the following instructions:

INSTRUCTIONS FOR COMPLETION OF PARTIAL STATEMENT OF RECORD—REQUEST FOR EXEMPTION

The partial Statement of Record shall be prepared in the manner shown below and shall contain the information requested, as follows:

Employer's IRS No.----------
Developer ----------
Owner ----------

STATEMENT OF RECORD

Name of subdivision----------
Location ----------
Name of developer----------
Developer's address----------
Authorized agent----------
Authorized agent's address----------

Part I. General Information, shall be filed in the form set forth in § 1710.108(a) followed by the affirmation and agreement as set forth below:

The filing of this information does not preclude a developer from filing a complete Statement of Record. If the developer files the material necessary to complete the Statement of Record, the date of filing shall be the date the complete Statement of Record is received by the Secretary.

AFFIRMATION AND AGREEMENT

I hereby affirm that I am the developer of the lots herein described or will be the developer at the time the lots are offered for sale or lease to the public, or that I am the agent authorized by such developer to complete this statement (if agent, submit written authorization to act as agent);

That the statements contained in this partial Statement of Record and any supplement thereto, together with any documents submitted are full, true, complete, and correct;

That, if this request is filed pursuant to 24 CFR 1710.14(a)(2) the developer hereby affirms and represents to the Secretary that the facts, affirmations and method of operation are within the requirements of 24 CFR 1710.14(a)(2) subparagraphs (i), (ii), (iii), (iv), and (v);

That the fee accompanying this application is in the amount required by the regulations of the Office of Interstate Land Sales Registration.

(date)	(signature)
(corporate seal if applicable)	(title)

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (82 Stat. 598, 15 U.S.C. 1717) provides: "Any person who willfully violates any of the provisions of this title or the rules and regulations prescribed pursuant thereto * * * shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."

Proposed effective date. The foregoing proposed amendments to Part 1710 would become effective 60 days after the date of final publication with respect to initial and consolidated registrations and exemptions. Existing exemptions and registrations would be affected as follows:

(a) No existing exemption, or exemption in process, is affected;

(b) A developer applying for an exemption after the date of publication but prior to the effective date may apply for an exemption under either the present or the amended regulations;

(c) A developer with an effective registration who submits material, except for a consolidation, after the effective date of these regulations or the regulations effective December 1, 1973, but if he opts to follow these regulations, the entire registration must be brought into compliance;

(d) Registrations effective or in process upon the effective date of these regulations shall in any case comply with these regulations in 1978. The specific date on which each registration must be fully updated to these regulations in 1978 is based upon the anniversary month of the last effective date of the registration or amendments thereto.

Issued at Washington, D.C., January 17, 1977.

CONSTANCE B. NEWMAN,
Assistant Secretary for Consumer Affairs and Regulatory Functions.

[FR Doc.77-2704 Filed 1-26-77;9:30 am]

federal register

MONDAY, JANUARY 31, 1977

PART VII



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

■

FORMAL PROCEDURES AND RULES OF PRACTICE

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[24 CFR Part 1720]

[Docket No. R-77-446]

FORMAL PROCEDURES AND RULES OF PRACTICE

Proposed Rulemaking

Notice is hereby given that pursuant to Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.) it is proposed to amend Chapter IX of 24 CFR. Under this proposal, certain technical and substantive changes would be made in Part 1720 of Title 24.

On August 4, 1976, the Assistant Secretary for Consumer Affairs and Regulatory Functions published advance notice of a proposal to initiate rulemaking. The objective is a substantial revision of the exemption and disclosure regulations of the Office of Interstate Land Sales Registration (OILSR).

At that time the legal and OILSR staffs had already begun work on a revision of Part 1720. A decision was made to go forward with the changes to Part 1720 independently from the other changes.

Many of the changes are technical and are made to correct syntax, punctuation and other grammatical problems. For example, § 1720.1 would be amended by deleting a comma at the end of line 6, and by inserting a comma after the word "otherwise" in § 1720.75(c).

Other changes, such as in § 1720.75, have been made to remove surplus words from the regulations. The phrase "as distinguished from adjudicatory hearings" was deleted in § 1720.75(a). Similarly, § 1720.115 was rewritten to cut by nearly two thirds the number of words in the section and also to increase its clarity. Certain sections such as § 1720.135 have been rewritten solely to promote clarity and readability.

The final category of technical changes applies to those sections which reflect changes made elsewhere, e.g. the revised appeals procedure.

A change not formally proposed at this time but which might appear in the published rules is a re-ordering of the rules into a more logical and chronological sequence. What is envisioned is an identification of approximately 6 categorical headings such as General Provisions, which would include the existing regulations as to applicability of the section, restrictions on appearances, standards of practice, time and means of service, form and filing requirements and the administrative law judge's general powers. A category on Pleadings would include the regulations setting forth descriptions of procedures under suspension notices, orders and notice of proceedings and answers, amendments and supplemental pleadings. A third category would be Motions, which would include the existing regulations dealing with motions. A fourth category would be Discovery and Evidence, which would include the regulations dealing with depositions and, discovery, subpoenas, testimony and similar regulations. A fifth category tentatively entitled Hearings would deal with the provisions applicable during the course of a hearing and a final category would be Appeals, which would encompass all regulations from the time the administrative law judge's jurisdiction is terminated.

The sections, including the sections specified in the above paragraphs, which are affected by the proposed technical and clarifying changes are as follows:

1720.1	1720.220
1720.15	1720.235
1720.75 (a) and (c)	1720.240
1720.80 (b) (2) and (b) (3)	1720.250
1720.115	7120.255(d)
1720.135	1720.285(b)
1720.145	1720.300
1720.150	1720.320
1720.155	1720.350
1720.170	1720.360
1720.175	1720.390
1720.195	1720.400 (a), (b) and (c)
1720.210	1720.412
1720.215	1720.290

SUBPART A

The first substantive change would be in § 1720.5, Initiation of Rulemaking. The heading has been changed to reflect more accurately the text of this provision and to codify what, in the Agency's opinion, constitutes a rulemaking petition. Although the Agency has had no more than 6 purported rulemaking petitions, only one was found to be satisfactory for the purposes of this section. Rulemaking may still be initiated by the Secretary as well as any interested person.

SUBPART B

Section 1720.40(c) is proposed to be deleted because it is inconsistent with section 1407(b) of the statute, 15 U.S.C. 1706(b). The suspension notice described at § 1720.120 of this chapter is the means of notice contemplated by the statute when statements of record or amendments are found to be incomplete or inaccurate.

SUBPART C

Section 1720.45(a) is proposed to be amended by ending the sentence after the word "Secretary" in the fourth line. This paragraph is simply a statement of general scope and provisions for voluntary compliance can be found in § 1720.100.

Section 1720.55 is proposed to be amended by changing the title and by deleting the last sentence. It was determined that the Secretary's publication of information concerning violations is more appropriate in § 1720.90 after the finding that corrective action is warranted.

Section 1720.70(b) is proposed to be amended to provide for a petition to modify or withdraw a subpoena and to remove any inference that a subpoenaed party will receive a hearing from a non-interested third party. In effect, the revision reflects actual Agency practice.

Section 1720.80(b)(4) would be amended to reflect the change in § 1720.70(b).

Section 1720.85 is amended to show the action that may be taken by the Secretary as the result of noncompliance in an investigation. Specifically, the section refers to the Secretary's authority under section 1415(d) of the Act to enforce administrative subpoenas in the United States District Courts and the authority to suspend an effective registration under section 1407(e) of the Act, which is implemented by § 1710.45(b)(2) of the Regulations.

Section 1720.90 is proposed to be amended to show that the alternatives open to the Secretary after the conclusion of the investigation are injunctions under section 1415(a) of the Act, notices of proceedings under section 1407(d) of the Act and § 1710.45(b)(1) of the Regulations or a suspension order under section 1407(c) of the Act and § 1710.45(b)(3) of the Regulations, rather than § 1710.45(b)(2), which is now appropriately placed under § 1720.85. Also, a new paragraph (c) is added with respect to the publication concerning violations found as a result of the Secretary's investigation. The present paragraph (b) is reserved and the text is dropped because of its self-evident nature.

Section 1720.100 is proposed to be amended to reflect the reality of an agreement between the Secretary and a developer prior to the initiation of formal proceedings but retains recognition that the developer may initiate the action leading to the agreement.

SUBPART D

Section 1720.125(c), Adjudicatory Proceedings, would be amended by deleting the present language because the time and place of the hearings are believed to be better handled through the flexibility of an administrative law judge's order and substituting a reference to § 1720.160, which instructs a developer how to obtain a hearing upon receipt of a notice of proceedings.

Section 1720.131 would be amended by adding a new paragraph (e) which refers the suspended party to the hearing rights described in § 1720.165, it having been determined to restore an independent hearing right to developers who receive suspension orders pursuant to § 1710.45(b)(3).

Section 1720.134 is proposed to be amended to apply the presumption of hearing request to answers to suspension notices and suspension orders as well as notices of proceedings.

Section 1720.140(a) is proposed to be amended to apply to orders as well as notices; 1720.140(b) is amended to show that in certain cases the time for filing amended answers will run from the service of the administrative law judge's order granting a motion to amend. This matter is covered in detail in § 1720.205 (a).

Section 1720.155(a) is proposed to be amended by deleting paragraphs (1) and (2) and substituting a reference to the time period in § 1720.140, rather than repeating the text of § 1720.140(a) (1) and (2). Section 1720.155(c) is amended by adding the words "or administrative law judge" in the 7th line after "Secre-

tary." This change is made to cover the case of the judge's decision after a hearing. A new paragraph (d) is added to § 1720.155 providing for consolidation of the suspension notice under § 1710.45(a) and a suspension order under § 1710.45 (b)(3). This provision would eliminate any question regarding the necessity to file two identical answers when the allegations in both proceedings are identical.

Section 1720.160 is proposed to be amended in paragraph (a) to use a reference in the case of filing a motion for more definite statement; in paragraph (b) the proposal would delete the requirement that a hearing be scheduled within 20 days after the hearing request is received and substitute a requirement that the hearing be held within 45 days after receipt of the request unless it is determined that more or less time is appropriate in the public interest; paragraph (c) is amended by changing the effective date of an order issued under this section from the date of issuance to the date of service or receipt. The objective of the proposal in § 1720.160(b) is that processing time for hearings would be shortened; the objective of the change in § 1720.160(c) is to assure that the effectiveness of the order is predicated on notice and receipt by the developer.

Section 1720.165 is proposed to be amended by changing the heading to include orders issued under § 1710.45(b)(3) and by including a hearing right as a result of orders issued pursuant to § 1710.45(b)(3). In the case of either order discussed in this section hearings would be held within 20 days after receipt of a hearing request because of the summary nature of these orders.

Section 1720.190(b) is amended in clauses (8) and (9) to reflect the effectiveness of the administrative law judge's decision and to reflect the reorganized appeals procedure, both of which are discussed hereafter.

Section 1720.205(a) is proposed to be amended by stating with certainty when pleadings may be amended as a matter of course and when they may be amended only by leave of the administrative law judge.

Section 1720.245 is proposed to be amended to make it more readable and to clarify that a motion to dismiss may be made at virtually any time during the course of a proceeding. The new paragraph was added to make this section more readable rather than to change its substance.

Section 1720.225(b) is amended by adding a new sentence at the end of the paragraph to permit evidentiary arguments based on the Federal Rules of Evidence when believed to be applicable to a particular presentation.

Section 1720.265(a) is proposed to be amended to eliminate the requirement that discovery is available only if the witness could not be available to testify. The result is that depositions may be used for impeachment purposes as well as discovery. However, the use of any deposition as primary evidence is still limited by the provisions of § 1720.265(g).

Section 1720.345 is proposed to be amended by re-titling the section, by requiring the filing of a decision by the administrative law judge within 40 days after the close of evidence and providing for the effective date of the decision to occur 10 days after service upon the parties. The consequences of these changes would be to make the administrative law judge's decision final for all purposes 10 days after it is served on the parties. The only means within the Department to stop the effectiveness of the administrative law judge's decision would be favorable action on a petition for appeal filed under § 1720.365 which would serve to stay the decision while the appeal procedure is ongoing. If there is an unfavorable decision on the petition or there is a failure to perfect the appeal, the decision would become immediately effective.

Section 1720.365 is amended to provide for a petition for appeal and requires the appeals officer to rule on the petition within 10 days. A denial of the petition would be final agency action.

Section 1720.385 is proposed to be amended by limiting the size of appellate briefs to 25 pages from the present 60 pages. This section would also be amended to delete the reference to the appeals board in accordance with the new appeals officer procedures.

Section 1720.400(d) is proposed to be amended by making the decision of the appeals officer effective 10 days after service on the parties in accordance with the decision to give effect to administrative decisions as quickly as feasible. Appeal from a decision of the appeals officer would be directly to the United States Court of Appeals, § 1720.405 having been proposed to be deleted.

A new § 1720.412 is proposed to be created but would simply state the text now found in § 1720.530 with respect to the Department representative.

Section 1720.530 would be eliminated.

Section 1720.430(a) is proposed to be amended by changing from 6 to 3 the number of copies required to be filed and to change the address of the place for filing documents to that of the Docket Clerk for Administrative Proceedings. This change is in conformance with the instructions in pleadings now in use and would eliminate the potential for mail snafus.

Section 1720.440 is proposed to be amended by changing the OILSR officials upon whom service can be made and adds a proviso that copies of process be sent to the Clerk as specified in § 1720.430(a). Section 1720.440(b) is proposed to be amended by providing for service by publication in the FEDERAL REGISTER when the persons sought to be served cannot with due diligence be served. Section 1720.440(d) is proposed to be amended by changing the last sentence of the paragraph to require service of copies of documents on attorneys of record.

SUBPART F

Except for § 1720.520, all of Subpart F is to be substantially amended. The Interstate Land Sales Board would be abolished under this proposal and in its place there would be established an individual appeals officer having all of the powers and duties of the present appeals officers who constitute the present appeals board. The appeals officer would be the Assistant Secretary for Consumer Affairs and Regulatory Functions, and the decision of the appeals officer would not be appealable within the Department.

Section 1720.500 would establish the position of a single appeals officer and would delete all provisions respecting an appeals board concept.

Section 1720.510 designates who shall be the appeals officer and also specifies that the Docket Clerk for Administrative Proceedings shall be the recorder of appellate proceedings. The headings of both of these sections would be changed to reflect their content.

Sections 1720.525 and 1720.530 would be deleted by this proposal.

Interested persons are invited to participate in this rulemaking proceeding by submitting written comments or suggestions to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 10141, 451 7th Street, S.W., Washington, D.C. 20410. All communications should refer to Office of Interstate Land Sales Registration, Formal Procedures and Rules of Practice and the date of publication. It is requested, though not required, that all written communications be submitted in triplicate.

Particular attention is invited with respect to the revised appeals procedure proposed, the hearing procedures for suspension orders under §§ 1710.45(b)(2) and 1710.45(b)(3), the revised discovery provisions in § 1720.265(a) and the revised petition to limit subpoenas found in § 1720.70(b).

All communications received by April 30, 1977, will be considered before taking action on the proposed rules. Also, public hearings may be scheduled to hear comments on the proposed rules. If public hearings are scheduled, notice will appear in the FEDERAL REGISTER and various general and special circulation newspapers and periodicals. The proposals contained in this notice may be changed in light of comments received. A copy of each written submittal will be available for public inspection during business hours at the above address.

The Department has determined that these regulations do not constitute a major Federal action significantly affecting the quality of the human environment. Accordingly, a finding of inapplicability of environmental impact has been prepared and is available for inspection by the public during regular business hours in Room 10141, 451 7th Street, S.W., Washington, D.C. 20410.

This notice of proposed rulemaking is issued under the authority of section 7(d), Department of HUD Act, 42 U.S.C. 3535(d); section 1419, Interstate Land Sales Disclosure Act, 15 U.S.C. 1718.

(NOTE.—It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-107.)

Accordingly, it is proposed to amend Part 1720 of Chapter IX of 24 CFR to read as follows:

PART 1720—FORMAL PROCEDURES AND RULES OF PRACTICE

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AUTHORITY: Sec. 7(d), Department of HUD Act. (42 U.S.C. 3535(d)); sec. 1419, Interstate Land Sales Disclosure Act (15 U.S.C. 1718).

Subpart A—Rules and Rulemaking

§ 1720.1 Scope of rules in this subpart.

The rules in this subpart apply to and govern procedures for the promulgation of rules and regulations under the Act. The rules in this subpart do not apply to interpretative rules, general statements of policy, rules of organization procedure or practice or in any situation in which the Secretary for good cause finds (and incorporates the findings and brief statement of the reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest.

§ 1720.5 Initiation of rulemaking.

(a) The issuance, amendment or repeal of any rule or regulation may be proposed upon the initiative of the Secretary or upon the petition of any interested person showing reasonable grounds therefor.

(b) Petitions for rulemaking by interested persons filed under this section:

(1) Shall be identified as a petition for rulemaking under this subpart;

(2) Shall explain the interest of the petitioner in the action requested;

(3) Shall set forth the text or substance of the rule or amendment proposed or specify the rule that the petitioner seeks to have repealed, as the case may be; and

(4) Shall contain any information and arguments available to the petitioner to support the action sought.

(c) The Secretary shall respond to a petition submitted under this section within 180 days of receipt thereof, except that this time limit may be exceeded for good cause found and communicated to the petitioner. The Secretary's normal response shall be to grant or deny the petition but alternatively, the Secretary may schedule a public hearing or other appropriate proceeding prior to the granting or denial of a petition. If the Secretary grants the petition, the Secretary shall publish a proposed rule in accordance with the petition and a copy of the proposed rule shall be furnished to the petitioner. If the Secretary denies the petition, the Secretary shall notify the petitioner within 7 days after such denial.

§ 1720.10 Investigations and conferences.

(a) In connection with a rulemaking proceeding, the Secretary may conduct such investigations, make such studies and hold such conferences as he may deem necessary. All or any part of such investigations may be conducted under the provisions of Subpart C of this part.

(b) At any such conferences, interested persons may appear to express views and suggest amendments relative to proposed rules and regulations.

§ 1720.15 Notice.

General notice of proposed rulemaking shall be published in the FEDERAL REGISTER and, to the extent practicable, otherwise made available to interested persons. Such notice shall state the time, place and nature of public hearings, if any; the authority under which the rule or regulation is proposed; either the terms or substance of the proposed rule or regulation or a description of the subjects and issues involved; and the manner in which interested persons shall be afforded the opportunity to participate in the rulemaking. If the rulemaking was instituted pursuant to petition, a copy of the notice shall be served on the petitioner.

§ 1720.20 Promulgation of rules and regulations.

The Secretary, after consideration of all relevant matters of fact, law, policy and discretion, including all relevant matters presented by interested persons in the rule making proceedings, shall adopt and publish in the FEDERAL REGISTER an appropriate rule or regulation together with a concise general statement of its basis and purpose and any necessary findings; or the Secretary shall give other appropriate public notice of disposition of the rule making proceeding.

§ 1720.25 Effective date of rules and regulations.

The effective date of any rule or regulation or of an amendment, suspension, or repeal of any rule or regulation shall be specified in a notice published in the FEDERAL REGISTER. Such date shall not be less than 30 days after the date of such publication unless the Secretary specifies an earlier effective date for good cause found and published with the rule or regulation.

Subpart B—Filing Assistance

§ 1720.30 Scope of this subpart.

The rules in this subpart apply to and govern procedures under which developers may obtain prefiling assistance and be notified of and permitted to correct deficiencies in the Statement of Record.

§ 1720.35 Prefiling assistance.

Persons intending to file with the Office of Interstate Land Sales Registration may receive advice of a general nature as to the preparation of the filing, including information as to proper format to be used and the scope of the items to be included in the format. Inquiries and requests for informal discussions with staff members should be directed to the Administrator, Office of Interstate Land Sales Registration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20411.

§ 1720.40 Processing of filings.

(a) Statements of Record and accompanying filing fees will be received on behalf of the Secretary by the Administrator, Office of Interstate Land Sales Registration, for determination of (1) Completeness of the statement, (2) Adequacy of the filing fee and (3) Adequacy of disclosure. Where it appears that all three criteria are satisfied and it is otherwise practicable, acceleration of the effectiveness of the Statement of Record will normally be granted.

(b) Filings intended as Statements of Record but which do not comply in form with §§ 1710.105 and 1710.120 of this chapter, whichever is applicable, and Statements of Record accompanied by inadequate filing fees will not be effective to accomplish any purpose under the Act. At the discretion of the Administrator, such filings and any moneys accompanying them may be immediately returned to the sender or after notification may be held pending the sender's appropriate response.

Subpart C—Formal Investigations

§ 1720.45 Scope of rules in this subpart.

(a) The rules in this subpart apply to and govern procedures for the conduct of formal inquiries and investigations undertaken by the Secretary.

(b) The Secretary or his designee may make inquiries and investigations to determine whether any person has violated or is about to violate any provision of the Act or the rules and regulations, or to aid in the enforcement of the Act, or in prescribing rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation. The Secretary or his designee shall have the authority to administer oaths and affirmations in any matter under investigation.

§ 1720.55 Signed statements in investigations.

In connection with a formal investigation or inquiry involving an alleged or suspected violation or threatened violation of the Act or rules and regulations, the Secretary may require or permit any person to file with him a signed statement setting forth facts and circumstances known to such person and relevant to the investigation or inquiry.

§ 1720.70 Subpoenas in investigations.

(a) The Secretary or his designee may issue subpoenas relating to any matter under investigation for any or all of the following purposes:

(1) Requiring testimony to be taken by interrogatories.

(2) Requiring the attendance and testimony of witnesses at a specific time and place.

(3) Requiring access to, examination of and the right to copy documents, books, records, and papers.

(4) Requiring the production of documents, books, records, and papers at a specified time and place.

(b) A subpoenaed person may petition the Administrator or his designee to modify or withdraw a subpoena by filing the petition within 10 days after service of the subpoena. The petition may be in letter form but must set forth the facts and the laws upon which the petition is based.

§ 1720.75 Investigational proceedings.

(a) For the purpose of hearing the testimony of witnesses and receiving documents and other data relating to any subject under investigation, investigational proceedings may be conducted in the course of any investigation including rulemaking proceedings under Subpart A of this part.

(b) Investigational proceedings shall be presided over by the Secretary or his designee and shall be stenographically or mechanically reported. A transcript shall be a part of the record of the investigation.

(c) Unless the Secretary or his designee determines otherwise, investigational proceedings shall be public.

§ 1720.80 Rights of witnesses in investigations.

(a) Any person compelled to testify or to submit data in connection with any investigational proceedings shall be entitled to retain a copy or, on payment of lawfully prescribed costs, procure a copy of any data submitted by him and of his own testimony as stenographically or mechanically reported, except that in a nonpublic proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(b) Any witness compelled to appear in person in an investigational proceeding may be accompanied, represented, and advised by counsel as follows:

(1) Council for a witness may advise his client, in confidence, and upon initiative either of himself or of the witness, with respect to any question asked of his client; if the witness refuses to answer a question, counsel may briefly state on the record if he has advised his client not to answer the question and the legal grounds for such refusal.

(2) Where it is claimed that the testimony or other evidence sought from a witness is outside the scope of the investigation, or it is claimed that the witness is privileged to refuse to answer a question or to produce other evidence, counsel for the witness may object on the record to the question or requirement and may state briefly and precisely the grounds therefor.

(3) Objections made under the rules in this subpart will be continuing objections throughout the course of the proceeding, and repetitious or cumulative statement of an objection or of the grounds therefor is unnecessary and impermissible.

(4) Counsel for a witness may not, for any purpose or to any extent not allowed by paragraphs (b)(1) and (2) of this section, interrupt the examination of the witness by making any objections or statements on the record. Petitions challenging the authority of the Secretary to conduct the investigation or the sufficiency or the legality of the subpoena must have been presented to the Secretary or his designee pursuant to § 1720.70(b). Copies of such petitions may be filed with the presiding official at the proceeding as part of the investigation record, but no argument in support thereof shall be allowed.

(5) Upon completion of the examination of a witness, counsel for the witness may request that the presiding official permit the witness to clarify on the record any of his answers in order that specified points of ambiguity, equivocation, or incompleteness may be corrected. The granting or denial of such request in whole or in part, shall be within the sole discretion of the presiding official.

(6) The presiding official shall take all necessary action to regulate the course of the proceeding to avoid delay and to prevent or restrain disorderly, dilatory, obstructionist or contumacious conduct or contemptuous language. Such official shall, for reasons stated on the record, immediately report to the Secretary any instances where an attorney or witness has failed or refused to comply with his directions, lawful rules, regulations or orders in the course of the proceedings or has engaged in disorderly, dilatory, obstructionist, or contumacious conduct or contemptuous language. The Secretary or his designee may exclude the attorney or witness from further participation in the particular investigation or may take any action deemed appropriate under § 1720.85.

§ 1720.85 Noncompliance.

Failure to comply with the Secretary's investigational process may result in action pursuant to section 1407(e) or section 1415(d) of the Act or section 1710.45(b)(2).

§ 1720.90 Disposition.

(a) When investigation by the Secretary indicates that further action is warranted, the Secretary may seek an injunction under section 1415(a) of the Act, issue a notice of proceedings under section 1407(d) of the Act and section 1710.45(b)(1), or issue a suspension order under section 1407(c) of the Act and section 1710.45(b)(3).

(b) [Reserved]

(c) The Secretary may publish or otherwise divulge information concerning any violation of the Act or the rules and regulations.

§ 1720.100 Settlements and consent orders.

(a) *Offer of Settlement.* At any time during a proceeding, parties may be afforded an opportunity to submit to the Secretary or his designee a written proposal for disposition of the matter in the form of a settlement offer.

(b) *Consent Orders.* When the Secretary or his designee determines that a violation of the Act or regulations has taken place and the public interest will be fully safeguarded, he may enter into a consent order. Such order will be in lieu of further administrative proceedings or court actions pursuant to the Secretary's authority. Such orders may provide for the holding in abeyance of any further proceedings by the Secretary and the cessation of developer actions, notification to purchasers or other actions which are in the public interest and for the protection of purchasers.

Subpart D—Adjudicatory Proceedings

§ 1720.110 Scope of rules in this subpart.

The rules in this subpart are applicable to adjudicative proceedings which involve a hearing or opportunity for a hearing under the Interstate Land Sales Full Disclosure Act.

§ 1720.115 Applicability of sections of this subpart.

Succeeding sections of this subpart shall apply to all adjudicatory hearings conducted by OILSR unless specifically limited in applicability by a particular section.

§ 1720.120 Suspension notice under § 1710.45(a) of this chapter.

A suspension pursuant to § 1710.45(a) of this chapter shall be effected by service of a suspension notice which shall contain:

(a) An identification of the filing to which the notice applies.

(b) A specification of the deficiencies of form, disclosure, accuracy, documentation or fee tender which constitute the grounds, under § 1710.45(a) of this chapter, of the suspension, and of the additional or corrective procedure, information, documentation, or tender which will satisfy the Secretary's requirements.

(c) A notice of the hearing rights of the developer under § 1720.155, and of the procedures for invoking those rights.

(d) A notice that, unless otherwise ordered, the suspension shall remain in effect until 30 days after the developer cures the specified deficiencies as required by the notice.

§ 1720.125 Notice of proceedings pursuant to § 1710.45(b)(1) of this chapter.

A proceeding pursuant to § 1710.45(b)(1) of this chapter is commenced by issuance and service of a notice which shall contain:

(a) A clear and accurate identification of the filing or filings to which the notice relates.

(b) A clear and concise statement of material facts, sufficient to inform the respondent with reasonable definiteness of the statements, omissions, conduct, circumstances or practices alleged to constitute the grounds for the proposed suspension order under § 1710.45(b)(1) of this chapter.

(c) A notice of hearing rights of the developer under § 1720.160 and of the procedures for invoking those rights.

(d) Designation of the administrative law judge appointed to preside over pre-hearing procedures and over the hearings.

(e) A notice that failure to file an answer or motion as provided under § 1720.140 will result in an order suspending the Statement of Record.

§ 1720.130 Suspension order under § 1710.45(b)(2) of this chapter.

A suspension pursuant to § 1710.45(b)(2) of this chapter shall be effected by service of a suspension order which shall contain:

(a) An identification of the filing to which the order applies.

(b) Bases for issuance of order.

(c) A notice of the hearing rights of the developer under § 1720.165 and of the procedures for invoking those rights.

(d) A statement that the order shall remain in effect until the developer has complied with the Secretary's requirements.

§ 1720.131 Suspension order under § 1710.45(b)(3).

A suspension pursuant to paragraph (b)(3) of § 1710.45 of this chapter shall be effected by service of a suspension order which shall contain:

(a) An identification of the filing to which the order applies.

(b) An identification of the amendment to the filing which generated the order.

(c) A notice of the hearing rights of the order is necessary or appropriate in the public interest or for the protection of purchasers.

(d) A statement that the order shall remain in effect until the amendment becomes effective.

(e) A notice of the hearing rights of the developer under § 1720.165 and of the procedures for invoking those rights.

§ 1720.134 Presumption of hearing request.

When an answer to a suspension notice, a notice of proceedings, or a suspension order is timely filed but a respondent has failed specifically to request a hearing, his answer shall be deemed to constitute such a request.

§ 1720.135 Motion for more definite statement.

When a respondent finds that he is unable to respond to the allegations in a suspension notice, a notice of proceedings, or a suspension order, because such allegations are vague, unclear or otherwise indefinite, motion may be made requesting a more definite statement of the allegations before filing an answer. Such motion shall indicate specifically in what manner the notice or order is indefinite or defective and shall be mailed or submitted to the Docket Clerk for Administrative Proceedings, Room 10278, Dept. of Housing and Urban Development, Washington, D.C. 20410, within five days after service of the notice or order.

§ 1720.140 Time for filing answer.

(a) Within 15 days after service of the notice or order, the respondent shall mail or submit to the Docket Clerk for Administrative Proceedings, Rm. 10278, Department of Housing and Urban Development, Washington, D.C. 20410, an answer and three copies thereof signed by the respondent or his attorney. Unless a different time is fixed by the Secretary or his designee, the filing of a motion for a more definite statement of the allegations shall alter the period of time in which to file an answer as follows:

(1) If the motion is denied, the answer shall be filed within 15 days after service of the denial.

(2) If the motion is granted in whole or in part, the more definite statement of allegations shall be filed after service of the order granting the motion and the answer shall be filed within 15 days after service of the more definite statement of allegations.

(b) If a notice or order is amended (see § 1720.205(a)), the respondent shall have 15 days after service of the amended notice or order within which to file an answer. If an answer is filed prior to the amendment of a notice or order, the respondent shall have 15 days after service of the judge's order granting the motion to amend within which to file an amended answer.

§ 1720.145 Content of answer.

(a) An answer to a notice or order shall contain: (1) Specific admission, denial or explanation of each fact alleged in the notice or, if the respondent is without knowledge thereof, a statement to that effect; and

(2) A brief statement of the facts constituting each defense.

(b) Allegations not answered in this manner shall be deemed admitted.

§ 1720.150 Settlements.

Parties may propose in writing, at any time during the course of a proceeding, offers of settlement which shall be submitted to and considered by the Secretary or his designee. If determined to be appropriate, the party making the offer may be given an opportunity to make an oral presentation in support of such offer. If an offer of settlement is rejected, the party making the offer shall be so notified and the offer shall be deemed withdrawn and shall not constitute a part of the record in the proceeding. Final acceptance by the Secretary or his designee of any offer of settlement will terminate any proceeding related thereto upon notification to the administrative law judge.

§ 1720.155 Hearings—suspension notice pursuant to § 1710.45(a) of this chapter.

(a) A developer, upon receipt of a suspension notice issued pursuant to § 1710.45(a) of this chapter, may obtain a hearing by filing a written request in accordance with the instructions regarding such request contained in the suspension notice. Such a request must be filed within 15 days of receipt of the suspension notice and must be accompanied by an answer and 3 copies thereof signed by the respondent or his attorney conforming to the requirements of § 1720.145. Filing of a motion for a more definite statement pursuant to § 1720.135 shall alter the period of time to request a hearing in accordance with § 1720.140.

(b) When a hearing is requested pursuant to paragraph (a) of this section, such hearing shall be held within 20 days of receipt of the request. The time and place for hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties or their representatives.

(c) A request for hearing filed pursuant to paragraph (a) of this section shall not interrupt or annul the effectiveness of the suspension notice, and suspension of the effective date of the Statement or amendment shall continue until vacated by order of the Secretary or administrative law judge. Except in cases in which the developer shall waive or withdraw his request for such hearing, or shall fail to pursue the same by appropriate appearance at a hearing duly scheduled, noticed and convened, the suspended filing shall be reinstated in the event of failure of the Secretary or his designee to schedule, give notice of or hold a duly-requested hearing within the time specified in paragraph (b) of this section, or in the event of a finding that the Secretary has failed to support at such hearing the propriety of the suspension with respect to the material issues of law and fact raised by the answer. Such reinstatement shall be effective on the date on which the filing would have become effective had no notice of suspension been issued with respect to it.

(d) If there is an outstanding suspension notice under § 1710.45(a) with respect to the same matter for which a suspension order under §1710.45(b)(3) is issued, the notice and order shall be consolidated for the purposes of hearing. In the event that allegations upon which the suspension notice and suspension order are based are identical, only one answer need be filed.

§ 1720.160 Hearings—notice of proceedings pursuant to § 1710.45(b)(1) of this chapter.

(a) A developer, upon receipt of a notice of proceedings issued pursuant to § 1710.45(b)(1) of this chapter, may obtain a hearing by filing a written request in accordance with the instructions regarding such request contained in the notice of proceedings. Such a request must be filed within 15 days of receipt of the notice of proceedings and must be accompanied by an answer conforming to the requirements of § 1720.145. Filing of a motion for a more definite statement pursuant to § 1720.135 shall alter the period of time to request a hearing in accordance with § 1720.140.

(b) When a hearing is requested pursuant to paragraph (a) of this section, such hearing shall be held within 45 days of receipt of the request by the Secretary unless it is determined that it is not in the public interest. The time and place for hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties or their representatives.

(c) Failure to answer within the time allowed by § 1720.140 or failure of a developer to appear at a hearing duly scheduled shall result in an appropriate order under § 1710.45(b)(1) of this chapter suspending the statement of record. Such order shall be effective as of the date of service or receipt.

§ 1720.165 Hearings—suspension orders issued pursuant to § 1710.45(b)(2) and § 1710.45(b)(3) of this chapter.

(a) A developer, upon receipt of a suspension order issued pursuant to § 1710.45(b)(2) or § 1710.45(b)(3) of this chapter, may obtain a hearing by filing a written request in accordance with the instructions regarding such request contained in the suspension order. Such request must be filed within 15 days of receipt of the suspension order and must be accompanied by an answer and 3 copies thereof signed by the respondent or respondent's attorney conforming to the requirements of § 1720.145. Filing of a motion for a more definite statement pursuant to § 1720.135 shall alter the period of time to request a hearing in accordance with § 1720.140.

(b) When a hearing is requested pursuant to paragraph (a) of this section, a date for such hearing shall be scheduled within 20 days of receipt of the request. The time and place for hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties or their representatives.

(c) A request for hearing filed pursuant to paragraph (a) of this section shall not interrupt or annul the effectiveness of the suspension order.

§ 1720.170 Intervention by interested persons.

(a) The administrative law judge, upon timely petition in writing and for good cause shown, and if deemed to be in the public interest, may permit any person to participate by intervention in the proceeding. The petition shall state (1) The petitioner's relationship to and interest in the matters contained in the proceeding; (2) The petitioner's position with respect to each specific issue upon which he proposes to intervene, and the facts which he proposes to adduce in support of each such position; and (3) An assent to exercise of jurisdiction by the Department with respect to the petitioner.

(b) The administrative law judge shall determine the propriety of such intervention and the extent to which such intervener may participate, basing such determination upon applicable law, the directness and substantiality of the petitioner's interest in the proceeding and the effect upon the proceeding of allowing such participation.

§ 1720.175 Consolidation.

When more than one proceeding involves a common question of law or fact, the administrative law judge may order a joint hearing of any or all of the matters in issue in the proceedings and may make such other orders concerning the proceedings as to avoid unnecessary costs or delay.

§ 1720.190 Administrative law judge, powers and duties.

(a) Hearings in adjudicative proceedings shall be presided over by a duly qualified administrative law judge who shall be designated by the Secretary in a notice to the parties in the proceeding.

(b) Administrative law judges shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings and to maintain order. They shall have all powers necessary to those ends including all powers granted under 5 U.S.C. 556(c), and also power including but not limited to the following:

(1) To administer oaths and affirmations.

(2) To issue subpoenas and orders requiring access.

(3) To take or to cause depositions to be taken.

(4) To rule upon offers of proof and receive evidence.

(5) To regulate the course of the hearings and the conduct of the parties and their counsel.

(6) To hold conferences for simplification and clarification of the issues or any other purpose.

(7) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adjudicative proceeding, including motions to open defaults.

(8) To make and file decisions.

(9) To certify question to a Departmental appeals officer.

(10) To take any action authorized by the rules in this part or other appropriate action.

§ 1720.195 Prehearing conferences.

(a) Where it will expedite the proceeding, the administrative law judge may direct or allow the parties or their representatives to appear before him for a conference to consider: (1) Simplification and clarification of the issues; (2) Necessity or desirablity of amendments to the pleadings; (3) Stipulations and admissions of fact and the contents and authenticity of documents; (4) Expedition in the discovery and presentation of evidence; (5) Matters of which official or judicial notice will be taken; and (6) Such other matters as may aid in the orderly and expeditious disposition of the proceeding, including disclosure of the names of witnesses and of documents

or other exhibits which will be introduced in evidence in the course of the proceeding. Prior to the conference, the administrative law judge may direct or allow the parties or their representatives to file memoranda specifying the issues of law and fact to be considered.

(b) If the circumstances are such that a conference is impracticable, the administrative law judge may require the parties to correspond with him for the purpose of accomplishing any of the objectives set forth in this section.

§ 1720.200 Reporting—prehearing conferences.

Prehearing conferences shall be stenographically or mechanically reported; and the administrative law judge shall prepare and file for the record a written summary of the action taken at the conference, which shall incorporate any written agreements or stipulations made by the parties at the conference or as a result of the conference.

§ 1720.205 Amendments and supplemental pleadings.

(a) *Amendments.* Prior to the receipt by the Docket Clerk for Administrative Proceedings of an answer to a notice or order, that notice or order may be amended as a matter of course. After the receipt of an answer, the administrative law judge may allow appropriate amendments to pleadings by motion whenever determination of a controversy on the merits will be facilitated thereby.

(b) *Variances of proof.* When issues not raised by the pleadings but reasonably within the scope of the suspension notice or notice of proceedings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings; and such amendments of the pleadings as may be necessary to make them conform to the evidence and to raise such issues shall be allowed at any time.

(c) *Supplemental pleadings.* The administrative law judge may, upon reasonable notice and such terms as are just, permit service of a supplemental pleading setting forth transactions or events which have occurred since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 1720.210 Public nature and timing of hearings.

(a) All hearings in adjudicative proceedings shall be public.

(b) Hearings shall proceed with all reasonable speed and, insofar as practicable, shall be held at one place and shall continue without recess or suspension until concluded. The administrative law judge shall have the authority to order brief intervals of the sort normally involved in judicial proceedings and, in unusual and exceptional circumstances for good cause stated on the record, he shall have the authority to order hearings at more than one place and to order recesses to permit further gathering of evidence or settlement discussions.

§ 1720.215 Ex parte communications.

(a) No person shall communicate with an administrative law judge or an appeals officer either directly or indirectly concerning any pending proceeding unless prior to or simultaneously with such communication its contents are disclosed in detail to all persons interested in the proceeding; nor shall an administrative law judge or appeals officer request or consider any such unauthorized ex parte communication. This prohibition shall not apply to a simple request for information respecting the status of the proceeding, nor to any ex parte communication expressly authorized by these rules.

(b) Any administrative law judge or appeals officer, who receives an ex parte communication which he knows or has reason to believe is unauthorized, shall promptly place the communication, or its substance, in the public file and shall inform all persons interested in the proceeding of its existence and general contents. Facts or arguments so communicated shall not be taken into account in deciding any matter in issue unless such facts or arguments shall be brought properly before the administrative law judge.

(c) Opportunity to answer allegations or contentions contained in an unauthorized ex parte communication may be afforded any interested person upon his motion for leave to do so, wherever such leave will operate to assure a fair hearing or decision.

§ 1720.220 Disqualification of administrative law judge.

(a) When an administrative law judge deems himself disqualified from presiding in a particular proceeding, he shall withdraw therefrom by notice on the record and shall notify the Secretary of such withdrawal.

(b) Whenever any party believes that the administrative law judge should be disqualified from presiding, or continuing to preside in a particular proceeding, such party may file with the administrative law judge a motion that the administrative law judge disqualify and remove himself. Such motion shall be supported by affidavits setting forth the alleged grounds for disqualification. If the administrative law judge does not disqualify himself, he shall proceed with the hearing, and the question of fair hearing and due process may be raised on appeal.

§ 1720.225 Failure to comply with administrative law judge's directions.

Any party who refuses or fails to comply with a lawfully issued order or direction of an administrative law judge may be considered to be in contempt of the Secretary. The circumstances of any such neglect, refusal or failure, together with a recommendation for appropriate action, shall be promptly certified by the administrative law judge to the Secretary or his designee who may make such orders in regard thereto as the circumstances may warrant.

§ 1720.230 Motions—filing requirements.

During the time a proceeding is before an administrative law judge, all motions therein shall be in writing; and, except as otherwise provided in this part, a copy of each motion shall be served on the other party or parties. Such motions shall be signed, addressed to and filed with the administrative law judge and shall be ruled upon by him. The provisions of this section need not apply to motions made during the course of a hearing.

§ 1720.235 Answers to motions.

Within 7 days after service of any written motion, an opposing party shall answer or shall be deemed to consent to the granting of the relief asked for in the motion. The moving party shall have no right to reply except as permitted by the administrative law judge or the appeals officer.

§ 1720.240 Motions for extension of time.

As a matter of discretion, the administrative law judge or the appeals officer may waive the requirements of § 1720.235 as to motions for extensions of time, and may rule upon such motions ex parte. Extensions of time or continuances in any proceeding may be ordered by the administrative law judge on his own motion, or on the motion of either party for sufficient cause after the policy of the Secretary under § 1720.210 has been considered.

§ 1720.245 Motions for dismissal.

(a) A motion to dismiss may be made at any time until and including the fifth day after the close of the case for the reception of evidence.

(b) When a motion to dismiss, based upon alleged failure to establish a prima facie case, is made at the close of the evidence offered in support of the notice or order, the administrative law judge may defer ruling thereon until the close of the case for the reception of evidence.

(c) When a motion to dismiss is granted so as to terminate entirely the proceeding before the administrative law judge, the administrative law judge shall file a decision in accordance with the provisions of § 1720.345. If such a motion is granted only as to some allegations or as to some respondents, the administrative law judge shall enter this partial determination on the record and take it into account in his decision.

§ 1720.250 Interlocutory review of administrative law judge's decision.

The appeals officer will not review a ruling of an administrative law judge prior to the appeals officer's consideration of the entire proceeding in the absence of extraordinary circumstances. Except as provided in § 1720.190 an administrative law judge shall not certify a ruling for interlocutory review to an appeals officer unless a party so requests and the administrative law judge finds, either on the record or in writing, that in his opinion (A) a subsequent reversal of

his ruling would cause unusual delay or expense, taking into consideration the probability of such reversal, or (B) substantial rights are at stake and the final decision might be materially affected. The certification by the administrative law judge shall be in writing and shall specify the material relevant to the ruling involved. The appeals officer may decline to consider the ruling certified if he determines that interlocutory review is not warranted or appropriate under the circumstances. If the administrative law judge does not certify a matter, a party who had requested certification may apply to the appeals officer for review. An application for review shall be in writing and shall briefly state the grounds relied on and shall be filed within 2 days after notice of the ruling complained of. Review will not be granted unless the appeals officer concludes that the administrative law judge erred in failing to certify the matter. Unless otherwise ordered by the administrative law judge, the hearing shall continue whether or not such certification or application is made. Failure to request certification or to make such application will not waive the right to seek review of the ruling of the administrative law judge after the close of the hearing.

§ 1720.255 Presentation and admission of evidence.

(a) All witnesses at a hearing for the purpose of taking evidence shall testify under oath or affirmation which shall be administered by the administrative law judge. Every party shall have the right to present such oral or documentary evidence and to conduct such cross-examinations as may be required for a full and true disclosure of the facts. The administrative law judge shall receive relevant and material evidence, rule upon offers of proof and exclude all irrelevant, immaterial or unduly repetitious evidence.

(b) Evidence shall not be excluded merely by application of technical rules governing its admissibility, competency, weight or foundation in the record; but evidence lacking any significant probative value, or substantially tending merely to confuse or extend the record, shall be excluded. The administrative law judge may allow arguments on the admissibility of evidence by analogy to the Federal Rules of Evidence currently applicable in the United States District Courts of the United States.

(c) When offered evidence is excluded, the party offering the same shall be permitted to state on the record an offer of proof with respect thereto and rejected exhibits, adequately marked, shall on request of the party offering the same be retained in the record for purposes of review. Evidence may be received subject to deferred ruling on objections to its admissibility.

(d) Objections to evidence shall be timely made and shall specify the particular ground of objection without argument except as argument may be expressly required by the administrative law judge. Formal exception to an adverse ruling is unnecessary.

§ 1720.260 Production of witnesses' statements.

After a witness called by the attorney for the Office of Interstate Land Sales Registration has given direct testimony in a hearing, any other party may request and obtain the production of any statement, or part thereof, of such witness pertaining to his direct testimony in the possession of the Office of Interstate Land Sales Registration, subject, however, to the limitations applicable to the production of witnesses' statements under the Jencks Act, 18 U.S.C. 3500.

§ 1720.265 Depositions and discovery.

(a) At any time during the course of a proceeding, the administrative law judge, in his discretion, may order the taking of a deposition and the production of documents by the deponent. Such order may be entered upon a showing that the deposition is necessary for the purpose of discovery or to preserve relevant evidence. Insofar as consistent with considerations of fairness and the requirements of due process and the rules of this subpart, a deposition shall not be ordered when it appears that it will result in undue burden to any other party or in undue delay of the proceeding. Depositions may be taken orally or upon written interrogatories and cross-interrogatories.

(b) Any party desiring to take a deposition shall make application in writing to the administrative law judge setting forth the justification therefor and the time and place proposed for the taking of the deposition. The application shall include also the name and address of each proposed deponent and the subject matter concerning which each is expected to depose and shall be accompanied by an application for any subpoenas desired.

(c) Such order as the administrative law judge may issue for taking a deposition shall state the circumstances warranting its being taken, and shall designate the time and place and shall show the name and address of each person who is expected to appear and the subject matter with regard to which each is expected to depose. The time designated shall allow not less than 5 days from date of service of the order when the deposition is to be taken within the United States, and not less than 15 days when the deposition is to be taken elsewhere.

(d) After an order is served for taking a deposition, upon motion timely made by any party or by the person to be deposed and for good cause shown, the administrative law judge may issue any of the following orders which he considers to be appropriate:

(1) That the deposition shall not be taken.

(2) That it may be taken only at some designated place other than that stated in the order.

(3) That it may be taken only on written interrogatories.

(4) That certain matters shall not be inquired into.

(5) That the examination shall be held with no one present except the parties to the action, their counsel and a person qualified in the designated place to administer oaths and affirmations.

(e) The administrative law judge may make any other order which justice requires to protect the party or deponent from annoyance, embarrassment or oppression, or to prevent the unnecessary disclosure or publication of information contrary to the public interest and beyond the requirements of justice in the particular proceeding.

(f) Each deponent shall be duly sworn, and any adverse party shall have the right to cross-examine. Objections to questions or documents shall be in short form, stating the grounds of objections relied upon. The questions and the answers, together with all objections made, but excluding argument or debate, shall be reduced to writing and certified by the person before whom the deposition was taken. Thereafter such person shall forward the deposition and one copy thereof to the party at whose instance the deposition was taken, and shall forward one copy thereof to the representative of each party who was present or represented at the taking of the deposition.

(g) A deposition taken to preserve relevant evidence which any party intends to offer in evidence may be corrected in the manner provided by § 1720.325. Any such deposition shall, in addition to the other required procedures, be read to or by the deponent and subscribed by him if the party intending to offer it in evidence so notifies the person before whom the deposition was taken. Subject to appropriate rulings on such objections to the questions and answers as were noted at the time the deposition was taken or as may be valid when it is offered, a deposition taken to preserve relevant evidence, or any part thereof, may be used or offered in evidence as against any party who was present or represented at the taking of the deposition or who had due notice thereof if the administrative law judge finds any of the following:

(1) That the deponent is dead.

(2) That the deponent is out of the United States or is located at such a distance that his attendance would be impractical, unless it appears that the absence of the deponent was procured by the party offering the deposition.

(3) That the deponent is unable to attend or testify because of age, sickness, infirmity or imprisonment.

(4) That the party offering the deposition has been unable to procure the attendance of the deponent by subpoena.

(5) That such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

§ 1720.270 Subpoenas ad testificandum.

Application for issuance of a subpoena requiring a person to appear and depose or testify at the taking of a deposition

or at an adjudicative hearing shall be made to the administrative law judge who may issue such subpoena.

§ 1720.275 Subpoenas duces tecum.

(a) Application for Issuance of a subpoena requiring a person to appear and depose or testify and to produce specific documents, papers, books, or other physical exhibits at the taking of a deposition, or at a prehearing conference, or at an adjudicative hearing shall be made in writing to the administrative law judge who may issue such subpoena and shall specify as exactly as possible the general relevancy of the material and the reasonableness of the scope of the subpoena.

(b) Subpoenas duces tecum may be used by any party for purposes of discovery or for obtaining documents, papers, books, or other physical exhibits for use in evidence, or for both purposes. When used for discovery purposes a subpoena may require a person to produce and permit the inspection and copying of nonprivileged documents, papers, books, or other physical exhibits which constitute or contain evidence relevant to the subject matter involved and which are in the possession, custody or control of such person.

§ 1720.280 Motion to limit or quash.

Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of service of such subpoena, apply to the administrative law judge to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor. The administrative law judge shall have the discretion of granting, denying or modifying said motion.

§ 1720.285 Rulings on applications for compulsory process; appeals.

(a) Applications for orders requiring the production of witnesses' statements pursuant to the provisions of § 1720.260, applications for orders requiring the taking of depositions pursuant to the provisions of § 1720.265 and applications for the issuance of subpoenas pursuant to the provisions of §§ 1720.270 and 1720.275 (other than as provided in § 1720.290) may be made ex parte, and, if so made, such applications and the rulings thereon shall remain ex parte unless otherwise ordered by the administrative law judge. Such applications shall be ruled upon by the adminitsrative law judge assigned to hear the case or, in the event he is not available, by another administrative law judge designated by the Secretary.

(b) Appeals to an appeals officer ---- ---- ----

§ 1720.380 Reply brief.

A brief in reply to an answering brief, limited to rebuttal of matters in the answering brief, may be filed and served by a party within 7 days after receipt of the answering brief or the day preceding oral argument whichever is earlier. No answer to a reply brief will be permitted.

§ 1720.385 Length and form of briefs.

No brief shall exceed 25 pages in length except with the permission of the administrative law judge or the appeals officer and shall contain, in the order indicated, the following:

(1) The title of the proceeding, file number, the name of the party on whose behalf it is submitted and the name and address of his attorney in the matter on the front cover or title page.

(2) Subject index with page references.

(3) Table of cases alphabetically arranged, statutes, texts, and other authorities and materials cited, with page references.

(4) A concise statement of the facts of the case, without argument.

(5) A concise statement of the questions sought to be raised.

(6) The argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question with specific page references to the record so far as available, and to legal authority or other material relied upon in support of statements contained in the argument.

§ 1720.390 Oral argument.

Oral arguments will not be heard in cases on appeal to the appeals officer unless the officer otherwise orders, and stenographic or mechanical record of such oral argument may be made, in the officer's discretion. The purpose of oral argument is to emphasize and clarify the written argument appearing in the briefs and to answer questions.

§ 1720.400 Decision on appeal or review.

(a) Upon appeal from or review of an administrative law judge's decision, the appeals officer will consider such parts of the record as are cited or as may be necessary to resolve the issues and, in addition, to the extent necessary or desirable, will exercise all the powers which he could have exercised if he had made the initial decision. Unless exceptional circumstances are present, however, all appeals and reviews will be determined upon the record made before the administrative law judge.

(b) The appeals officer may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the administrative law judge's decision. The appellate order shall set forth the reasons upon which the decision is based.

(c) In those cases where the appeals officer believes that he should have further information or additional arguments of the parties as to the form and content of the rule or order to be issued, he may withhold final decision pending the receipt of such additional information or argument under procedures specified.

(d) The decision of the appeals officer shall be final 10 days after service upon the parties, unless the appeals officer determines that the protection of the public interest necessitates an earlier effective date under the circumstances, in which case he will specify in his order his specific findings as to such circumstances.

Subpart E—Miscellaneous Rules

§ 1720.410 Qualifications for appearances.

(a) Members of the bar of a Federal Court or of the highest court of any state or of the United States are eligible to practice before the Secretary. No register of attorneys will be maintained.

(b) Any individual or member of a partnership involved in any proceeding or investigation may appear on behalf of himself or of such partnership upon adequate identification. A corporation or association may be represented by a bona fide officer thereof upon a showing of adequate authorization.

(c) A person shall not be represented except as stated in paragraphs (a) and (b) of this section unless otherwise permitted.

§ 1720.412 Department representative.

In each case heard before an administrative law judge pursuant to this part, the Department shall be represented by a Department hearing attorney. The General Counsel shall designate one or more attorneys under his jurisdiction to act as Department hearing attorneys.

§ 1720.415 Restrictions on appearances as to former officers and employees.

(a) Except as specifically authorized by the Secretary, no former officer or employee of the Department of Housing and Urban Development shall appear as attorney or counsel or otherwise participate through any form of professional consultation or assistance in any proceeding or investigation, formal or informal, which was pending in any manner in the Office of Interstate Land Sales Registration while such former officer or employee served with the Department of Housing and Urban Development.

(b) In cases to which paragraph (a) of this section is applicable, a former officer or employee of the Department of Housing and Urban Development may request authorization to appear or participate in a proceeding or investigation by filing with the Secretary a written application disclosing the following relevant information: (1) The nature and extent of the former officer's or employee's participation in, knowledge of, and connection with the proceeding or investigation during his service with the Department of Housing and Urban Development; (2) whether the files of the proceeding or investigation came to his attention; (3) whether he was employed in the same office, division, or administrative unit in which the proceeding or investigation is or has been pending; (4) whether he worked directly or in close association with Office of Interstate Land Sales Registration personnel assigned to the proceeding or investigation; (5) whether during his service with the Department of Housing and Urban Development he was engaged in any matter concerning the individual, company, or industry in the proceeding or investigation.

(c) The requested authorization will not be given in any case (1) where it appears that the former officer or employee during his service with the Department of Housing and Urban Development participated personally and substantially in the proceeding or investigation, or (2) where the application is filed within one (1) year after termination of the former officer's or employee's service with the Department of Housing and Urban Development and it appears that within a period of one (1) year prior to the termination of his service the proceeding or investigation was within the official responsibility of the former officer or employee. In other cases, authorization will be given where the Secretary is satisfied that the appearance or participation will not involve any actual conflict of interest or impropriety thereof.

(d) In any case in which a former officer or employee of the Department of Housing and Urban Development is prohibited under this section from appearing or participating in a proceeding or investigation, any partner or legal or business associate of such former officer or employee shall likewise be so prohibited unless: (1) Such partner or legal or business associate files with the Secretary an affidavit that in connection with the matter the services of the disqualified former officer or employee will not be utilized in any respect and the matter will not be discussed with him in any manner, and that the disqualified former officer or employee shall not share, directly or indirectly, in any fees or retainers received for services rendered in connection with such proceeding or investigation; (2) The disqualified former officer or employee files an affidavit stating that he will not participate in the matter in any manner, and that he will not discuss it with any person involved in the matter; and (3) Upon the basis of such affidavits, the Secretary determines that the appearance or participation by the partner or associate would not involve any actual conflict of interest or impropriety thereof.

§ 1720.425 Standards of practice.

(a) Attorneys shall conform to the standards of professional and ethical conduct required by practitioners in the courts of the United States and by the bars of which the attorneys are members.

(b) The privilege of appearing or practicing may be denied, temporarily or permanently, to any person who is found after notice and opportunity for hearing which at his request or in the discretion of the Secretary may be private, and for presentation of oral argument in the matter (1) Not to possess the requisite

qualifications to represent others, or (2) To be lacking in character or integrity or (3) To have engaged in unethical or improper professional conduct.

(c) Contemptuous conduct at any hearing shall be grounds for summary exclusion from said hearing for the duration of the hearing.

§ 1720.430 Form and filing requirements.

(a) *Filing.* Except as otherwise permitted, an original and three copies of all documents shall be filed with the Docket Clerk for Administrative Proceedings, Room 10278, Department of Housing and Urban Development, Washington, D.C. 20410, on official work days between the hours of 8:45 a.m. and 5:15 p.m.

(b) *Title.* Documents shall show clearly the title of the action, the docket number, and the OILSR file number in connection with which they are filed.

(c) *Form.* Except as otherwise permitted, all documents shall be printed, typewritten, or otherwise processed in clear legible form and on good unglazed paper.

§ 1720.435 Time computation.

Computation of any period of time prescribed or allowed by the rules and regulations in this part, or by order of the Secretary or his designee or of an administrative law judge, shall begin with the first business day following that on which the act, event, development or default initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or national holiday, or other day on which the Department of Housing and Urban Development is closed, the period shall run until the end of the next following business day. Except when any prescribed or allowed period of time is 7 days or less, each of the Saturdays, Sundays, and national holidays shall be included in the computation of the prescribed or allowed period.

§ 1720.440 Service.

Notices, orders, processes, determinations and other documents required or permitted under these rules may be served as follows:

(a) *Upon the Secretary.* By personal delivery at the office, or by registered or certified mail addressed to the office of any of the following officials in the Office of Interstate Land Sales Registration: Administrator; Associate Administrator; Director, Office of Interstate Land Sales Registration: *Provided, however,* That during the pendency of a proceeding before the Secretary all pleadings, motions, notices or other documents shall be served in accordance with the terms of § 1720.430.

(b) *Upon any other person.* By delivery of a copy of the documents to the person to be served wherever he may be found, or by leaving such copy at his office or place of business with a person apparently in charge thereof, or, if there is no one in charge or if the office is closed or if he has no office, by leaving a copy at his residence with some person of suitable age and discretion then residing therein, or by sending a copy by registered or certified mail, return receipt requested, addressed to the person at his last known residence, or at his or its last known principal office or place of business. If the address of the residence, principal office, or place of business is unknown and cannot with due diligence be ascertained, service may be made by mail to any office at which the person to be served is known to be employed or by publication in the FEDERAL REGISTER.

(c) *Service on corporations, partnerships, associations, other entities.* Service may be made upon any corporation, partnership, business association or other entity by serving any officer, director, partner, trustee, agent for service or managing agent thereof. A managing agent, within the meaning of this subsection, is an agent having the principal managerial responsibility in connection with the regular operation of a distinct office or activity of the enterprise.

(d) *Service through attorney.* When a person other than the Secretary and his staff shall have appeared of record in a proceeding, generally or specially, by attorney, all subsequent services of notices, orders, processes, and other documents in connection with such proceeding may be made upon such person by serving the attorney, except that subpoenas and other orders by which such person may be brought in contempt shall be served upon him by one of the methods described in paragraphs (b) and (c) of this section. In any case, a copy of any document served on a client shall be sent to any attorney who has entered an appearance for that client. In such situations, it shall be sufficient proof of service to show that either the client or the attorney has received a copy of the document.

(e) *Proof of service.* Proof of service shall not be required unless the fact of service is seasonably put in issue by appropriate motion or objection on the part of the person allegedly served or other party. In such cases, service may be established by written admission signed by or on behalf of the person to be served, or may be established prima facie by affidavit or certificate of service or mailing, as appropriate. When service is by registered or certified mail, it is complete upon delivery of the document by the post office.

Subpart F—Appeals Officer

§ 1720.500 Functions of the appeals officer.

There is hereby established within the Department of Housing and Urban Development an appeals officer appointed by the Secretary. The functions, powers, and responsibilities delegated to the appeals officer designated as the authorized representative of the Secretary shall be to hear, consider and determine fully and finally appeals from decisions made pursuant to the rules in this part by the administrative law judge and to conduct hearings pursuant to 15 U.S.C. 1715.

§ 1720.510 Appointment of the appeals officer.

The appeals officer shall be the Assistant Secretary for Consumer Affairs and Regulatory Functions. The appeals officer shall be available at all times for the hearings of each appeal. Records of proceedings before the appeals officer shall be kept by the Docket Clerk for Administrative Proceedings.

§ 1720.520 Decisions of appeals officer.

A decision of the appeals officer shall be considered the final action on behalf of the Secretary on matters properly before such officer pursuant to the rules in this part.

Issued: January 17, 1977.

CONSTANCE B. NEWMAN,
Assistant Secretary for Consumer Affairs and Regulatory Functions.

[FR Doc.77-2695 Filed 1-26-77;9:30 am]

federal register

MONDAY, JANUARY 31, 1977

PART VIII



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

Special Procedures for Neighborhood Renewal Strategy Areas

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 881]

[Docket No. R-77-387]

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM SUBSTANTIAL REHABILITATION

Special Procedures for Neighborhood Renewal Strategy Areas

The Department proposes to amend Title 24 by adding to Part 881 a new Subpart C, "Special Procedures for Neighborhood Renewal Strategy Areas."

On April 26, 1976, the Department published in the FEDERAL REGISTER (41 FR 17488) for interim effect amended regulations for the Section 8 Housing Assistance Payments Program—Substantial Rehabilitation 24 CFR Part 881, Subparts A and B, under Section 8 of the United States Housing Act of 1937. The preamble to the April 26, 1976 publication set forth the general outline for a new Subpart C and invited comments on it. Based on these and other comments, the Department has developed a new Subpart C now being published for comment, as described below:

1. A unit of general local government participating in the Community Development Block Grant (CDBG) program may request authorization from HUD to use the Special Procedures set forth in Subpart C for a single, identified area which is designated in the CDBG application to receive concentrated physical development activities, public improvements, and public services.

2. HUD reviews the request to determine whether the proposed area is acceptable under the site and neighborhood standards, contains sufficient units suitable for rehabilitation and whether the proposed concentrated activities, together with the requested amount of Section 8 Substantial Rehabilitation contract authority, are likely to result in the restoration and revitalization of the area. If the request is approved, the notification will include a statement of the amount of Section 8 contract authority set aside for projects developed under Subpart C procedures and will invite the unit of local government to submit Proposals for projects in the area.

3. After HUD approves the request, the local government assists Owners in the preparation of Proposals. The contents of the Proposal are set forth in § 881.304(e). When submitted to HUD by the local governing body, the proposal must be accompanied by certain certifications from the local governing body concerning special requirements for compliance with the Housing Assistance Plan, Owner's control of the property, reuse in the event of demolition, zoning and similar requirements, A-95 review, and reasonableness of rents.

4. HUD evaluates Proposals submitted under Subpart C on the basis of the factors set forth in § 881.303 which include completeness of the Proposal and certifications, reasonableness of rents where FHA insurance is proposed or where rents proposed are above the published fair market rents, previous participation of the Owner and other key program participants, compliance with environmental clearance requirements, proposed management plan, the term of the Contract, location within the approved area, form of lease, and Affirmative Fair Housing Marketing Plan among other factors. HUD may request clarification of individual items, additional information, or modifications of the Proposal. The local governing body and the Owner are notified of HUD's determination. Subsequent processing is in accordance with Subpart B, starting with § 881.211, Owner's Acceptance of Notification and Submission of Architect's Certification.

Interested persons are invited to participate in the proposed rulemaking by submitting such written statements or comments as they may desire. All comments received on or before March 2, 1977, will be considered before adopting a final rule in this matter. Communications should refer to docket number and date and should be filed with the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Copies of comments submitted will be available during business hours, both before and after the specified closing date, at the above address.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of the Finding of Inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, at the above address. It is therefore proposed that 24 CFR Part 881, be amended by adding a new Subpart C as follows:

Subpart C—Special Procedures for Neighborhood Renewal Strategy Areas

Sec.
881.301 Applicability and scope.
881.302 Request for approval of special procedures for neighborhood renewal strategy areas.
881.303 HUD review of requests for approval of special procedures.
881.304 Submission of proposals for projects within approved strategy areas.
881.305 HUD evaluation and approval of proposals.
881.306 Proposals indicating HUD-FHA mortgage insurance.
881.307 Subsequent processing.
881.308 Use of residual contract authority.

AUTHORITY: Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); Sec. 5 U.S. Housing Act of 1937 (42 U.S.C. 1437c(b)); Sec. 8, U.S. Housing Act of 1937 U.S.C. 1437f).

Subpart C—Special Procedures for Neighborhood Renewal Strategy Areas

§ 881.301 Applicability and scope.

The policies and procedures contained in this subpart are applicable to the submission and review of Proposals for Section 8 Substantial Rehabilitation projects in Neighborhood Renewal Strategy Areas within the jurisdiction of units of general local government participating in the Community Development Block Grant (CDBG) program pursuant to 24 CFR Part 570.

§ 881.302 Requests for approval of special procedures for neighborhood renewal strategy areas.

(a) A unit of general local government participating in the CDBG program may submit to HUD a request for authorization to use the Special Procedures of this Subpart C for a single, identified Neighborhood Renewal Strategy Area which is designed in the local government's CDBG application to receive concentrated physical development activities, public improvements, and public services.

(b) Such a request may be submitted at any time provided that the CDBG application meeting the requirements of paragraph (a) of this section has been approved or is under review by HUD.

(c) The request shall include:

(1) An identification of the area proposed for Special Procedures, and a description of its demographic and physical characteristics in sufficient detail to allow HUD to make the determinations required by § 881.303;

(2) The basis for the local government's selection of the area proposed including information showing compliance with the site and neighborhood standards in § 881.112 and the environmental requirements in § 881.114 (b) and (c), including a showing of how and to what extent the proposed concentrated activities will remedy existing deficiencies;

(3) The number of units and the amount of Section 8 contract authority requested to be set aside for the area and a description of any local, State, Federal or private programs or other support available to the area which is not detailed in the CDBG application;

(4) A statement relating the needs of the proposed area to the available support and indicating how these resources can be combined to produce a restored and revitalized neighborhood within a designated three to five year period; and

(5) A description of the administrative structure within the local government which will be responsible for implementing the Special Procedures and of the experience and qualifications of the designated staff.

§ 881.303 HUD review of requests for approval of special procedures.

(a) Each request for use of the Special Procedures shall be reviewed by the field office to determine whether the proposed area contains a sufficient number of units suitable for rehabilitation to fully utilize the Section 8 contract authority requested pursuant to § 881.302(c)(3) and whether the proposed concentrated activities, including Section 8, are likely to result in the goal of a restored and revitalized neighborhood.

(b) The proposed area shall be reviewed to determine whether it complies with the site and neighborhood standards outined in § 881.112. In assessing compliance with § 881.112 (a), (d) and (f), HUD will consider the extent to which the proposed concentrated activities would remedy existing deficiencies.

(c) A preliminary review shall be undertaken to determine whether the area contains any major obstacles to meeting the environmental requirements of

§ 881.114 (b), (c) and (e). This review shall not preclude the environmental review required by § 881.305(a)(11) for each Proposal subsequently submitted.

(d) HUD review shall include consideration of the following elements:

(1) The present condition of the neighborhood and whether a suitable living environment will result after implementation of the proposed concentrated activities;

(2) The extent to which the proposed concentrated activities will resolve or ameliorate the physical problems in the area;

(3) The extent to which structures in the area appear suitable for rehabilitation under Section 8 and any other available programs, and the extent to which structures having a detrimental effect on the neighborhood would remain after completion of the concentrated activities;

(4) The extent to which private commitment, if any, is evidenced through the provision of programs providing private financing in the area, local agreements for special wage rates for rehabilitation, and/or through other supporting activities;

(5) The experience and qualifications of the local staff designated for implementation of the Special Procedures for Section 8 Substantial Rehabilitation.

(e) If, during review of the request, HUD finds that additional information is necessary, it may request such additional information and/or meet with representatives of the local government to resolve outstanding questions concerning the request.

(f) Upon completion of the review, HUD will notify the local government of its determination. If the request is rejected, the notification shall indicate the reasons for the rejetcion. If the request is approved, the notification shall:

(1) Include a statement of the amount of Section 8 contract authority which will be set aside from the allocation for the jurisdiction, for the use of Special Procedures;

(2) Indicate the boundaries of the approved area;

(3) Request the unit of local government to obtain and submit to HUD, in accordance with § 881.304, Proposals for projects to be located in that area; and

(4) Indicate that proposals must be prepared and submitted to HUD within 6 months of the date of the notification.

§ 881.304 Submission of proposals for projects within approved strategy areas.

(a) After written notification of HUD approval of the use of Special Procedures has been received by the unit of general local government, the local government shall (through negotiation, advertisement or other means), invite Owners to prepare and submit one or more Proposals for Substantial Rehabilitation to the local government for transmittal to HUD.

(b) The local government shall assist Owners in the preparation of Proposals and conduct a comprehensive review of all Proposals in order to make the certifications required by § 881.304(f) and to assure that approvable Proposals are transmitted to HUD.

(c) The local government shall assure that the Proposals transmitted to HUD do not collectively request contract authority in excess of that indicated as available in the notification pursuant to § 881.303(f).

(d) The local government shall assure that Proposals are prepared and transmitted to HUD within 6 months of the date of the approval notification pursuant to § 881.303(f). If approvable Proposals sufficient to utilize the set aside have not been submitted at the end of the 6 month period, or any extension thereto, HUD shall follow the procedures of § 881.308.

(e) The Proposal transmitted to HUD shall include or indicate the following:

(1) The address(es) of the property proposed to be rehabilitated.

(2) The identity of the Owner, rehabilitator (if known), and architect (if applicable and identity is known); the qualifications and experience of each; the names of officials and principal members, shareholders and investors, and other parties having substantial interest, and the prior participation of each in HUD programs, using the prescribed form.

(3) A description of the property, as is, including number and type of structures, number of stories, structural system, exterior finish, heating-air conditioning system, number of units by size (number of bedrooms), living area and composition for each size of unit, special amenities or features, if any, and exterior and interior photos; and sketches of the interior showing dimensions. If appropriate, typicals may be provided.

(4) A description of the proposed rehabilitation covering each basic element (e.g., roof, exterior walls, porches and steps; interior walls, ceilings and floors; kitchen and bathroom facilities and equipment; plumbing, heating and electrical equipment; landscaping; etc.) indicating the nature of the work to be done on each element. If alteration, renovation or remodeling is indicated, a description of such work and sketches showing layout after completion of rehabilitation. If appropriate, typicals may be provided.

(5) The number of units by unit size (number of bedrooms) and the type of occupancy (elderly or handicapped or other) proposed for the property after the completion of rehabilitation.

(6) A description of the existing utility combination, whether or not a change to a different combination is proposed, and if so, a description of the new utility combination.

(7) A statement as to whether or not the services of a registered architect will be utilized for preparation of final working drawings and specifications.

(8) The Contract Rent per unit, by size and structure type.

(9) The equipment to be included in the Contract Rent.

(10) The utilities and services to be included in the Contract Rent and those utilities and services not so included. For each utility and service not included in the Contract Rent, an estimate of the average monthly cost (for the first year of occupancy) to the occupants by unit size and structure type.

(11) The proposed term of the Contract (including renewals) and justification for such term in accordance with § 881.109.

(12) Whether the proposed project will displace site occupants. If so, the Proposal shall state the number of families, individuals, and business concerns to be displaced (identified by race or minority group status, and whether they are owners or renters), and shall demonstrate that relocation is feasible. In the case of a project owned by a PHA, provide a statement that the PHA undertakes liability for (i) The provision of relocation payments and assistance as prescribed in sections 202, 203 and 204 of the Uniform Relocation Assistance and Real Property Asquisition Policies Act of 1970, (ii) The provision of relocation assistance programs offering the services described in section 205 of said Act; (iii) Assuring that within a reasonable period of time prior to displacement, Decent, Safe, and Sanitary replacement dwellings will be available to displaced persons; and (iv) Full funding of the required relocation payments and assistance unless other commitments, satisfactory to HUD, have been made for the funding of such payments and assistance. In the latter case, the PHA shall specify such other commitments. (In the case of a privately owned project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is inapplicable).

(13) Submission of evidence of management capability and a proposed management plan and a certificate by the Owner and the managing agent, if any, in a format aceptable to HUD; or, if the Proposal is for less than 15 units, evidence of capability of providing the necessary management and maintenance services. If the Owner proposes to contract with another entity, including a PHA, for management and/or maintenance services for the project, a copy of the proposed contract(s) shall be included.

(14) A signed certification of the Owner's intention to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Executive Order 11246, and Section 3 of the Housing and Urban Development Act of 1968 and that Owner will take affirmative action to provide the opportunity to apply for units in the proposed project to persons expected to reside in the community as a result of current or planned employment, as indicated in the Local Housing Assistance Plan.

(15) Submission of an Affirmative Fair Housing Marketing Plan if the Proposal is for five (5) or more units together with a statement of the affirmative actions the Owner intends to take to provide the opportunity to apply for units in the proposed project to persons expected to reside in the community as a result of current or planned employment as indicated in the Local Housing Assistance Plan. Examples of such efforts include: Participation in regional or semi-regional application pools; establishment of a referral system with PHAs and other Section 8 Owner/managers in surrounding jurisdictions; contacts with

and provision of information about the project to local industries and their employees.

(16) Submission of the form of Lease the Owner proposes to use, which shall be in accordance with § 881.219.

(17) The anticipated time required for completion of the project after the Agreement is signed (if the project is to be completed in stages, identification of the units comprising each stage and the estimated dates for commencement and completion of each stage).

(18) The proposed method (e.g., conventional mortgage, FHA insured mortgage, bonds) and terms (e.g., interest rates, discounts, amortization period) of financing together with evidence of review and interest by a lender or bond underwriter or counsel or similar evidence that financing would likely be available should the Proposal be selected. (Such evidence of financing is not required if the Owner proposes to utilize FHA mortgage insurance (see § 881.306) or the FmHA Section 515 Rural Housing Program; in such cases, either the prescribed FHA form shall be completed and submitted with the Proposal, or evidence that a preapplication has been submitted to the FmHA shall be submitted with the Proposal). A statement shall be included in all Proposals as, to whether the Owner intends to pledge or offer the Agreement and/or Contract as security for any loan or obligation (see § 881.115(b)).

(f) Each Proposal shall be accompanied by the following information from the local government:

(1) A certification by the chief executive officer of the local government that the Proposal is consistent with requirements or restrictions of the Local Housing Assistance Plan and the neighborhood renewal strategy proposed by the local government pursuant to § 881.302.

(2) A certification that the owner has title to property, an option on the property or other legal commitment for the property.

(3) If demolition is proposed for any structures on the site of the property, a certification that the proposed reuse is acceptable and will promote the restoration and revitalization of the neighborhood.

(4) A certification that the proposed rehabilitation is permissible under applicable zoning, building, housing and other local codes, ordinances or regulations.

(5) A certification that the Proposal has been submitted to the appropriate A–95 clearinghouse for review and a copy of the letter transmitting the Proposal to the A–95 clearinghouse.

(6) Where the proposed Contract Rents are less than or equal to the Fair Market Rent, a certification that the rents are reasonable.

§ 881.305 HUD evaluation and approval of proposals.

(a) *Evaluation of Proposals.* HUD's evaluation of Proposals using the Special Procedures under the Subpart C shall be limited to determining whether:

(1) The Proposal and the certifications submitted by the local government contain all the elements required by § 881.304 (e) and (f).

(2) The proposed Contract Rent plus any Allowances for Utilities and Other Services do not exceed the Fair Market Rents limitation pursuant to § 881.108(a).

(3) Where the proposed Contract Rents plus any Allowances exceed the Fair Market Rents or if the project is expected to be financed with a HUD insured loan, the rents are reasonable pursuant to § 881.108(b). Where the Proposed Contract Rents plus any Allowances are 10 percent or more below Fair Market Rents or 10 percent or more below 75 percent thereof where the estimated cost of the rehabilitation is less than 25 percent of the estimated value of the property after rehabilitation, the field office shall accept the certification of the local government that the rents are reasonable. Where the Contract Rent plus any Allowances are less than 10 percent below the Fair Market Rents or less than 10 percent below 75 percent thereof, as appropriate, the field office may, in its discretion, accept the certification of the local governing body or make an independent determination of the reasonableness of the proposed rents.

(4) The proposed term of the Contract (including renewals) is acceptable in accordance with § 881.109.

(5) The property proposed for substantial rehabilitation is within the area approved for Special Procedures.

(6) The form of lease will meet the requirements of § 881.219.

(7) The previous experience of the Owner and other key participants in development and management is acceptable.

(8) The management capability of the Owner and the proposed management plan are acceptable.

(9) The Affirmative Fair Housing Marketing Plan is acceptable.

(10) The provisions for relocation are acceptable.

(11) The site meets the environmental requirements of § 881.14 (b), (c), and (e).

(12) The rehabilitation plan and design are acceptable.

(b) *Clarification or Modifications.* HUD may request clarification of individual items, additional information or modifications of the Proposal including substitution of alternate properties.

(c) *HUD Determination.* HUD shall notify the local governing body and the Owner that the Proposal is:

(1) Approved. The notification shall contain the information required by § 881.208(h).

(2) Approvable only if specified deficiencies are corrected including, where necessary, the substitution of alternative property(ies), and that HUD will approve the Proposal if it receives within a specified time evidence of such necessary corrections. The notification shall contain the information required by § 881.208 (h).

(3) Not approved with an indication of the reasons for disapproval.

(d) *Notification.* The appropriate A–95 Clearinghouse shall be notified by HUD of its final action.

§ 881.306 Proposals indicating HUD-FHA mortgage insurance.

Because of the differences in the definition of "substantial rehabilitation", a proposed project which qualifies as a Substantial Rehabilitation project under this part may fail to qualify as a substantial rehabilitation project under FHA mortgage insurance programs. The provisions of § 881.207 shall apply except that:

(a) Reference to a Preliminary Proposal shall mean a Proposal under this subpart;

(b) Reference to Preliminary Evaluation of Proposals shall mean evaluation of Proposals in accordance with this Subpart;

(c) The cross reference to § 881.208 in Section 207(b)(2) shall be considered as referring to § 881.305; and

(d) In lieu of § 881.207(b)(3) the following shall be applicable:

Where an Owner does not indicate in his Proposal that he intends to utilize HUD–FHA mortgage insurance and applies for HUD–FHA mortgage insurance after selection by HUD of the Proposal under this part, he risks (1) Having his proposal rejected for HUD–FHA mortgage insurance and (2) Having lower rents approved under the mortgage insurance program than the rents set forth in the Proposal approved under this subpart.

§ 881.307 Subsequent processing.

The Proposal shall be deemed to be a Final Proposal within the meaning of §§ 881.211 et seq. All further actions with regard to Proposals approved pursuant to these Special Procedures shall be in accordance with Subpart B of these regulations starting with § 881.211.

§ 881.308 Use of residual contract authority.

If Proposals sufficient to utilize the contract authority set aside for use of the Special Procedures have not been submitted by the end of the 6 month period, or any extensions thereto, or if an approved Proposal fails to result in an Agreement, the field office may:

(a) Authorize the local government to submit other Proposals for projects within the approved strategy area to utilize the remaining contract authority; or

(b) Issue a NOFA for the allocation area pursuant to § 881.203 to utilize the remaining contract authority; or

(c) If a NOFA has already been published for that allocation area, process Proposals submitted in response thereto, but not selected, including those to which the deadline does not apply (see § 881.203 (c)(5)); or

(d) Reallocate the unused contract authority to another allocation area.

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A–107.

Issued at Washington, D.C., January 16, 1977.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc.77-2916 Filed 1-28-77;8:45 am]

federal register

MONDAY, JANUARY 31, 1977

PART IX



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

LOW INCOME HOUSING

Loans for Elderly or Handicapped

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 885]

[Docket No. R-77-332]

LOW INCOME HOUSING

Loans for Housing for the Elderly or Handicapped

The Department of Housing and Urban Development (HUD) published on Febuary 25, 1976, at 41 FR 8314 a final rule amending Title 24, Part 885, to provide a program of both construction and long term financing for projects for the elderly or handicapped pursuant to section 202 of the Housing Act of 1959, as amended (12 USC 1701q). Subsequent to publication of this final rule, the Housing Authorization Act of 1976, Pub. L. 94-375, was enacted, August 3, 1976, making certain changes in the provisions of section 202, pursuant to which the Department published a final rule amending Part 885 on January 28, 1977 (FR Doc. 77-2451, Part III, January 28, 1977).

This proposed rule decentralizes the responsibility for granting section 202 loan fund authority to HUD field offices, partially consolidates section 202 and section 8 application and review procedures, and revises the criteria to be used in selecting among eligible Borrowers.

In the past, HUD Headquarters and other personnel have determined the eligibility and acceptability of nonprofit sponsors and approved or disapproved Requests for Section 202 Fund Reservations. Only after a nonprofit sponsor received a fund reservation was a site selected and the Section 8 Preliminary Proposal and, subsequently, the Section 8 Final Proposal, prepared and submitted to the appropriate field office for review. This division of responsibility and sequence of events has produced many anomalies and inefficiencies, the most serious of which is that a number of nonprofit Borrowers with Section 202 fund reservations have not yet submitted Section 8 Preliminary Proposals. Consequently, necessary Section 8 housing assistance funds have not been committed, and the intended beneficiaries still face long delays in obtaining occupancy of the projects to be financed under the Section 202 program.

This proposed rule will expedite progress from approval of a Request for Section 202 Fund Reservation/Section 8 Preliminary Proposal (hereinafter referred to as Request) to the submission of Section 8 Final Proposals, initiation and completion of construction, and occupancy by elderly or handicapped persons. In addition, to alleviate concern that selection criteria for the existing Section 202 program unduly restrict participation by less experienced or minority sponsors, it makes some changes in the selection criteria.

The Assistant Secretary for Housing already has assigned Section 202 loan fund authority for Fiscal Year 1977 to the ten HUD Regional Offices in conformance with the provisions of section 213(d) of the Housing and Community Development Act of 1974 as provided at Title 24, Part 891, Subpart D. In turn, the Regional Offices will subassign their loan fund authority to their field offices using the same procedure. The field offices will prepare advertisement(s) inviting the submission of proposals and indicating the amount of assistance available. The field offices will assemble and distribute Developer's Packets and hold workshops for potential Sponsors and Borrowers to offer them information and assistance.

Each Borrower entity will submit evidence that it has been formed, that it qualifies as a nonprofit organization, and that it has the capacity under the revised selection criteria to construct and operate housing and related facilities for the elderly or handicapped. It also will submit a Request and, concurrently, may submit an application for assistance under section 106(b) for seed money expenses.

The field offices will review the materials submitted for completeness and responsiveness to the invitation; they will assess the eligibility and capability of the Borrower, review and decide upon the Request. Among the factors to be considered in evaluating Requests is whether the proposed project is feasible based on an economic mix whereby not less than 20 percent nor more than 80 percent of the dwelling units would need Section 8 assistance. This does not mean that projects requiring Section 8 assistance for 100 percent of the dwelling units could not be funded. However, when several approvable applications have equivalent ratings, and some of these applications are for projects in which the Borrowers propose to cover at least 20 percent but not more than 80 percent of the dwelling units with Section 8 assistance, and the field office determines that these projects are feasible based on the proposed Section 8 coverage, the field office shall give preference for funding to these projects over the ones requiring Section 8 coverage for more than 80 percent of the dwelling units. Field offices will grant successful Borrowers reservations of Section 202 loan fund authority and necessary Section 8 housing assistance funds. Generally, Borrowers then will have 12 months within which to submit an acceptable Section 8 Final Proposal and initiate construction.

These changes are discussed in more detail below.

A. Each fiscal year, the Assistant Secretary for Housing will allocate Section 202 loan fund authority to the Regional Offices in conformance with section 213(d) of the Housing and Community Development Act of 1974 as provided at Title 24, Part 891, Subpart D; and § 885.200 of this Part as revised.

B. The Regional Offices will suballocate Section 202 loan fund authority to the field offices in conformance with the above regulations. Those field offices responsible for processing Section 8 applications will be eligible to approve Section 202 loan fund requests under this provision. Regional Offices will suballocate Section 202 loan fund authority among eligible field offices on a fair share formula basis in accordance with section 213(d) and the breakdown by field office given the Regional offices by the Assistant Secretary for Housing.

C. Field offices will determine the number of units expected to be assisted and will issue invitations for Requests. In determining the estimated number of units to be assisted, the field office will take into consideration Local Housing Assistance Plans and Areawide or State Housing Allocation Plans. For each Allocation Area established for the purpose of allocating Section 8 funds, it will determine the estimated number of units to be made available for new construction and for substantial rehabilitation for the elderly or handicapped under Section 202. In cases where field offices have insufficient Section 202 loan fund authority to fund one or more projects in each Allocation Area, the office may combine Allocation Areas. However, nonmetropolitan areas may not be combined with metropolitan areas. It will prepare a publication schedule, and, in accordance with its schedule, it will publish invitations for Requests for its Allocation Areas or combinations thereof in a newspaper(s) of general circulation and in the minority media. The invitation will state the Allocation Area(s) in which the housing is to be constructed or substantially rehabilitated, the amount of Section 202 loan fund authority and Section 8 contract authority available, and the expected allocation of units between metropolitan and nonmetropolitan areas. It also will establish the time period within which the field office will accept Requests and will advise how the proper forms for the submission of such Requests may be obtained. The invitation also will provide information about a workshop for potential Borrowers to be held by the field office.

D. The field office will prepare and distribute the appropriate application forms, including the Developer's Packets, to those requesting such materials. During the workshop for potential Borrowers, the regulations and instructions governing the Section 202 program and the Section 106(b) program (which provides seed money loans to eligible nonprofit Borrowers) will be explained. Application forms and Developer's Packets also will be distributed and application procedures discussed at such workshops.

E. The Borrower, in cooperation with the Sponsor, will submit the information required in support of a Request. Because it is the Borrower that will receive the reservation of Section 202 and Section 8 funds, the Borrower entity must be formed prior to submission of a Request and must meet the selection criteria. In cases where the Borrower is dependent upon the experience, reputation, and financial resources of the Sponsor, whether the Borrower is a recently formed organization, or one that has been in existence for some time, most of the information requested shall be submitted on the Sponsor as well as on the Borrower. This will permit a depend-

ent Borrower to draw upon the strength of the Sponsor.

F. Existing selection criteria have been revised to: (1) shorten the period of time (from ten to three years) for which the Sponsor and Borrower need report adverse financial information; (2) shorten the period of time (from ten to five years or less) for which the Borrower need describe its housing experience; (3) permit the Borrower to describe its nonhousing experience which gives evidence of its management capabilities, (4) define the amount of working capital that the Borrower will be expected to evidence at the time of its Request; and (5) require the Borrower to provide evidence of its local community base and reputation in the neighborhood in which the project is to be located, including evidence of any support for the project and the Borrower by the community and any national, state, or local groups and organizations.

It is anticipated that these revisions in the selection criteria will increase the likelihood that less-experienced and minority Borrowers will be able to demonstrate their qualifications to receive Section 202 fund reservations.

G. The Borrower will submit a Section 8 Preliminary Proposal, including evidence that it has control over the proposed project site. This requirement constitutes the largest departure from the existing procedure. The Department recognizes its disadvantages, but holds that they are outweighed by its advantages. The existing procedure requires that a Borrower for whom Section 202 loan funds have been reserved must submit an acceptable Section 8 Preliminary Proposal or lose its loan fund reservation. At the present time, this hurdle is postponed until after the eligibility of the nonprofit Borrower has been determined and the loan fund reservation granted. However, this procedure may give the Sponsor/Borrower a false sense of confidence, because most of the effort of putting together an application still lies ahead, and the Borrower must confront and overcome many obstacles. Only when a site has been selected can the difficulty of the obstacles be assessed and decisions be made on a realistic basis. It is true that Borrowers who do not already own the site on which they propose to build risk losing their option money, and that those with fewer resources and less experience may be discouraged from applying due to this requirement. However, provision for a workshop and revisions in the selection criteria are intended to offset this possible effect. Overall, fewer Sponsors and Borrowers may apply for Section 202 loan fund reservations, but more of them will advance speedily to the submission of a Section 8 Final Proposal and to the initiation of construction, with considerable benefit to the elderly and handicapped for whom the housing is intended.

H. The field office will process the Section 202 fund reservation submission and the Section 8 Preliminary Proposal concurrently. The processing of the fund reservation request also will include a determination of the eligibility and acceptability of the nonprofit Sponsor and Borrower.

I. The field office will determine which Requests are approvable for each allocation area or combinations thereof.

J. The Borrower with a Fund Reservation will submit a Section 8 Final Proposal in conformance with existing regulations.

Because applications will be processed simultaneously for reservations of Section 202 loan funds and Section 8 housing assistance funds, many of the changes proposed in these regulations are designed to reconcile Section 202 and Section 8 procedures. For the convenience of the reader, the numbered paragraphs below describe the changes in detail and identify, where appropriate, the existing sections of Part 885—Loans for Housing for the Elderly or Handicapped, Part 880—Section 8 Housing Assistance Payments Program—New Construction, and Part 881—Section 8 Housing Assistance Payments Program—Substantial Rehabilitation upon which the proposed rules are based.

1. Section 885.3 states that the provisions of Parts 880 and 881 of this Chapter shall apply to the extent that such provisions are not inconsistent with the provisions of Subparts B, C, and D of this part.

2. The definitions of "Allocation Area," "HCD Act," "Request," "Section 8 Preliminary Proposal," "Seed Money Expenses," and "Sponsor" have been added to § 885.5. The definition of "Applicant" has been deleted from § 885.5.

3. The title of § 885.200 has been changed from "Geographic distribution of Section 202 Loan Fund Authority" to "Allocation of Loan Fund Authority to Regional Offices," but the language of the section remains the same.

4. A new § 885.205, entitled "Allocation of Loan Fund Authority to Field Offices," has been written to reflect the decentralization of decision-making authority to the field offices authorized by this Part. It provides that HUD Regional Offices will allocate Section 202 loan fund authority for metropolitan and nonmetropolitan areas to the field offices. Formerly, Section 202 fund reservation requests were approved in Headquarters by the Assistant Secretary and applications for Section 8 funds were approved by the field offices; now both will be approved by the field offices.

5. Existing § 885.210 has been renumbered § 885.225 and will be discussed at the appropriate place. A new § 885.210, entitled "Determination of number of units to be assisted," has been created, based upon § 880.202 of this Chapter. It provides that, taking into consideration any applicable Local Housing Assistance Plans and State or Areawide Housing Allocation Plans, the field office shall determine the estimated number of units of housing for the elderly or handicapped to be made available through new construction and substantial rehabilitation in each Allocation Area, or combinations thereof, and shall prepare a schedule for publishing invitations for Requests.

6. Most of existing § 885.215 has been incorporated in new § 885.240 and will be discussed at the appropriate place. New § 885.215 is entitled "Invitations for Requests for Section 202 Fund Reservations/Section 8 Preliminary Proposals," and sets forth the procedures to be followed by the field offices in publishing Invitations for Requests. The procedures set forth in this section are similar to the Notification of Fund Availability procedures which appear in § 880.203 of the Section 8—New Construction regulations. Certain paragraphs of this new Section are discussed below.

7. Section 885.215(c)(3) provides that eligible Borrowers may secure the Developer's Packet and all necessary forms from the field office.

8. Section 885.215(c)(4) specifies the time period within which field offices will accept Requests—"beginning on a specified date, and up to a specified deadline date (generally, 60 days following the date of the first publication)." It also provides that this period can be extended by HUD by publication of the change in the same newspapers and with appropriate notification to the minority media and those parties who have registered with the field office so that they may be notified. The purpose of this provision is to assure that the field offices will have an adequate number of Requests.

9. Section 885.215(c)(5) provides that the deadlines set in § 885.215(c)(4) will not apply in the case of Requests for projects to be located in nonmetropolitan areas, but further provides that the field office has the right to establish a deadline under specified circumstances.

10. Section 885.215(c)(6) provides that those interested in applying for a fund reservation are encouraged to contact the field office within 15 calendar days after the date of first publication. The purpose of this subparagraph is to assist the field office in inviting interested parties to the workshop described in paragraph (c)(7) of that section.

11. Section 885.215(c)(7) provides that a workshop will be held in the field office within 25 days of first publication of the invitation for Requests in order to explain the Regulations and instructions governing the Section 202 program and the Section 106(b) program, to distribute the Developer's Packets described in § 885.220 of this Part and the required forms for each program, and to discuss application procedures. The purpose of this workshop is to provide assistance to Sponsors and Borrowers who may be unfamiliar with the Section 202, and Section 106(b) programs.

12. Section 885.215(c)(8) is drawn from existing § 885.205(b) and sets limits on the number of units for which Sponsors, Co-sponsors and Borrowers may submit applications. It provides in part that no organization shall participate, whether as Sponsor, Co-sponsor, and/or Borrower, within a single Region during a single fiscal year, in the filing of applications for reservations of Section 202 loan funds in excess of those necessary to finance the construction or

substantial rehabilitation of 300 units of Housing and Related Facilities.

13. Existing § 885.220 has been renumbered § 885.245 and will be discussed in the appropriate place.

14. Existing § 885.305, entitled "Developer's Packet" has been moved to § 885.220 and revised to conform largely with §§ 880.204(a) and 881.204(a) of the Section 8 New Construction and Substantial Rehabilitation regulations, respectively.

15. New § 885.225, entitled "Contents of Requests," is based primarily on the existing § 885.210, "Contents of Requests for Fund Reservations." The new Section 885.225 requires Borrowers to submit materials to verify their eligibility as nonprofit entities, to submit materials to support their capacity to carry through to completion and successful long-term operation a project to provide housing and related facilities to the elderly or handicapped, and to submit a Section 8 Preliminary Proposal, as part of its Request. The implications of these changes were discussed in the introductory paragraphs above. Paragraphs (a) through (e), (i), (j), and (n), except for minor changes, are preserved and renumbered § 885.225 (a) through (e), (j), (k), and (p), respectively. Paragraphs (f), (g), and (h) have been preserved with revisions and renumbered § 885.225 (f), (g), and (i); and new paragraphs (h), (l), (m), (n), (o), and (q) have been added. Only those paragraphs which have been changed or added will be discussed below.

16. Section 885.225, "Contents of Requests," now provides that formation of the Borrower entity must be completed prior to the submission of a Request. Specifically, § 885.225(m) provides that each Request must include evidence that the Borrower has been formed and that it qualifies as an eligible nonprofit organization. Because a Section 8 Preliminary Proposal now must be submitted as part of a Request and will be reviewed by the field office to confirm that the Borrower has control over the proposed project site, and because an application for a Section 106(b) seed money loan can only be submitted by an eligible Borrower and may now accompany the Request, the borrower entity must have been formed prior to the submission of a Request. Also related is new § 885.225 (n) which provides that in cases where the borrower is dependent upon the experience, reputation, and financial resources of the Sponsor, whether the Borrower is a recently formed organization or one that has been in existence for some time, all information requested in paragraphs (c), and (g) through (m) of this Section also must be submitted on the Sponsor.

17. Section 885.225(f) requires that each Request include a description of any financial default, modification of terms and conditions of financing, or legal action taken against the Borrower for any reason during the past three years rather than the past ten years, as provided in existing § 885.210(f). The purpose of this change is to avoid penalizing Borrowers who encountered financial difficulties in the past, but have had a satisfactory record of performance in the past three years.

18. Section 885.225(g), which describes the evidence required to establish the Borrower's capacity to complete and operate a housing project for the elderly or handicapped successfully, has been changed by shortening from ten to five years the period of time for which the Borrower must provide descriptions of its housing experience. What is more, HUD will accept information covering a shorter time period if the Borrower satisfactorily demonstrates that the requested information is not available for the full five years. This change was made because the Department can make a reasonable judgment as to the Borrower's capacity to complete and operate a housing project successfully based on a statement covering five years, or in some cases, less than five years of experience in housing.

19. A new paragraph, § 885.225(h), provides that a Request shall include a description of the Borrower's past or current experience in providing services other than housing which would give evidence of the Borrower's management capabilities. The purpose of this new section is to broaden the nature of the experience that a Borrower may show to establish its capacity to complete and operate a project for the elderly or handicapped.

20. Section 885.225(i) provides that a Request shall include an estimate of the Borrower's anticipated Seed Money Expenses and evidence of its ability to provide sufficient working capital to meet these expenses and to fund the minimum required capital investment defined in § 885.410(d). In addition, it should be noted that the cash requirements for initial loan closing are not established until processing of the Section 8 Final Proposal has been completed, and the Borrower will have to demonstrate its capacity to meet these additional cash requirements, if any, before receiving a conditional or firm commitment.

21. Section 885.225(l) requires that each Request include evidence of the Borrower's local community base and reputation in the neighborhood in which the project will be located, including evidence of any support for the project and the Borrower by the community and any national, state, or local groups and organizations. The purpose of this provision is to assure that Borrowers have a commitment to the neighborhoods in which they plan to operate.

22. A new § 885.230 has been added, which outlines the requirements for the Section 8 Preliminary Proposal which previously were included under § 885.310. The requirements of § 885.230 are essentially the same as those appearing in § 880.205 of this Chapter, except that § 885.230(a) provides that a Section 8 Preliminary Proposal shall include the amount of Section 202 loan funds requested to be reserved.

23. New § 885.235 entitled, "Preliminary evaluation and technical processing of Requests," is based primarily on § 880.208. Paragraphs (a), (b), (c), and (d) of this new Section correspond to paragraphs (a), (b), (c), and (e) of § 880.208, respectively, except that paragraph (d)(3) of this new section is based on the existing § 885.315 (c) and paragraph (e)(7) of § 880.208 has been omitted. Paragraph (d)(3) requires that analysis of Section 8 Preliminary Proposals for projects with Section 8 Contract Authority for less than all of the rental dwelling units should indicate that sufficient market demand is anticipated for the unsubsidized portion to assure the feasibility of the project. Paragraph (d)(3) also provides that the Request will be evaluated by the field office on the basis of those factors which may be necessary to determine the eligibility and acceptability of the Sponsor or Borrower, the acceptability of the location (site), the acceptability of the design concept, the market value of the site, compliance with the Fair Market Rent Limits, and any comments received during the response periods from the appropriate A–95 Clearinghouse and from the unit of general local government. The effect of this amendment is to combine the determination of the eligibility and acceptability of the Borrower and Sponsor with the determination of the acceptability of the Section 8 Preliminary Proposal. Some minor word changes have been made to reconcile Section 202 with Section 8 procedures. Paragraph (f)(2) states that one of the factors to be considered in ranking applications is whether the proposed project is feasible based on an economic mix whereby not less than 20 percent nor more than 80 percent of the dwelling units would need Section 8 assistance.

24. Section 885.240, entitled "Approval of Requests," replaces the existing § 885.215 and incorporates the provisions for the approval of the Request by the field office. Section 885.240(b) (1), (2), and (3) preserves and renumbers applicable portions of paragraphs (1), (6), and (7) of existing § 885.215(b). Paragraph (7) has been modified to state that a Section 202 fund reservation may be used only in connection with the project whose Section 8 Preliminary Proposal has been approved in connection with the Request and may not be transferred to a Section 8 project which is proposed in response to an invitation pursuant to § 880.203 or § 881.203.

25. Section 885.240(b)(4) (i), (ii), (iii), and (iv) corespond to existing § 885.315 (d)(1) (i), (ii), (iii) and (iv), dealing with notification of selection.

26. Section 885.240(b)(5) corresponds to § 880.208(h)(1)(iv); § 885.240(c) corresponds to § 880.208(h)(2); and § 885.240(d) corresponds to § 880.208(h)(3).

27. Section 885.240(e) provides that Borrowers whose Requests are not approved shall be so notified in writing by the field office.

28. Section 885.240(f) coresponds to existing § 885.215(e), and provides that the field office director may amend the amount of a fund reservation approved pursuant to paragraph (b) at any time before the final closing of a loan.

29. Section 885.245, entitled "Duration of Section 202 Fund Reservations," formerly § 885.220, has been revised to

shorten from eighteen to twelve months the period of time within which construction must begin following the issuance of the notice of Section 202 Fund Reservation if the reservation is not to be cancelled. Because the Section 8 Preliminary Proposal will be approved concurrently with the Section 202 fund reservation submission, less time will be needed to complete the application process.

30. With respect to Subpart C, many of the provisions formerly included in this Subpart have been moved to Subpart B because submission of a Section 8 Preliminary Proposal has been made part of the Request.

31. Several provisions dealing with the Section 8 Final Proposal have been renumbered. Section 885.320 (a), (b), and (c) have been renumbered § 885.300 (b), (c), and (d), respectively; § 885.325 has been renumbered § 885.305.

32. Because the Borrower's Section 8 Preliminary Proposal will have been approved concurrently with its fund reservation submission, § 885.405, entitled "Approval for requests for financing," is revised to reflect this change. In reviewing requests for financing, the field office will review the Borrower's Section 8 Final Proposal, its request for Section 202 direct loan financing, and other materials submitted in accordance with § 885.400(a).

33. Because decision-making responsibility is being decentralized to the field offices, § 885.410(a) is revised so that the field office director rather than the Assistant Secretary may approve increases in the amount of financing stated in the notice of Section 202 Fund Reservation prior to the final closing of the loan, provided that certain conditions are met.

Interested persons are invited to participate in the making of this rule by furnishing such written comments, data and suggestions as they may desire. All such materials should be filed with the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 and all comments received on or before February 24, 1977, will be considered before adoption of a final rule in his matter. Copies of all comments will be available for public inspection at the above address during regular business hours both before and after the close of the comment period.

The Department has determined that this proposed rule will not have a significant impact upon the quality of the environment. A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of such Finding is available for public inspection, during regular business hours in Room 10141, Department of Housing and Urban Development, Washington, D.C. 20410.

NOTE: It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107 and it is determined that this proposed rule has no inflationary impact.

Accordingly, it is proposed to amend Title 24 by amending Part 885, Loans for Housing for the Elderly or Handicapped, to read as follows:

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

Subpart A—General Policy

Sec.
885.1 Purpose and policy.
885.3 Applicability of Parts 880 and 881.
885.5 Definitions.

Subpart B—Allocation of Loan Funds and Processing Requests for Section 202 Fund Reservations/Section 8 Preliminary Proposals

885.200 Allocation of Loan Fund Authority to regional offices.
885.205 Allocation of Loan Fund Authority to field offices.
885.210 Determination of number of units to be assisted.
885.215 Invitations for requests for Section 202 Fund Reservations/Section 8 Preliminary Proposals.
885.220 Developer's packet.
885.225 Contents of requests.
885.230 Section 8 preliminary proposal.
885.235 Preliminary evaluation and technical processing of requests.
885.240 Approval of requests.
885.245 Duration of Section 202 Fund Reservations.

Subpart C—Applicable Procedures Under Section 8 for Final Proposals

885.300 Section 8 final proposals.
885.305 Contract Rents determined acceptable to HUD at final proposal.

Subpart D—Direct Loan Financing Procedures

885.400 Requests for direct loan financing.
885.405 Approval of requests for financing.
885.410 Amount and terms of financing.
885.415 Requirements prior to initial loan closing.
885.420 Loan disbursement procedures.
885.425 Completion of construction or substantial rehabilitation, cost certification and approvals by HUD.

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

Subpart A—General Policy

§ 885.1 Purpose and policy.

(a) *Purpose.* The purpose of the program described in this Part is provide direct Federal loans under Section 202 of the Housing Act of 1959, as amended, 12 U.S.C. 1701q, for housing projects to serve elderly or handicapped families and individuals. The housing projects are to be designed to provide, or management plans shall include, an assured range of necessary services for the occupants, which services may include, among others, health, continuing education, welfare, informational, recreational, homemaker, counseling, and referral services, as well as transportation where necessary to facilitate access to social services, and services designed to encourage and assist occupants to use the services and facilities made available.

(b) *General policy.* A loan made pursuant to this Part shall be used to finance the construction or substantial rehabilitation of projects which meet the requirements of, and which will receive the benefit of housing assistance payments under the Section 8 Housing Assistance Payments Program-New Construction (24 CFR Part 880) or the Section 8 Housing Assistance Payments Program-Substantial Rehabilitation (24 CFR Part 881).

§ 885.3 Applicability of parts 880 and 881.

To determine whether a project for which a direct loan is requested under this Part complies with the requirements of the Section 8 Housing Assistance Payments Program—New Construction or Section 8 Housing Assistance Payments Program—Substantial Rehabilitation, the provisions of Parts 880 and 881 of this chapter shall apply to the extent that such provisions are not inconsistent with the provisions of Subparts B, C and D of this Part.

§ 885.5 Definitions.

As used in this part:

Act means Section 202 of the Housing Act of 1959, as amended, 12 U.S.C. 1701q.

Affiliated Entities means entities that HUD determines to be related to each other in such a manner that it is appropriate to treat them as a single entity. Such relationship shall include any identity of interest among such entities or their principals and the use by any otherwise unaffiliated entities of a single Borrower or of Borrowers that have any identity of interest between themselves or their principals.

Allocation Area means a geographic area established by the field office in accordance with 24 CFR 891.404(a)(3) for the purpose of allocating Section 8 funds.

Assistant Secretary means the Assistant Secretary for Housing-Federal Housing Commissioner.

Borrower means a private nonprofit corporation or a nonprofit consumer cooperative, which may be established by the Sponsor, which will obtain a Section 202 loan and execute a mortgage in connection therewith as the legal owner of the project. "Borrower" does not mean a public body or the instrumentality of any public body. The purposes of the Borrower must include the promotion of the welfare of elderly or handicapped families. No part of the net earnings of the Borrower may inure to the benefit of any private shareholder, contributor or individual and the Borrower may not be controlled by or be under the direction of persons or firms seeking to derive profit or gain therefrom.

Construction means the erection or substantial rehabilitation of structures for Housing and Related Facilities.

Development Cost means the cost of construction or substantial rehabilitation of Housing and Related Facilities, and of the land on which they are located, including necessary site improvements and such other expenses as may be determined by the Assistant Secretary to be properly attributable to the capital cost of the construction or substantial rehabilitation or development of the Housing and Related Facilities.

Elderly or Handicapped Families means:

(a) Families of two or more persons the head of which (or his or her spouse)

is sixty-two years of age or over or is handicapped, or

(b) The surviving member or members of any family described in paragraph (a) who were living in a unit assisted under the Section 202 program with the deceased member of the family at the time of his or her death, or

(c) A single person who is sixty-two years of age or over or who is handicapped, or

(d) Two or more elderly persons living together, or one or more such persons living with another person who is determined by HUD, based upon a licensed physician's certification provided by the resident or prospective resident, to be essential to their care or well-being.

Field Office means any HUD Area, Insuring or Regional Office which is delegated authority to process applications under the Section 8 Program.

Handicapped Person means any person having an impairment which is expected to be of long-continued and indefinite duration, is a substantial impediment to his (or her) ability to live independently, and is of a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered handicapped if he (or she) has a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition found by the Secretary of Health, Education, and Welfare to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individual.

HCD Act means the Housing and Community Development Act of 1974.

Housing and Related Facilities means rental or cooperative housing structures constructed or substantially rehabilitated as permanent residences for use by elderly or handicapped families, and includes structures suitable for use by families residing in the project or in the area as cafeterias or dining halls, community rooms or buildings, and workshops or other essential service facilities. "Housing and Related Facilities" does not include nursing homes, hospitals or intermediate and transitional care facilities.

Region means any one of the ten HUD Regions.

Request means the Request for Section 202 Fund Reservation and all required forms and exhibits, including the Section 8 Preliminary Proposal, which are submitted in response to a published invitation for such a Request.

Section 8 Preliminary Proposal means a proposal to provide newly constructed or substantially rehabilitated housing in response to an invitation published by a HUD field office for Requests as defined above.

Section 8 Program means the Housing Assistance Payments Program-New Construction or Substantial Rehabilitation under Parts 880 and 881 of this Chapter, which implements Section 8 of the United States Housing Act of 1937, as amended by the HCD Act.

Seed Money Expenses mean those expenses which are necessary to cover the costs of planning and obtaining financing for a Section 202 project and which will be incurred prior to the initial closing of the construction loan for the project.

Sponsor means any private nonprofit entity, no part of the net earnings of which inures to the benefit of any private shareholder, contributor or individual, which entity is not controlled by, or under the direction of persons or firms seeking to derive profit or gain therefrom, and which is approved by the Assistant Secretary as to administrative and financial capacity and responsibility. "Sponsor" does not mean a public body or the instrumentality of any public body.

Substantial Rehabilitation means the improvement of the condition of a property from deteriorated and substandard to good condition. Substandard or deteriorated properties are those which, while structurally sound, do not provide safe and adequate shelter, and in their present condition endanger the health, safety or well-being of the occupants. Substantial Rehabilitation also includes renovation, alteration or remodeling for the conversion or adaptation of structurally sound property to the design and condition required for use under this part (e.g., conversion of a hotel to housing for the elderly).

Subpart B—Allocation of Loan Funds and Processing Requests for Section 202 Fund Reservations/Section 8 Preliminary Proposals

§ 885.200 Allocation of Loan Fund Authority to regional offices.

From time to time, the Assistant Secretary will allocate Section 202 loan fund authority on a geographic basis for metropolitan and nonmetropolitan areas among Regions in conformance with the requirements of Section 213(d) of the HCD Act, as set forth in 24 CFR 891.402, by:

(a) Calculating for the respective Regions as a percent of the national total, the numbers of (1) Households where the head or spouse is aged 62 or older, (2) Such households which occupy units which lack one or more plumbing facilities and (3) Such households with incomes below regionally adjusted poverty levels;

(b) Averaging the three percentages; and

(c) Adjustment of the resulting percentage by average housing cost factors within each Region based on costs of prototype units.

§ 885.205 Allocation of Loan Fund Authority to field offices.

The HUD Regional Offices will allocate to the field offices Section 202 loan fund authority for metropolitan and for nonmetropolitan areas in accordance with 24 CFR 891.403(d).

§ 885.210 Determination of number of units to be assisted.

(a) Number of units to be assisted. Each field office shall, after considering the contents of any Local Housing Assistance Plans and any other pertinent information which it has or which is brought to its attention in relation to the factors set forth in Section 213(d) of the HCD Act, including any applicable State or Areawide Housing Allocation Plan, determine the number of units to be made available for new construction and substantial rehabilitation of housing for the elderly or handicapped in the geographic areas established pursuant to 24 CFR 891.404(a)(3) for the purpose of allocating Section 8 funds (herein called "Allocation Areas"). In cases where field offices have insufficient Section 202 loan fund authority to fund one or more projects in each Allocation Area, the office may combine Allocation Areas. However, nonmetropolitan areas may not be combined with metropolitan areas.

(b) New construction and substantial rehabilitation schedules. With respect to each Allocation Area or combinations thereof, the field office shall prepare an appropriate schedule for publishing invitations for Requests for Section 202 Fund Reservations/Section 8 Preliminary Proposals pursuant to § 885.215.

§ 885.215 Invitations for requests for Section 202 Fund Reservations/Section 8 Preliminary Proposals.

(a) Publication. The field office shall invite Requests in accordance with its schedule. Each invitation shall be published in a newspaper(s) of general circulation serving the Allocation Area(s) in which the Section 202 project(s) is (are) to be located at least once a week for two consecutive weeks.

(b) Notification to minority media and others. Simultaneously with the publication of the invitation in the media described in paragraph (a) of this section, the field office also shall notify and provides copies of the invitation to minority media, minority organizations involved in housing and community development, and fair housing groups. In addition, to the extent feasible, the field office shall notify and provide copies of the invitation to trade journals and other nonminority media.

(c) The invitation shall state:

(1) The Allocation Area or areas in which the Section 202 project(s) is (are) to be constructed or substantially rehabilitated;

(2) The amount of Section 202 loan fund authority and the amount of Section 8 contract authority being made available for projects to be constructed or rehabilitated which are designed for the elderly or handicapped and the approximate number of units these amounts are expected to assist in metropolitan and/or nonmetropolitan areas;

(3) That eligible Borrowers may secure the Developer's Packet described in §885.220 of this Part, and the forms required for a Request from the field office;

(4) That in the case of projects to be located in metropolitan areas, beginning on a specified date, and up to a specified deadline (generally, 60 calendar days following the publication of the invita-

tion), the field office will accept Requests, but that such deadline date may be extended by the field office with appropriate publication of the change in the same general newspaper(s) and notification of minority and other media and groups, as well as to the extent feasible, the trade journals and other nonminority media which had been notified with regard to the invitation as first published. The notification of the change also shall be given by appropriate means, as determined by the field office, to eligible Borrowers who have registered with the field office so that they may be so notified;

(5) That in the case of invitations for Requests for projects to be located in nonmetropolitan areas, no deadline for filing of Requests shall be established, but the field office shall reserve the right to establish a deadline if the director determines (i) that Requests sufficient to use those funds set aside for nonmetropolitan areas have been received in the field office, or (ii) that insufficient time would remain to complete the processing and the reservation of funds by the end of the fiscal year. Appropriate notification of the establishment of such a deadline date shall be published in the same general newspapers and provided to minority and other media and groups which had been notified with regard to the invitation as first published;

(6) That eligible Borrowers interested in appliyng for a fund reservation under the Section 202 program, are encouraged to contact the field office within 15 calendar days after the date of first publication of the invitation to provide the field office with the name, address, and telephone number of the Sponsor, if any, and Borrower and to advise the field office as to whether they plan to attend the workshop described in paragraph (c)(7) of this section;

(7) That a workshop will be held by the field office on a specified date which falls within ten calendar days after the fifteen-day period referenced in paragraph (c)(6) of this section to explain the Regulations and instructions governing the Section 202 program and those governing the Section 106(b) program, to distribute the Developer's Packet described in § 885.220 of this Part and the required forms for both programs, and to discuss application procedures and required exhibits;

(8) That no organization shall participate either as Sponsor, if any, Cosponsor, if any, and/or Borrower in the filing of an application or applications for a reservation of Section 202 loan funds in a single Region during a single fiscal year in excess of that (those) necessary to finance the construction or substantial rehabilitation of 300 units of Housing and Related Facilities.

(i) This limitation shall apply to organizations that participate as cosponsors regardless of whether the cosponsors are affiliated or unaffiliated entities.

(ii) Affiliated entities which submit separate applications shall be deemed to be a single entity for purposes of the 300-unit limitation.

§ 885.220 Developer's Packet.

The field office, upon request from a Sponsor or Borrower, or at the workshop described in § 885.215(c)(7), shall provide each Sponsor or Borrower with a special Developer's Packet (Section 202/Section 8) for either New Construction or Substantial Rehabilitation, whichever is applicable.

(a) The Developer's Packet shall include a copy of the applicable regulations, handbooks, and forms, and any requirements and information necessary to enable interested parties to prepare a Request for Section 202 Fund Reservation/Section 8 Preliminary Proposal in accordance with this Part. The Packet also shall indicate where copies of HUD Minimum Property Standards and other standards may be obtained.

(b) The Developer's Packet also shall include a statement that the Borrower may submit a Section 8 Final Proposal only after its Request has been approved.

§ 885.225 Contents of requests.

Each Request shall include the following:

(a) The name, address and telephone number of the Borrower and also of the Sponsor, if any.

(b) The names and addresses of all officers and directors of the Borrower and also of the Sponsor, if any.

(c) A description of the organization of the Borrower, including the date of its establishment, size and scope of its membership, and other pertinent information;

(d) A description of the relationship between the Sponsor and the Borrower.

(e) A description of any commitment, financial or otherwise, by the Sponsor for assistance to the Borrower.

(f) A description of any financial default, modification of terms and conditions of financing, or legal action taken against the Sponsor, the Borrower, or any other Borrower related to the Sponsor for any reason during the past three years.

(g) Evidence of the Borrower's capacity to carry through to completion and successful long term operation, a project to provide housing and related facilities for the elderly or handicapped. Such evidence shall include a detailed description of all rental or cooperative housing projects (including care facilities) owned or operated by the Borrower or other related entities during a minimum of the past five years. However, HUD will accept information for shorter periods of time if the Borrower satisfactorily demonstrates that the requested information is not available for the past five years. This description also shall include a listing of the locations, numbers and types of units, types and sources of financing, amenities and services provided, and indicators of successful project management such as low turnover, vacancy and delinquency rates, and low rent collection losses.

(h) A description of the Borrower's or related entities' past or current involvement in any programs or of its provision of services, other than housing, if any, which would give evidence of the Borrower's management capabilities.

(i) The Borrower's estimate of the Seed Money Expenses it expects to incur and evidence of its ability to provide sufficient working capital to meet these expenses and to fund the minimum required capital investment defined in § 885.410(d) of this Part. Such evidence shall include copies of the Borrower's balance sheets and statements of income and expenses for each of the past three years the Borrower has operated.

(j) A description of the Borrower's capability to sponsor, develop, own, manage, or provide special services in connection with housing for the elderly or handicapped, including any special capability in serving the needs of lower income elderly or handicapped families and individuals of all racial, ethnic and religious groups. The description shall include evidence of the Borrower's capability to construct or substantially rehabilitate projects that are specifically designed and equipped with such "related facilities" (as defined in Section 202(d)(8) of the Housing Act of 1959) as may be necessary to accommodate the special environmental needs of the intended occupants and shall be in support of and supported by the applicable state plans for comprehensive services pursuant to section 134 of the Mental Retardation Facilities and Community Mental Health Center Construction Act of 1963 or state and area plans pursuant to Title III of the Older Americans Act of 1965.

(k) Such other information as the Borrower may wish to provide which indicates any special capability to develop and successfully operate a housing project for the elderly or handicapped.

(l) Evidence of the Borrower's local community base and reputation in the neighborhood in which the project will be located including evidence of any support for the project and the Borrower by the community and any national, state, or local groups and organizations.

(m) Evidence that the Borrower has been formed and that it qualifies as an eligible nonprofit organization.

(n) In cases where the Borrower is dependent upon the experience, reputation, and financial resources of the Sponsor, whether the Borrower is a recently formed organization or an organization which has been in existence for some time, all information requested in paragraphs (c) and (g) through (m) of this section shall be submitted for the Sponsor as well as the Borrower.

(o) A Section 8 Preliminary Proposal which shall include the information required under § 885.230.

(p) Such additional information as HUD may find pertinent to the evaluation of the Request.

(q) The Borrower's application for a Section 106(b) Seed Money loan, if desired.

§ 885.230 Section 8 preliminary proposal.

The Section 8 Preliminary Proposal shall include:

(a) The amount of the Section 202 loan funds requested to be reserved.

(b) Identification of the proposed site, including a map showing the location of the site and the racial composition of the neighborhood, sketch of the site plan, dimensions, any unusual site features, and zoning.

(c) Documentary evidence that the Borrower has title to the site or a copy of a contract(s) of sale, if any, with respect to the site or a copy of the site option agreement(s) or other legal commitment for the site.

(d) A description of the proposed housing, including number and type of structures, number of stories, structural system, exterior finish, heating-air conditioning system, number of units by size (number of bedrooms), living area and composition for each size of unit, and special amenities or features; and sketches of the building and unit plans.

(e) The proposed Contract Rent per unit, by size and structure type.

(f) A description of the equipment to be included in the Contract Rent.

(g) A description of the utilities and services to be included in the Contract Rent, and, for those utilities and services not so included in the Contract Rent, an estimate of the average monthly cost (for the first year of occupancy) to the occupants by unit size and structure type.

(h) A showing that the Proposal meets any special requirements or restrictions necessary for compliance with the provisions of the local Housing Assistance Plan, if any.

(i) Evidence that the proposed construction or rehabilitation is permissible under applicable zoning ordinances or regulations, or a statement of the proposed action to make the construction or rehabilitation permissible and the basis for belief that such action will be successfully completed prior to the initial closing of the loan (e.g., a summary of results of any recent requests for rezoning on land in similar zoning classifications and the time required for such rezoning, preliminary indications of acceptability from zoning bodies, etc.).

(j) A statement as to whether the proposed project will displace site occupants. If so, the proposal shall state the number of families, individuals, and business concerns to be displaced (identified by race or minority group status and whether they are owners or renters), and shall demonstrate that relocation is feasible and how necessary relocation payments, if any, will be funded.

(k) A signed certification of the Borrower's intention to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Executive Order 11246, and section 3 of the Housing and Urban Development Act of 1968.

(l) The identity of the builder (if known), the architect (if known), and the consultant (if known); the qualifications and experience of each; and the names of officials and principal members, principal shareholders and investors, and other parties having substantial interests and the prior participation of each in HUD programs, using the prescribed form.

(m) Evidence as to whether the Borrower intends to provide management services or to contract with a management agent. In the latter case, the identity of the management agent, if known, and the other information specified in paragraph (l) of this section must be provided.

(n) Such additional information as HUD may find pertinent to the evaluation of the Section 8 Preliminary Proposal.

§ 885.235 Preliminary evaluation and technical processing of requests.

(a) *Preliminary evaluation.* In order to determine whether a Request is complete, responsive to the invitation, and acceptable for technical processing, the field office shall begin its preliminary evaluation immediately upon receipt of the Request. The preliminary evaluation shall consist of a review to ascertain whether it is clear, even without field investigation, that:

(1) The Request is lacking any of the required submissions and forms, or if any of them are not properly completed;

(2) The site(s) does (do) not meet standards set forth in §§ 880.112 and 881.112 of this Chapter;

(3) The proposed Gross Rents exceed the applicable Fair Market Rent Limits (see § 880.108(a) and § 881.108(a) of this Chapter);

(4) The sizes and types of units are not suitable for housing for the elderly or handicapped;

(5) The Borrower, builder, and/or managing agent lack the ability to construct or rehabilitate the project or to carry out the required management and maintenance services;

(6) The Request fails to comply with one or more requirements of the invitation, the Developer's Packet, Part 880 or 881 as applicable, or this Part 885.

(b) *Action on Requests found to be deficient.* If a Request is incomplete or if a deficiency is found with respect to any item set forth in paragraph (a) of this section, the Borrower shall be advised in writing of the deficiencies and (1) that the Request is rejected, or (2) if the field office determines that further consideration of the Request would assist in meeting the qualitative and quantitative objectives of this Part, that amendments or modifications will be accepted if they are received on or before a specified date (generally fifteen calendar days from the date of the request for additional information).

(c) *Eligibility for technical processing.* If a Request is found acceptable pursuant to paragraph (a) of this section, the Request shall be eligible for technical processing. Similarly, if amendments or modifications were requested pursuant to paragraph (b) of this section and were received by the date specified and found acceptable, the Request shall be eligible for technical processing. However, if such amendments or modifications are not received by the date specified or are not found acceptable, the Request shall be rejected.

(d) *Technical processing.* When a Request is determined eligible pursuant to paragraphs (a) or (c) of this section, the field office shall begin technical processing, but no final selection shall be made until the response periods provided in § 885.215(c) (4) or (5) have ended. Technical processing shall consist of the following:

(1) For each Preliminary Proposal which is determined to be subject to A–95 clearance, the field office shall send a copy (if not previously submitted by the Sponsor or Borrower) to the appropriate A–95 Clearinghouse for review, inviting a response within 34 calendar days from the date of the letter of transmittal;

(2) For purposes of compliance with Section 213 of the HCD Act, the field office shall forward (if not previously submitted by the Sponsor or Borrower) a notification, in the form prescribed by HUD, to the Chief Executive Officer (or such designee as that Officer may designate) of the unit of general local government in which the proposed housing is to be located and shall invite a response within 30 calendar days from the date of the notification letter;

(3) The Request will be evaluated by the field office on the basis of those factors which may be necessary to determine the eligibility and acceptability of the Sponsor and Borrower, acceptability of the location (site), acceptability of the design concept, market value of the site, compliance with the Fair Market Rent Limits, and the comments, if any, received during the response periods from the appropriate A–95 Clearinghouse and from the unit of general local government. Analysis of Preliminary Proposals for projects with Section 8 Contract Authority for less than all of the rental dwelling units should indicate that sufficient market demand is anticipated for the unsubsidized portion to assure the feasibility of the project;

(4) If, in its evaluation of all pertinent factors, the field office finds deficiencies which, in its judgment, are correctable within a reasonable time, it may grant such additional time as it deems appropriate to enable the Borrower to correct such deficiencies. Otherwise the Borrower shall be sent a notification specifying the deficiencies and stating that the Request is rejected;

(5) Prior to selection, the field office shall complete an environmental review pursuant to HUD National Environmental Policy Act requirements;

(6) Based on the factors set forth in this paragraph (d), the field office shall determine for each Allocation Area, or combinations thereof, the Requests which, in its judgment, are approvable. Selection of Requests then shall be made in accordance with paragraphs (e) or (f) of this section.

(e) Selection where there are sufficient Section 202 Loan Fund Authority and Section 8 Contract Authority for all approvable Requests. If the Section 202 loan fund authority and the Section 8 contract authority indicated in the invitation are sufficient for all approvable Requests, the Borrowers shall be notified of selection in accordance with § 885.240.

(f) Selection where Section 202 Loan Fund Authority and Section 8 Contract

Authority are insufficient for all approvable Requests. In such cases, the field office shall proceed as follows:

(1) The field office shall rank order each Request on the basis of its assessment of the Borrower's qualifications; the project's proposed rent structure; site and design, and comments, if any, received from the appropriate A-95 Clearinghouse and from the unit of general local government;

(2) With respect to the listing, the field office shall identify for selection the highest ranking Requests in descending order which most reasonably approximate the estimated maximum number of units called for in the invitation. Among the factors to be considered in ranking Requests is whether the proposed project is feasible based on an economic mix whereby not less than 20 percent nor more than 80 percent of the dwelling units would need Section 8 assistance. This does not mean that projects requiring Section 8 assistance for 100 percent of the dwelling units could not be funded. However, when several approvable applications have equivalent ratings, and some of these applications are for projects in which the Borrowers propose to cover at least 20 percent but not more than 80 percent of the dwelling units with Section 8 assistance, and the field office determines that these projects are feasible based on the proposed Section 8 coverage, the field office shall give preference for funding to these projects over the ones requiring Section 8 coverage for more than 80 percent of the dwelling units.

(3) The field office shall select those Requests in order of the ranking for which there are sufficient Section 202 loan fund authority and sufficient Section 8 contract authority.

§ 885.240 Approval of requests.

(a) To be eligible for selection, a Request must be received by the field office within the period specified in the invitation and must be complete and responsive to the invitation. Requests for Section 202 Fund Reservations/Section 8 Preliminary Proposals will be approved by the field office based on an evaluation procedure that takes into account the information provided pursuant to § 885.225.

(b) A Borrower whose Request is approved shall be issued a notice of Section 202 Fund Reservation in a form to be prescribed by the Assistant Secretary, which form shall:

(1) Specify the amount of the fund reservation, the number of units, and whether the project will be located in a metropolitan or nonmetropolitan area;

(2) State that the amount of loan funds reserved or any portion thereof unused by the Borrower may not be transferred by the Borrower;

(3) State that a Section 202 fund reservation may only be used in connection with the project whose Section 8 Preliminary Proposal has been approved in connection with the Request and may not be transferred to a Section 8 project which is proposed in response to an invitation pursuant to §§ 880.203 or 881.203 of this Chapter.

(4) State that the Section 8 Preliminary Proposal submitted with the Request has been approved and request that the Borrower submit a Section 8 Final Proposal in accord with the requirements of the provisions of §§ 880.209 and 881.209 of this Chapter. In connection with the approval of the Section 8 Preliminary Proposal, the notification shall specify:

(i) That the Borrower's proposed Contract Rents fall within the Fair Market Rent Limits. The proposed Contract Rents submitted by the Borrower shall be evaluated and approved at the Section 8 Final Proposal stage;

(ii) The estimate of the amount of relocation payments, when applicable;

(iii) The number and types of units of Housing and Related Facilities; and

(iv) Any other special conditions or requirements, including those that may be applicable to substantial rehabilitation projects pursuant to § 881.208(g) of this Chapter.

(5) Specify a date by which the Borrower is required to return a copy of the notification with either (i) an indication of its acceptance of the notification including any modifications requested by the field office, or (ii) its request for reconsideration of any modifications.

(c) If the notification contains modifications, and the Borrower requests their reconsideration, the field office shall notify the Borrower of the date by which it is to furnish documentation in support of its request for reconsideration.

(d) If the Borrower does not accept the notification by the date specified, or if the Borrower requests reconsideration of modifications made by the field office and the field office and the Borrower are unable to reach agreement with respect thereto, the field office shall notify the Borrower that its previous approval of the Borrower's Request is rescinded.

(e) Borrowers whose Requests are not approved shall be so notified in writing by the field office.

(f) The field office director may amend the amount of a fund reservation approved pursuant to paragraph (b) of this section at any time before the final closing of a loan.

§ 885.245 Duration of Section 202 Fund Reservations.

The field office director shall cancel any reservations of Section 202 loan funds for projects for which the construction or substantial rehabilitation is not commenced within the twelve-month period following issuance of the notice of Section 202 Fund Reservation, unless an extension of time, not to exceed six months, is requested of and granted by the field office director.

Subpart C—Applicable Procedures Under Section 8 for Final Proposals

§ 885.300 Section 8 final proposals.

(a) Each final proposal submitted shall be consistent with the requirements of § 880.209(a) or § 881.209(a) of this Chapter as appropriate.

(b) Any Contract Rents which are or have been proposed by a Borrower in its Section 8 Preliminary Proposal or approved by HUD pursuant to the submission of its Section 8 Preliminary Proposal may be modified in the Section 8 Final Proposal, or at any time prior to the execution of the Agreement to Enter into a Housing Assistance Payments Contract.

(c) The evaluation by HUD of a Section 8 Final Proposal submitted by a Borrower shall include, in addition to the items listed in §§ 880.210 or 880.210 of this Chapter as appropriate, an evaluation of the Contract Rents and financial feasibility of the project, based upon the criteria set forth in § 885.305 of this Part.

(d) The notification to the Borrower of approval of its Section 8 Final Proposal shall specify the Contract Rents acceptable to HUD, and if the acceptable Rents are lower than those proposed by the Borrower, the reasons for the reduction(s).

§ 885.305 Contract Rents determined acceptable to HUD at final proposal.

Sections 880.108(b) and 881.108(b) of this Chapter are not applicable to Section 202 projects in which units are eligible for occupancy under the Section 8 Housing Assistance Payments Program. Contract Rents shall be established within the applicable Fair Market Rent Limits in the Section 8 Final Proposal pursuant to §§ 880.108(a) or 881.108(a) and shall be no higher than the rents determined by HUD to be necessary to cover operating costs, including debt service on the Section 202 loan, and reasonable reserves, as approved by HUD. In the case of Section 8 Final Proposals for projects with Section 8 Contract Authority for less than all of the rental dwelling units, the Contract Rents must be within such levels that sufficient market demand is anticipated for the unsubsidized rental dwelling units to assure the feasibility of the project.

Subpart D—Direct Loan Financing Procedures

§ 885.400 Request for direct loan financing.

(a) At the time of submission of a Section 8 Final Proposal under the Section 8 program pursuant to §§ 880.209 or 881.209 of this Chapter, a Borrower shall submit a request for Section 202 direct loan financing, on forms prescribed by HUD to the field office serving the area in which the project will be located.

(b) The request provided for in paragraph (a) of this section shall be accompanied by or include the following:

(1) The names and addresses of the officers and directors of the Borrower, and such other information as shall be required on the prescribed form, together with a certification by each officer or director that he or she will not receive any compensation from the Borrower for his or her services, and does not have any

financial interest in any contract with the Borrower, or in any firm or corporation which has a contract with the Borrower.

(2) Satisfactory evidence that the Borrower has the necessary legal authority to finance, construct or substantially rehabilitate and maintain the project and to apply for and receive the proposed loan, that it meets any requirements as to corporate organization, and that it has authority to enter into such contract obligation and execute such authority to enter into such contract obligation, and execute such security instruments as may be required by HUD."

§ 885.405 Approval for requests for financing.

The field office shall review the request for financing and the other submissions under § 885.400(a), and shall notify the Borrower of its approval or disapproval, indicating any deficiencies. The Borrower will be given a reasonable time, as determined by the field office, to correct any deficiencies. The approval shall set forth fully the terms and conditions upon which the loan will be disbursed.

§ 885.410 Amount and terms of financing.

(a) The amount of financing approved shall be the amount stated in the Notice of Section 202 Fund Reservation, including any increase approved by the field office director prior to the final closing of a loan: Provided, however, that the amount of financing provided shall not exceed the lesser of (1) the maximum mortgage amount that would apply under §§ 231.3 or 231.4 (b) and (c) of Chapter II of this title if the mortgage were insured under Section 231 of the National Housing Act, or (2) the Development Cost of the project.

(b) The loan shall bear interest at a rate established by the Secretary by adding:

(1) A rate determined by the Secretary of the Treasury to be the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt computed at the end of the fiscal year next preceding the date on which the loan is made; plus

(2) An allowance to cover administrative costs and probable losses under the program, which allowance has been determined by the Secretary to be one percent (1%) per annum during the construction period, and one half of one percent (.5%) thereafter. Loans committed to be made by HUD shall bear interest at the rate in effect at the time a loan is made. A loan shall be deemed to be made as of the date of the initial loan closing pursuant to § 885.415, except that any loans made on and after August 3, 1976, and prior to October 1, 1976, shall bear interest at the rate stated in the next sentence. The interest rate applicable to loans made between August 3, 1976, and September 30, 1977, shall be seven and three-eighths percent (7 and 3/8%) per annum during the construction period and six and seven-eighths percent (6 and 7/8%) thereafter. The interest rate applicable to subsequent fiscal years shall be published in the FEDERAL REGISTER. If a loan is made in a fiscal year other than that fiscal year in which the application is processed, and the interest rate for the year in which the loan is made is different from the rate used for processing, HUD will determine whether or not reprocessing is necessary.

(c) The loan shall be secured by a first mortgage on real estate in fee simple or long term leasehold; the mortgage shall be for a term not to exceed 40 years and shall be subject to such terms and conditions as shall be determined by the Assistant Secretary.

(d) In order to assure HUD of the Borrower's continued commitment to the development, management and operation of the project, the Assistant Secretary may from time to time establish a minimum capital investment for Section 202 Borrowers. Such minimum capital investment is hereby initially determined to be one-half of one percent (.5%) of the mortgage amount committed to be disbursed, not to exceed the amount of $10,000. Section 106(b) loans made pursuant to Section 106 of the Housing and Urban Development Act of 1968 may not be utilized to meet the minimum capital investment requirement. Such minimum capital investment may take the form of payments by the Borrower out of the Borrower's own resources towards the project operating expenses or deficits over a period of not to exceed three years from initial occupancy of the project. Any such funds required to be put up as a minimum capital investment shall be held by HUD or other escrow agent acceptable to HUD for the aforementioned three year period and shall be used for operating expenses or deficits as may be directed by the field office; any unexpended balance remaining in the minimum capital investment account at the end of the three year period shall be returned to the Borrower.

§ 885.415 Requirements prior to initial loan closing.

Prior to the initial loan closing, the Borrower, in addition to any other requirements pursuant to Parts 880 and 881 of this chapter, shall furnish such executed documents as the field office may require, including but not limited to:

(a) An Agreement to Enter into Housing Assistance Payments Contract executed pursuant to § 880.214 or § 881.214 of this Chapter.

(b) A Housing Consultant's Certificate and Contract (if consultant services have been employed by the Borrower).

(c) A Certificate of Incorporation of the Nonprofit Borrower, or consumer cooperative, as required by applicable state or local law.

(d) A Certificate of Relationships and Nonprofit Motives of the Borrower.

(e) A Mortgagor's Attorney's Opinion as to the validity and legality of the mortgagor entity, the legality of the building permit, and compliance with applicable zoning laws and requirements.

(f) (1) A Regulatory Agreement for Nonprofit Section 202/Section 8 Mortgagors, on a form to be prescribed by the Assistant Secretary, by which agreement HUD will regulate the Borrower's operation of the project, or (2) An addendum to the Section 8 Housing Assistance Payments Contract as required by the Assistant Secretary.

(g) A Mortgagor's Oath, wherein the Borrower certifies that the property to be constructed or substantially rehabilitated will not be used for hotel or transient accommodation purposes during the term of the Section 202 Financing Loan.

(h) An Agreement and Certification to be executed by the Borrower and HUD on a form to be prescribed by HUD, wherein the Borrower (1) Agrees to certify actual costs and, as may be required by HUD to have the contractor and subcontractor also submit certificates of actual cost; (2) Certifies as to any financial and family relationship which exists as between such Borrower, the architect, general contractors and subcontractors.

(i) An Assurance of Compliance with HUD Regulations Under Title VI of the Civil Rights Act of 1964.

(j) A Note and Mortgage on forms aporoved by the Assistant Secretary for use in the jurisdiction in which the property covered by the mortgage is situated. The Note and Mortgage shall comply with applicable state law for such instruments and shall set forth the terms and method of repayment, maturity date, prepayment/refinancing and release provisions and such other requirements and covenants as prescribed by the Assistant Secretary.

(k) A Title Policy from a title insurance company or other title evidence satisfactory to the field office that the mortgage constitutes a first lien on the property as of the date the mortgage is filed for record.

(l) A survey of the mortgaged property, and final plans and specifications, shall have been prepared by registered surveyors and architects, respectively (if required), shall be in a form satisfactory to the field office, and shall be accompanied by such Surveyor and Architect Certificates and Owner-Architect Agreements as the Assistant Secretary may prescribe.

(m) A Building Loan Agreement to be executed by the Borrower and HUD in a form to be prescribed by the Assistant Secretary. The Agreement shall set forth the terms and conditions under which progress payments may be advanced during the construction or substantial rehabilitation according to a schedule of disbursements, and shall include provisions for disbursements of loan proceeds only on account of portions of construction or substantial rehabilitation work completed and approved by HUD and provisions for a holdback or retainage from construction or substantial rehabilitation requisition payments in an amount determined by the Assistant Secretary.

(n) A New Construction or Substantial Rehabilitation Contract between the Borrower and General Contractor, on a

form to be prescribed by the Assistant Secretary, which Contract shall be in the form of a cost plus contract which shall provide for the payment of the actual cost of construction or substantial rehabilitation not to exceed an upset price, and may include a provision for an additional payment to the builder of a fee in an amount allowed by HUD for earlier than estimated completion. The Contract shall be supplemented by such Cost or Trade Payment Breakdown and General Conditions as the Assistant Secretary may prescribe.

(o) Assurance of Completion of construction or substantial rehabilitation in such form as may be prescribed by the Assistant Secretary, which may include Performance and Payment bonds from approved sureties or cash escrows. Each Performance and each Payment Bond furnished under this Section shall be in the respective amounts of 50 percent of the total construction cost of the Housing and Related Facilities, and any such cash escrow furnished hereunder shall be in the amount of 25 percent of such cost; the terms and conditions of the forms of Assurance of Completion shall be satisfactory to the field office.

(p) An escrow agreement in the amount of the cost of any off-site facilities, funded by a cash deposit or Letter of Credit to assure completion of such facilities.

(q) A Contractor's and Sub-Contractor's Certification Concerning Labor Standards and Prevailing Wage Requirements, in a form prescribed by the Assistant Secretary, certifying that the laborers and mechanics employed in the construction or substantial rehabilitation of the dwellings will be paid not less than the wages prevailing in the locality in which the work is to be performed for the corresponding classes of laborers and mechanics employed on construction or substantial rehabilitation of a similiar character, as determined by the Secretary of Labor prior to the beginning of construction or substantial rehabilitation and after the date of the request for direct loan financing. Such certificates also shall include information as to all applicable labor standards and other provisions of the regulations of the Secretary of Labor.

(r) Such other information and documents as the Assistant Secretary or field office may require in order to approve disbursement of construction loan proceeds pursuant to this Part.

§ 885.420 Loan disbursement procedures.

(a) Disbursements of loan proceeds shall be made directly by HUD to or for the account of the Borrower and may be made through an approved lender, mortgage servicer, title insurance company or other agent satisfactory to the Borrower and HUD.

(b) All disbursements to the Borrower shall be made on a periodic basis in an amount not to exceed the HUD-approved cost of portions of construction or substantial rehabilitation work completed and in place, minus the appropriate holdback or retainage, as determined by the field office.

(c) Requisitions for loan disbursements shall be submitted by the Borrower on forms to be prescribed by the Assistant Secretary and shall be accompanied by such additional information as the field office may require in order to approve loan disbursements under this Part, including but not limited to evidence of compliance with the Davis-Bacon Act, Department of Labor regulations, all applicable zoning, buildings and other governmental requirements, and such evidence of continued priority of the mortgage of the Borrower as the Assistant Secretary may prescribe.

§ 885.425 Completion of construction or substantial rehabilitation, cost certification and approvals by HUD.

(a) The requirements for completion of construction or substantial rehabilitation and approvals by HUD set forth in Parts 880 and 881 of this Chapter shall be satisfied by the Borrower prior to submission of a final requisition for disbursement of loan proceeds.

(b) The Borrower shall, in connection with such final requisition, submit to the field office such documentation as may be prescribed by the Assistant Secretary for full and final disbursement of the loan, including any applicable holdback or retainage, and such guaranty against latent defects as the Assistant Secretary may prescribe, all of which foregoing shall be in addition to the requirements of Parts 880 and 881 of this chapter. The documentation hereunder shall include such information and forms as the Assistant Secretary may require in order to approve the Borrower's and Contractor's Cost Certification and to determine the total actual development cost of the Housing and Related Facilities, including, but not limited to, the following:

(1) A Borrower's/Mortgagor's Certificate of Actual Cost, in a form prescribed by the Assistant Secretary, showing the actual cost to the mortgagor of the cost plus construction contract, including the builder's fee actually paid and approved by HUD, architectural, legal, organizational, offsite costs and other items of expense approved by the field office. The Certificate shall not include as actual cost any kickbacks, rebates, trade discounts, or other similiar payments to the mortgagor or to any of its officers, directors, stockholders, partners or members. Any such payments shall be deducted from the costs determined to be eligible for inclusion in the total Section 202 loan amount approved by the field office.

(2) A verification of the Certificate of Actual Cost by an independent Certified Public Accountant or independent public accountant in a manner acceptable to the Assistant Secretary.

(3) A certification of the general contractor (and such subcontractors, material suppliers and equipment lessors, as the Assistant Secretary or field office may require), on a form prescribed by the Assistant Secretary, as to all actual costs paid for labor, materials and subcontract work under the general contract exclusive of the builder's fee and kickbacks, rebates, trade discounts, or other similar payments to the general contractor, the mortgagor, or any of its officers, directors, stockholders, partners or members.

Issued at Washington, D.C., on January 19, 1977.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing — Federal Housing Commissioner.

[FR Doc.77-2375 Filed 1-28-77;8:45 am]

federal register

MONDAY, JANUARY 31, 1977

PART X



ENVIRONMENTAL PROTECTION AGENCY

■

REVISIONS TO EMISSION MONITORING REQUIREMENTS AND TO REFERENCE METHODS

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 669-4]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Revisions to Emission Monitoring Requirements and to Reference Methods

On October 6, 1975 (40 FR 46250), under sections 111, 114, and 301 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) promulgated emission monitoring requirements and revisions to the performance testing Reference Methods in 40 CFR Part 60. Since that time, EPA has determined, that there is a need for a number of revisions to clarify the requirements. Each of the revisions being made in 40 CFR Part 60 are discussed as follows:

1. *Section 60.13.* Paragraph (c)(3) has been rewritten to clarify that not only new monitoring systems but also upgraded monitoring systems must comply with applicable performance specifications.

Paragraph (e)(1) is revised to provide that data recording is not required more frequently than once every six minutes (rather than the previously required ten seconds) for continuous monitoring systems measuring the opacity of emissions. Since reports of excess emissions are based upon review of six-minute averages, more frequent data recording is not required in order to satisfy these monitoring requirements.

2. *Section 60.45.* Paragraphs (a) through (e) have been reorganized for clarification. In addition, restrictions on use of continuous monitoring systems for measuring oxygen on a wet basis have been removed. Prior to this revision, only dry basis oxygen monitoring equipment was acceptable. Procedures for use of wet basis oxygen monitoring equipment have been approved by EPA and were published in the FEDERAL REGISTER as an alternative procedure (41 FR 44838).

Also deleted from § 60.45 are restrictions on the location of a carbon dioxide (CO_2) continuous monitoring system downstream of wet scrubber flue gas desulfurization equipment. At the time the regulations were promulgated (October 6, 1975), EPA thought that limestone scrubbers were operated under conditions that could cause significant generation or absorption of CO_2 by the scrubbing solution which would cause errors in the monitoring results. EPA investigated this potential problem and concluded that lime or limestone scrubbers under typical conditions of operation do not significantly alter the concentration of CO_2 in the flue gas and would not introduce significant errors into the monitoring results. Lime scrubbers operate at a pH level between 7 and 8 which will maximize SO_2 absorption and minimize CO_2 absorption. Thus, the effect of CO_2 loss on the emission results is expected to be minimal. The exact amount of CO_2 loss, if any, during the scrubber operation has not been determined since it is dependent upon the operating conditions for a particular facility. Although each percent of CO_2 absorption will result in a positive bias of 7.1 percent (at a stack concentration of 14 percent CO_2) in the final emission results, i.e. the indicated results may be higher than actual stack concentrations, the actual bias is expected to be very small since the amount of CO_2 absorption will be much less than one percent.

In flue gases from limestone scrubbers, there exists a possibility of the addition of CO_2 from the scrubbing reaction to the CO_2 from the fuel combustion. Every two molecules of SO_2 reacting with the limestone will produce a molecule of CO_2. Limestone scrubbers are typically operated at an approximate temperature of 50° C under acidic conditions. At these operating conditions the amount of CO_2 generated in a 90 percent efficiency scrubber is 1350 ppm or 0.135 percent CO_2. This will introduce a negative bias of 1 to 1.5 percent for a CO_2 level of 8 to 15 percent. This amount of potential error compares favorably with systems previously approved. Therefore, EPA is removing the restrictions which limited the installation of carbon dioxide continuous monitoring systems to a location upstream of the scrubber.

Several other revisions are being made to paragraphs (a), (b), (c), and (e) of Subpart D which improve the clarity or further define the intent of the regulations. Paragraph (d) has been reserved for later addition of fuel monitoring provisions.

3. *Performance Specification 1.* Paragraph 6.2 has been rewritten to clarify requirements that must be met by continuous opacity monitor manufacturers. Manufacturers must certify that at least one analyzer from each month's production was tested and meets all applicable requirements. If any requirements are not met, the production for the month must be resampled according to military standard 105D (MIL-STD-105D) and retested. Previously the regulation required that each unit of production had to be tested. Copies of MIL-STD-105D may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

4. *Performance Specification 2.* Figure 2-3 of Performance Specification 2 has been corrected to properly define the term "mean differences." The corrections in the operations now conform with the statistical definitions of the specifications.

5. *General.* These amendments provide optional monitoring procedures that may be selected by an owner or operator of a facility affected by the monitoring requirements of 40 CFR Part 60. Certain editorial clarifications are also included. Proposal of these amendments is not necessary because the changes are either interpretative in nature, or represent minor changes in instrumentation testing and data recording, or allow a wider selection of equipment to be used. These changes will have no effect upon the number of emission sources that must be monitored or the quality of the resultant emission data. The changes are consistent with recent determinations of the Administrator with respect to use of alternative continuous monitoring systems.

6. *Effective date.* These revisions become effective March 2, 1977.

(Secs. 111, 114, 301(a), Clean Air Act, as amended, Pub. L. 91-604, 84 Stat. 1678 (42 U.S.C. 1857c-6, 1857c-9, 1857g(a)).)

NOTE.—The Environmental Protection Agency 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.

Dated: January 19, 1977.

JOHN QUARLES,
Acting Administrator.

In 40 CFR Part 60 Subpart A, Subpart D, and Appendix B are amended as follows:

Subpart A—General Provisions

1. Section 60.13 is amended by revising paragraphs (c)(3) and (e)(1) as follows:

§ 60.13 Monitoring requirements.

* * * * * * *

(c) * * *

(3) All continuous monitoring systems referenced by paragraph (c)(2) of this section shall be upgraded or replaced (if necessary) with new continuous monitoring systems, and the new or improved systems shall be demonstrated to comply with applicable performance specifications under paragraph (c)(1) of this section on or before September 11, 1979.

* * * * * * *

(e) * * *

(1) All continuous monitoring systems referenced by paragraphs (c)(1) and (c)(2) of this section for measuring opacity of emissions shall complete a minimum of one cycle of sampling and analyzing for each successive ten-second period and one cycle of data recording for each successive six-minute period.

* * * * * * *

Subpart D—Standards of Performance for Fossil Fuel-Fired Steam Generators

2. Section 60.45 is amended by revising paragraphs (a), (b), (c), and (e) and by reserving paragraph (d) as follows:

§ 60.45 Emission and fuel monitoring.

(a) Each owner or operator shall install, calibrate, maintain, and operate continuous monitoring systems for measuring the opacity of emissions, sulfur dioxide emissions, nitrogen oxides emissions, and either oxygen or carbon dioxide except as provided in paragraph (b) of this section.

(b) Certain of the continuous monitoring system requirements under paragraph (a) of this section do not apply to owners or operators under the following conditions:

(1) For a fossil fuel-fired steam generator that burns only gaseous fossil fuel, continuous monitoring systems for measuring the opacity of emissions and sulfur dioxide emissions are not required.

(2) For a fossil fuel-fired steam generator that does not use a flue gas desulfurization device, a continuous monitoring system for measuring sulfur dioxide emissions is not required if the owner or operator monitors sulfur dioxide emissions by fuel sampling and analysis under paragraph (d) of this section.

(3) Notwithstanding § 60.13(b), installation of a continuous monitoring system for nitrogen oxides may be delayed until after the initial performance tests under § 60.8 have been conducted. If the owner or operator demonstrates during the performance test that emissions of nitrogen oxides are less than 70 percent of the applicable standards in § 60.44, a continuous monitoring system for measuring nitrogen oxides emissions is not required. If the initial performance test results show that nitrogen oxide emissions are greater than 70 percent of the applicable standard, the owner or operator shall install a continuous monitoring system for nitrogen oxides within one year after the date of the initial performance tests under § 60.8 and comply with all other applicable monitoring requirements under this part.

(4) If an owner or operator does not install any continuous monitoring systems for sulfur oxides and nitrogen oxides, as provided under paragraphs (b)(1) and (b)(3) or paragraphs (b)(2) and (b)(3) of this section a continuous monitoring system for measuring either oxygen or carbon dioxide is not required.

(c) For performance evaluations under § 60.13(c) and calibration checks under § 60.13(d), the following procedures shall be used:

(1) Reference Methods 6 or 7, as applicable, shall be used for conducting performance evaluations of sulfur dioxide and nitrogen oxides continuous monitoring systems.

(2) Sulfur dioxide or nitric oxide, as applicable, shall be used for preparing calibration gas mixtures under Performance Specification 2 of Appendix B to this part.

(3) For affected facilities burning fossil fuel(s), the span value for a continuous monitoring system measuring the opacity of emissions shall be 80, 90, or 100 percent and for a continuous monitoring system measuring sulfur oxides or nitrogen oxides the span value shall be determined as follows:

[In parts per million]

Fossil fuel	Span value for sulfur dioxide	Span value for nitrogen oxides
Gas	(1)	500
Liquid	1,000	500
Solid	1,500	500
Combinations	1,000y+1,500z	500(x+y)+1,000z

[1] Not applicable.

where:

x = the fraction of total heat input derived from gaseous fossil fuel, and
y = the fraction of total heat input derived from liquid fossil fuel, and
z = the fraction of total heat input derived from solid fossil fuel.

(4) All span values computed under paragraph (c)(3) of this section for burning combinations of fossil fuels shall be rounded to the nearest 500 ppm.

(5) For a fossil fuel-fired steam generator that simultaneously burns fossil fuel and nonfossil fuel, the span value of all continuous monitoring systems shall be subject to the Administrator's approval.

(d) [Reserved]

(e) For any continuous monitoring system installed under paragraph (a) of this section, the following conversion procedures shall be used to convert the continuous monitoring data into units of the applicable standards (ng/J, lb/million Btu):

(1) When a continuous monitoring system for measuring oxygen is selected, the measurement of the pollutant concentration and oxygen concentration shall each be on a consistent basis (wet or dry). Alternative procedures approved by the Administrator shall be used when measurements are on a wet basis. When measurements are on a dry basis, the following conversion procedure shall be used:

$$E = CF\left[\frac{20.9}{20.9 - \text{percent } O_2}\right]$$

where:

E, C, F, and $\%O_2$ are determined under paragraph (f) of this section.

(2) When a continuous monitoring system for measuring carbon dioxide is selected, the measurement of the pollutant concentration and carbon dioxide concentration shall each be on a consistent basis (wet or dry) and the following conversion procedure shall be used:

$$E = CF_c\left[\frac{100}{\text{percent } CO_2}\right]$$

where:

E, C, F_c and $\%CO_2$ are determined under paragraph (f) of this section.

Appendix B—Performance Specifications

3. Performance Specification 1 is amended by revising paragraph 6.2 as follows:

* * * * *

6. * * *

6.2 Conformance with the requirements of section 6.1 may be demonstrated by the owner or operator of the affected facility by testing each analyzer or by obtaining a certificate of conformance from the instrument manufacturer. The certificate must certify that at least one analyzer from each month's production was tested and satisfactorily met all applicable requirements. The certificate must state that the first analyzer randomly sampled met all requirements of paragraph 6 of this specification. If any of the requirements were not met, the certificate must show that the entire month's analyzer production was resampled according to the military standard 105D sampling procedure (MIL-STD-105D) inspection level II; was retested for each of the applicable requirements under paragraph 6 of this specification; and was determined to be acceptable under MIL-STD-105D procedures. The certificate of conformance must show the results of each test performed for the analyzers sampled during the month the analyzer being installed was produced.

* * * * *

4. Performance Specification 2 is amended by revising Figure 2-3 as follows:

Test No.	Date and Time	Reference Method Samples: SO_2 Sample 1 (ppm)	NO_x Sample 1 (ppm)	NO_x Sample 2 (ppm)	NO_x Sample 3 (ppm)	NO_x Sample Average (ppm)	Analyzer 1-Hour Average (ppm)* SO_2	Analyzer 1-Hour Average (ppm)* NO_x	Difference (ppm) SO_2	Difference (ppm) NO_x
1										
2										
3										
4										
5										
6										
7										
8										
9										

Mean reference method test value (SO_2) _____ Mean reference method test value (NO_x) _____ Mean of the differences _____

95% Confidence intervals = ± _____ ppm (SO_2) = ± _____ ppm (NO_x)

Accuracies = $\frac{\text{Mean of the differences} + 95\% \text{ confidence interval}}{\text{Mean reference method value}} \times 100$ = ____% (SO_2) = ____% (NO_x)

* Explain and report method used to determine integrated averages

Figure 2-3. Accuracy Determination (SO_2 and NO_x)

(Secs. 111, 114, 301(a), Clean Air Act, as amended, Pub. L. 91-604, 84 Stat. 1678 (42 U.S.C. 1857c-6, 1857-9, 1857g(a))).

[FR Doc.77-2744 Filed 1-28-77;8:45 am]

federal register

MONDAY, JANUARY 31, 1977

PART XI



DEPARTMENT OF TRANSPORTATION

Coast Guard

■

BOATS AND ASSOCIATED EQUIPMENT

Safety Standards for Electrical and Gasoline Fuel Systems

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 73-217]

PART 183—BOATS AND ASSOCIATED EQUIPMENT

Safety Standards for Boat Electrical Systems

• *Purpose.* This rule contains minimum safety standards for electrical systems on boats. The purpose of the standards is to reduce the number of deaths and injuries and the amount of property damage on recreational boats caused by fires and explosions of gasoline fuel, gasoline fuel vapors, and other materials. •

BACKGROUND

On October 4, 1976, the Coast Guard published its Proposed Safety Standards for Electrical Systems. Interested persons were invited to submit written data, views or arguments concerning that notice prior to December 1, 1976.

All relevant comments were considered and several changes are included in this rule as a result of these comments. These regulations reflect the best possible accommodation of viewpoints from private citizens, surveyors, insurance companies, testing laboratories and industry.

DISCUSSION OF COMMENTS

The comments received are grouped according to the section to which they relate and are discussed below.

Section 183.401—Purpose, applicability, and effective dates. One commentor inferred that these rules are retroactive. These standards are not retroactive. The standards apply only to boats built after the effective dates of the standards.

Two commentors wanted to extend the effective date of the standards from the proposed 18 months after the date of publication to 24 months after the date of publication. The commentors want more time for electrical component manufacturers to redesign and retool their products. It is felt that there is adequate time for manufacturers to redesign and retool in order to provide electrical components that comply with these standards. In fact, many of the electrical components required in these standards are already available.

Section 183.402—Definitions. One commentor suggested the addition of alternators and auxiliary power plants in the definition of "electrical components." The commentor is concerned that by not specifically including these items in the definition they are excluded by implication. The definition cannot be all inclusive in its list of examples of electrical components to which this rule applies. Alternators and auxiliary power plants are included within the scope of these standards and must comply. Generators are listed in the definition and the term includes propulsion generators and auxiliary power plants. There is no need to add any more items to the definition.

A conflict was noticed when comparing the definition of "sheath" in § 183.402 and the requirements for rigid ducts or conduits in § 183.445(a). The conflict is discussed in the comments for § 183.445 and the definition for "sheath" is changed by the addition of the word "flexible" before the word "tubing".

Section 183.410—Ignition protection. One commentor suggested that electrical components contained within a completely watertight box assembly be excepted from the ignition protection requirements of § 183.410(a). The commentor feels that a watertight box assembly should be considered an electrical control device which is included within the scope of the definition of "electrical component" in § 183.402(c). The scope of § 183.410 allows watertight box assemblies or enclosures to isolate electrical components from gasoline fuel sources. Electrical components isolated from exposure to gasoline fuel sources by a watertight box or other means of isolation do not have to be ignition protected.

Several commentors requested clarification of § 183.410(a). Paragraph 183.410(a) requires electrical components to be ignition protected unless the electrical component is isolated from gasoline fuel sources such as fittings in vent lines, fill lines, and distribution lines. The commentors infer from § 183.410(a) that because a vent line, fill line, or distribution line is inevitably interrupted along its length by a fitting, an electrical component will have to be ignition protected even when the component is exposed to only an uninterrupted section of that vent line, fill line, or distribution line. The implication suggested by the commentors does exist in § 183.410(a), but this implication is not consistent with the intent of the rule. The intent of § 183.410(a) is to require ignition protection only for those electrical components exposed to fittings in vent lines, fill lines, or distribution lines. Section 183.410(a) is revised to properly reflect this intent.

Several commentors are concerned that § 183.410(a) is not specific enough for manufacturers to use as a guide to determine whether or not their electrical components are properly ignition protected and meet the intent of these standards. The commentors suggest that § 183.410(a) be amended to include complete test procedures or adopt by reference present industry test procedures. The inclusion of descriptive test procedures for ignition protection in this standard was considered. This approach requires extensive listing of test procedures for every different electrical component on a boat. Even then, the list cannot be all inclusive, because new electrical components may come on the market after the standards are published. The alternative is to provide a general description of ignition protection requirements to encompass all electrical components which is what § 183.410(a) accomplishes. This regulation sets minimum safety standards for recreational boating. Industry test procedures for ignition protection exceed the minimum levels of safety necessary to promote safe boating. The intent of these regulations is to provide minimum safety standards without being needlessly restrictive. The manufacturer whose product passes accepted industry tests for ignition protection will find that his product meets the requirements of this rule. The commentors' suggestions are rejected.

Some commentors indicate that the requirement in § 183.410(b)(2) that requires a deck to be able to resist a water level of 12 inches without seepage of more than one-quarter fluid ounce of fresh water per hour restricts the design of boat interiors. Further, the commentors suggest that the requirement is not consistent with § 183.410(c) because it requires decks to be more watertight than bulkheads. The intent of § 183.410(b) is to prevent gasoline fuel and fuel vapors from becoming exposed to electrical components that are not ignition protected. Sections 183.410(b)(2) and 183.410(b)(3) address the problems of vertical isolation of gasoline fuel sources from electrical components. It is agreed that § 183.410(b)(2) may be needlessly restrictive when applied to certain boats because the rule requires them to have completely watertight decks. These watertight decks prevent access by the boat operator to machinery and boat equipment normally installed below the deck. A new § 183.410(b)(2) is added to the standard to reflect the intent of § 183.410(b).

Several commentors object to § 183.410(b) because it does not allow a space that is open to the atmosphere, characteristic of open cockpit boats, to act as a means of isolation. In an open boat configuration, where the gasoline fuel sources are in the stern, there is no need to require the electrical components in the dashboard panel to be isolated or ignition protected. The space between the gasoline fuel sources and the electrical components is open to the atmosphere allowing gasoline fuel vapors to quickly dissipate. In response to those comments, therefore, a new § 183.410(b)(3) is added to the standard which allows certain spaces open to the atmosphere to be a means of isolation. Paragraph 183.410(b)(3) permits a minimum open space of 2 feet between the gasoline fuel source and the electrical component. The two foot space must be open to the atmosphere.

Several commentors questioned the apparent inconsistency and impracticability of sealing bulkheads as required by § 183.410(c). Section 183.410(c) requires a bulkhead to extend fully to other structural members with no allowance for gaps or openings between the bulkhead and the structural members to which it is attached. At the same time the section allows a one-quarter inch space around certain items that may pass through the bulkhead. The commentors indicate that in some boat configurations the requirement to seal bulkheads at their extremities is impractical because the location of the bulkhead extremities renders them inaccessible. The objective of § 183.410(c) is to provide bulkheads that prevent non-ignition protected electrical components from becoming exposed to gasoline fuel or gasoline fuel vapors. In some boat

configurations the bulkheads used for isolation have to allow the passage of certain items of equipment that are necessary for the boat to operate properly. These items include control cables, conductors, ducting, piping, and mechanical equipment. Requiring all openings in bulkheads to be sealed is impractical when considering the various boat designs, types of materials, and construction techniques used in the recreational boating industry. Provision has been made for various boat design configurations by allowing a one-quarter inch spacing around certain items that pass through bulkheads that are used for isolation. Allowance for any more unnecessary openings in these bulkheads is unacceptable when the objective of the standard is to limit the passage of gasoline fuel and gasoline fuel vapors.

Two commentors requested clarification of the 12 inch or one-third maximum height measurement required in § 183.410(c)(2). The commentors want to know where the measurement is made on the bulkhead. The commentors also infer from § 183.410(c)(2) that a hatch, door, or access panel in the bulkhead must be watertight along its whole perimeter. The intent of § 183.410(c)(2) is to measure the 12 inches or one-third the maximum height of the bulkhead in a vertical direction from the lowest point of the bulkhead in the boat. Section 183.410(c)(2) is changed and a new § 183410(c)(3) is added to clarify the isolation requirements of catches, doors, or access panels installed in bulkheads. The requirements in § 183.410(c)(2) that apply to a bulkhead apply equally to a hatch, door, or access panel as if it were part of the bulkhead. The requirements in § 183.410(c)(3) that apply to openings in a bulkhead apply to doors, hatches, or access panels as if they are an item passing through an opening in the bulkhead.

Section 183.415—Grounding. One commentor indicated that the grounding requirement in § 183.415 is excessive for boats that have three or more grounded cranking motor circuits. Section 183.415 requires that the common conductor must be large enough in size throughout its length to carry the starting current of the largest cranking motor in the circuit. This requirement is not necessary when three or more grounded cranking motor circuits exist and the starting current of one or more cranking motor circuits is less than the others. The starting current carried by the common conductor when one cranking motor circuit opens would be shared by the other cranking motor circuits, and the amount of current going to each shared circuit would be inversely proportional to the size of the common conductor connected to that shared circuit. For these reasons § 183.415 is changed to require common conductor circuits, instead of a common conductor, to carry the starting current of each of the grounded cranking motor circuits. This change provides consideration for boats that have three or more grounded cranking motor circuits.

Section 183.420—Batteries. Several commentors objected to the one inch restriction for battery movement in § 183.420(a). The commentors feel that the restriction precludes the use of conventional plastic battery boxes because the battery boxes are generally oversized to allow the use of different sized batteries. Oversizing the battery boxes makes it easier to install and remove the battery. Conventional plastic battery boxes are an acceptable approach for securing batteries as long as the manufacturer supports the battery within the box so that it cannot move more than one inch.

Some commentors objected to the test requirements in § 183.420(a). They feel the pulling force and the one minute durations are excessive because some large battery installations use batteries weighing over 100 pounds and the boats carrying these batteries do not experience accelerations represented by the tests in § 183.420(a). In consideration of these comments § 183.420(a) is changed by reducing the pulling force requirement to one that more realistically simulates the forces batteries are exposed to in the marine environment. To provide a more consistent test, § 183.420(a) specifies that the pulling force be applied through the center of gravity of the battery.

Some commentors are concerned with the requirement for shielding fuel lines and fuel system components in § 183.420(c). They feel that the shielding requirements of that paragraph restrict the design of small engine compartments. The commentors suggest that plastic battery boxes be allowed as a means of dielectric shielding. The intent of § 183.420(c) is to prevent the battery terminals from coming in contact with fuel lines or fuel system components when the battery is being installed or removed. Twelve inches provide enough room to safely install and remove the battery without coming in contact with fuel lines and fuel system components. Fuel lines and fuel system components within 12 inches of the battery side surfaces do not present a hazard as do the fuel lines and fuel system components above the battery because the process of installing and removing batteries involves a vertical displacement of the battery. For this reason § 183.420(c) is changed to require only those fuel lines and fuel system components within 12 inches of the battery top surface to dielectrically shielded. As a result of this change to § 183.420(c), the suggestion by the commentors to allow plastic battery boxes to act as the dielectric shield is no longer necessary. A plastic battery top, however, is not an acceptable shield because it is removed when the battery is installed or removed and it therefore, does not provide the protection required by § 183.420(c).

Two commentors suggested that § 183.420(b) apply only to the positive battery terminal instead of both terminals because the negative terminal is already grounded. The commentors' concept is correct, but it is felt that a more general requirement is necessary to eliminate accidental short circuiting of exposed battery terminals. Section 183.420(b) is changed to require that all ungrounded battery terminals be protected.

Several commentors objected to § 183.420(e) because they feel it implies that a means must be provided in the boat to physically collect hydrogen gas discharged by a battery and remove it from the boat. The commentors state that this is excessive when normal engine compartment ventilation can adequately remove the discharged hydrogen gas. The intent of § 183.420(e) is to prevent discharged hydrogen gas from accumulating within the boat to the extent of it becoming an explosion hazard. Section 183.420(e) is changed to prohibit discharged hydrogen gas from accumulating within the boat.

Section 183.425—Conductors: General. One commentor objected to the provision in § 183.425(d) allowing No. 18 AWG conductors to be used on boats. The commentor believes No. 18 AWG conductors are too small because they lack sufficient mechanical strength. The commentor also points out that § 183.425(d) is not consistent with industry standards which require conductors to be at least No. 16 AWG. This standard is intended to provide minimum levels of safety without being needlessly restrictive. No. 18 AWG conductors do not have as much strength as No. 16 AWG conductors. Because of this fact § 183.420(d) permits the use of No. 18 AWG conductors only in bundles with other conductors. The support requirements in § 183.445(a) provide additional mechanical strength for the No. 18 AWG conductors. Mechanical strength is also provided by the terminations of the other conductors and the bundling effect in a sheath by relieving any unusual strains imposed upon the No. 18 AWG conductor. Section 183.425 requires all other conductors installed separately to be at least No. 16 AWG.

One commentor suggested clarification of the intent of § 183.425 because paragraphs (d), (e), and (f) of § 183.425 are not consistent. The commentor states that according to paragraphs (d), (e), and (f) of § 183.425, a No. 18 AWG conductor is allowed to run singly as long as it has a sheath. This is not the intent of § 183.425. To make the intent clear, § 183.425 is changed to permit the use of No. 18 AWG conductors only when they are in a sheath with other conductors.

One commentor questioned whether or not the exception of communication systems in § 183.425(g) includes stereo tape, radio, and record systems. These systems use conductors smaller than No. 18 AWG and are not an identifiable electrical hazard. For this reason the term "communication systems" as used in these regulations includes stereo tape, radio, and record systems.

One comment objected to the exception of navigation equipment in § 183.425(g) because he felt that navigation lights and their associated wiring would be excepted. Section 183.425(g), as well as §§ 183.430, 183.435, 183.445, and 183.450,

exempt electronic navigation equipment, but not other forms of navigation equipment. Accordingly, all the sections in this rule that make exception to navigation equipment are changed to except "electronic" navigation equipment.

It was noticed that § 183.425(b) may be misleading to some manufacturers. It implies that because a conductor may never carry a current greater than that allowed in Table 5 (Table 3 in proposal), the manufacturer would have to oversize his conductors to carry intermittent surge currents normally experienced during start up of electrical components. The intent of § 183.25(b) is to allow conductors to carry continuous currents that do not exceed the amperages allowed in Table 5. An intermittent surge current is not considered to be a continuous current that a conductor normally experiences and does not present a hazardous situation.

Section 183.430—Conductors in circuits of less than 50 volts. Two commentors recommended adoption of a new Society of Automotive Engineers Standard (SAE), J378b dated November 1976, which provides conductor insulating material standards accepted by the boating and electrical conductor industries. This new standard applies to conductors used in circuits of less than 50 volts. The commentors' recommendation has been reviewed and accepted. SAE Standard J378b represents a new development in industry standards for conductors that is acceptable. Section 183.430(a)(2) is changed to reference the insulation temperature rating requirements of SAE Standard J378b dated November 1976, in addition to the requirements of SAE Standards J1127 and J1128 dated November 1975.

One commentor objected to the exception of pigtails of less than seven inches of exposed length from the conductor insulation requirements of § 183.430. The commentor believes that the excepted pigtails are susceptible to damage and could be an electrical hazard. The comment is not accepted. Pigtails of less than seven inches of exposed length are not an identifiable hazard that can adversely affect boating safety.

Section 183.435—Conductors in *circuits of 50 volts or more.* One commentor objected to the reference to Underwriters Laboratories listing in § 183.435(a)(4) because there are other recognized independent testing laboratories that provide the same services as Underwriters Laboratories. Recognized independent testing laboratories have the same opportunity to test products for compliance with these regulations as does Underwriters Laboratories. These independent laboratories also provide listings of acceptable marine products. Section 183.435(a)(4) is changed in response to this comment to allow recognized independent testing laboratories which publish accepted industry listings, and have labeling and followup services, an opportunity to list items that meet the requirements of these regulations.

One commentor requested clarification of § 183.435(b). Paragraph 183.435(b) requires that conductors in circuits of 50 volts or more must have their allowable current carrying capacities reduced when they are bundled together with other similar conductors. The commentor states that these requirements imply that a conductor in a circuit of 50 volts or more must have its current capacity reduced when it is in a duct, bundle, or cable with other conductors regardless of the voltage rating of other conductors. The intent of § 183.435(b) is to reduce the current carrying capacity of conductors in circuits of 50 volts or more if they are in a duct, bundle, or cable with two or more conductors that are also in circuits of 50 volts or more. Paragraph 183.435(b) is changed to properly reflect this intent by rewording the paragraph. Note 2 to Table 5 (Table 3 in proposal) is changed to be consistent with the change to § 183.435(b).

Section 183.445—Conductors: Support and protection. Several commentors opposed the requirement in § 183.445(a) for ducts or conduits to be self draining. The requirement for self draining ducts and conduits provides a means for moisture in ducts and conduits to drain so that conductors in them do not become exposed to excessive moisture. The commentors state that self draining ducts and conduits violate the bulkhead isolation requirements of § 183.410 and that they create a hazard if they drain into junction boxes or onto electrical terminations. The requirement for self draining ducts and conduits has been reconsidered in light of these comments. The conductors required in §§ 183.430 and 183.435 are moisture resistant. Ducts and conduits that carry these moisture resistant conductors are not an identifiable hazard, even if moisture is entrapped in these ducts and conduits. The requirement that ducts and conduits be self-draining is removed from § 183.445(a).

A problem was discovered when the definition of "sheath" in § 183.402 was compared with § 183.445(a) which permits ducts and conduits to support conductors as an alternative to supporting conductors every 18 inches with clamps or straps. The definition of "sheath" in § 183.402(h) includes tubing which manufacturers consider to be a type of conduit. A sheath is not a form of conduit, and, therefore, it must be supported by clamps or straps every 18 inches as required in § 183.445(a). The intent of § 183.445(a) is that ducts and conduits are rigid, they can support conductors, independent of clamps or straps, because they are rigid. Most tubing and other materials used as a sheath are flexible and do not provide support for conductors. To remove the ambiguity the definition of "sheath" in § 183.402(h) has been changed to include flexible tubing. Rigid ducts and conduits are specified in § 183.445(a) as a means of conductor support.

In § 183.445(a) it was discovered that ducts and conduits were not included in the requirement that conductor supports be designed to prevent chafing and damage to conductors. Ducts and conduits are abrasive. Section 183.445(a) is changed to include ducts and conduits in this requirement.

Section 183.450—Conductors: Termination. Two commentors objected to § 183.450(a). They contend that the paragraph is too restrictive because it allows only closed ring, eyelet, or captive spade connectors for terminating conductors. The commentors point out that there are other connectors that meet the intent of the paragraph. The intent of § 183.450 is to require connectors to have a means of mechanical locking that prevents them from coming off the terminal or stud to which they are attached if the nut on the terminal or stud accidentally loosens. For these reasons, and in response to this comment, paragraph 183.450(a) is changed, and a new § 183.450(b) is added to provide additional general requirements that allows the use of other connectors that meet the intent of § 183.450.

One commentor suggested that the scope of § 183.450(f) (§ 183.450(e) in the proposal) be broadened to include the output terminals on alternators. Output terminals on alternators are continuously energized and, as a result, should be protected from short circuiting. The output terminal on alternators should be required to be shielded from accidental short circuiting or meet the requirements of § 183.455 for overcurrent protection. In response to this comment the scope of § 183.450(f) is changed to require all ungrounded terminals or studs that are continuously energized to meet the requirements of § 183.450(f) if they are not protected from overcurrent in accordance with § 183.450(f).

Two commentors suggested that § 183.450(g) (§ 183.450(f) in proposal) be changed to make it clear that the intent of the paragraph is to prevent accidental short circuiting between terminations from different circuits. The commentors indicate that it is a common safe practice for boat manufacturers to intentionally connect two ungrounded current carrying conductors from the same circuit at the same terminal. It is needlessly restrictive to require that the terminations be protected from each other when there is no hazard because they are in the same circuit. In response to these suggestions, § 183.450(g) is changed by specifying that ungrounded terminations from different circuits be protected from accidental short circuiting with each other.

Section 183.455—Overcurrent protection: *General.* One commentor proposed a change to § 183.455(e) to except conductors in secondary circuits of ignition systems. The commentor pointed out that conductors in secondary circuits of ignition systems are intentionally ungrounded in order to maintain an arc at the spark plug. Without the arc the engine would not run. Accordingly, overcurrent protection in these conductors would interrupt the arc and prevent the engine from running. It is not the purpose of § 183.455 to require overcurrent protection in secondary circuits of ignition systems. In response to the comment

conductors in secondary circuits of ignition systems are excepted from the requirements of § 183.455.

One commentor suggested the rules include standards for the time/current tripping characteristics of circuit breakers used to meet the requirements of §§ 183.455 and 183.460. The time/current tripping characteristics of a circuit breaker are the characteristics that determine the time that it takes the circuit breaker to open once the current in the circuit exceeds the current for which the breaker is rated. The commentor has a knowledge of the amperages allowed for conductors in the National Electrical the NEC, Table 5 does not require a re- in using low amperage, household type circuit breakers. The commentor's knowledge and experience suggests to him that the amperages allowed in Table 5 for two conductors that are bundled together, which are higher than those allowed in the NEC, combined with the time/current tripping characteristics of low amperage, household type circuit breakers, can result in conductors overheating and causing fires.

Table 5 is based on the standards in the NEC, Table 5 differs from the NEC only in relation to the amperage allowed to be carried by two conductors that are bundled together. The NEC requires a reduced amperage when two or more conductors are bundled together. Unlike the NEC, Table 5 does not require a reduced amperage in the conductors when two conductors are bundled together, but Table 5 does require reduced amperage in each conductor in a bundle of three or more conductors. The amount of reduced amperage required by Table 5 for three or more conductors in a bundle is the same as is required by the NEC for the corresponding number of conductors.

A review of industry data on conductor temperatures when conductors are carrying continuous currents indicates that there is no hazardous temperature rise for the two conductor combination. The time/current tripping characteristics of low amperage, household type circuit breakers is not an identifiable hazardous situation when considering the two conductor combination. The commentor does not provide any supporting data and the Coast Guard has no reported fire and explosion accidents attributed to circuit breakers failing to protect conductors. For these reasons, this rule is not changed in response to the comment.

Section 183.460—Overcurrent protection: Special applications. Some commentors objected to §§ 183.460 (a), (b), and (c) because they appear to violate the intent of § 183.455. The intent of § 183.455 is to protect conductors from overcurrent while §§ 183.460 (a), (b), and (c) are concerned with protecting electrical components from overcurrent.

It is not the intent of these standards to protect electrical components because they have not been identified as a major source of electrical fires due to overcurrent. The comments are accepted. Review of §§ 183.460 (a), (b), and (c) indicates that these paragraphs are inconsistent with § 183.455 and they are not needed. Paragraphs 183.460 (a), (b), and (c) of the proposal are removed from this rule.

One comment objected to § 183.460(d) because it does not require a master switch at the storage battery. The commentor feels the omission of a master switch creates a safety hazard because there is no easy way to disconnect the battery in an emergency. The merits of this comment are being considered and may become the subject of future rulemaking.

One commenter objected to the provision in § 183.460(d) that allows overcurrent protection for a conductor to be located 72 inches away from the battery. The commentor argues that the 72 inches of unprotected conductor can worsen a fire because the insulation could be burned off, exposing the electrically hot conductor. The unprotected hot conductor could then short circuit causing a fire or ignite materials not yet burning. The commentor suggests that the overcurrent protection should be located within 12 inches of the battery to reduce the length of unexposed conductors. This comment is rejected. The safest alternative to eliminating an unprotected conductor is to require an overcurrent protection device on the battery. However, this type of installation is impractical because the inaccessible location of the battery and the possibility of damage to the overcurrent protection device by battery acid vapors. The degree of this hazard was carefully considered during the development of these standards. The 72 inch provision is reasonable, within the scope of these minimum safety standards, and does not adversely affect boating safety.

One commentor objected to § 183.460 (d) and suggested it be deleted because it requires a circuit breaker to be located within the engine room which exposes the circuit breaker to contaminating vapors and condensation that can cause premature failure of the circuit breaker as well as unnecessary nuisance outages. The comment is rejected because premature failure of a circuit breaker overcurrent protection devices and nuisance outages can be prevented by the use of a sealed circuit breaker.

Some commentors wanted clarification of § 183.460(d). They inferred from § 183.460(d) that a circuit breaker can be located more than 72 inches from the battery if the circuit breaker has a switch that disconnects the battery. The commentors feel that requiring a circuit breaker to have a switch restricts the design of circuit breakers and is not consistent with the intent of the paragraph. The intent of § 183.460(d) is to protect ungrounded supply conductors from storage batteries by locating an overcurrent protection device within 72 inches of the battery. Paragraph 183.460(d) does allow the overcurrent protection device to be located more than 72 inches from the battery if the circuit which the device is protecting also has a switch that disconnects the battery. This intent is made clear by deleting the third use of the word "breaker" in § 183.460(d). The switch to disconnect the battery does not have to be a part of the overcurrent protection. As long as the switch that disconnects the battery is in the circuit between the battery and the electrical load, the overcurrent protection can be located more than 72 inches from the battery.

Section 183.465—Conductors: Insulating materials. Two commentors suggested deletion of § 183.465 and Tables 4 and 5 in the proposal, if SAE Standard J378b is adopted in § 183.430 and because the National Electric Code is referenced in § 183.435. The commentors point out that SAE standard J378b, dated November, 1976, and the National Electric Code already specify insulating material standards. The comments are accepted. Review of these standards indicates that § 183.465 can be deleted from these standards without adversely affecting boating safety. Section 183.465 and Tables 4 and 5 are deleted from this rule.

Section 183.470—Caps, boots, and nipples. Several commentors suggested that the test requirements in § 183.470 be deleted because caps, boots, and nipples currently used by the boating and automotive industries are not capable of meeting the requirements of § 183.470. The technical content of § 183.470 was developed from standards used by these industries for testing high voltage conductor insulators made from materials similar to the materials used to make caps, boots, and nipples. There are no accepted industry standards, as such, for caps, boots, and nipples. The commentors indicated that the Society of Automotive Engineers is developing a standard for caps, boots, and nipples. We have reviewed the basic intent of the SAE standard and it is acceptable. The SAE standard, however, will not be completed for several months. For these reasons § 183.-470 will be published at a later date.

The Tables in this Subpart I are renumbered because of the renumbering of tables in the preceding subparts of Part 183 and because of the deletion from this rule of proposed Tables 4 and 5.

It was noticed that the headings of §§ 183.435 and 183.460 as they are listed in the table of contents at the beginning of the regulations were not identical to the headings of these sections in the text of the regulations. The headings in the table of contents are changed by correcting the wording so that they are identical with the headings of §§ 183.435 and 183.460 in the text of the regulation.

Standards and Codes

The standards and codes referenced in these regulations have been approved for incorporation by reference by the Director of the Federal Register, and they are on file in the Federal Register Library.

Preparation of Compliance Guideline

Comments were received requesting more detailed definitions and information regarding the intent of many of the sections in this subpart. To the extent that it has been feasible, the regulations have been modified to be more specific. In other instances it has not been possible to change the regulation because a suggested change would impose restric-

tions on a manufacturer which would prohibit him from developing new materials and assembly methods.

The Coast Guard recognizes that a regulation of this magnitude is complex. For that reason a grant was given to the American Boat and Yacht Council, Inc. (ABYC). Under the grant, the ABYC is preparing a compliance guideline for these regulations. The guideline will contain explanatory and interpretive information, illustrations, and diagrams to aid manufacturers in complying with the regulations. The guideline will not prescribe the method a manufacturer must follow to comply with the regulations, but it will be a guide to methods that, if followed, will be accepable to the Coast Guard as meeting the intent and purpose of these rules.

The Coast Guard is working closely with ABYC in the preparation of these guidelines. Attention is being given specifically in areas where public comments indicated that additional information is needed. The guideline will be distributed by the Coast Guard through National Technical Information Service and will be available to the public before this rule is effective.

ECONOMIC IMPACT

This rule has been reviewed for economic effects under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200). The regulations will result in a cost to industry of approximately $1.275 million to $7.65 million per year. These industry costs will result in an increased cost to the consumer of 0.09 percent to 2.8 percent, depending on the size of the boat purchased. The benefit of the regulations is the reduction in the amount of property damage, the numbers of injuries, and the number of lives lost as a result of fewer gasoline fires and explosions.

Effective date: These rules become effective on August 1, 1977.

Authority: These regulations are adopted under authority of the Federal Boat Safety Act of 1971 (46 U.S.C. 1454). The authority vested in the Secretary of the Department of Transportation by the Act is delegated to the Commandant of the Coast Guard at 49 CFR 1.46(n)(1).

In consideration of the foregoing, Part 183 of Subchapter S of Chapter I, Title 33, Code of Federal Regulations, is amended by adding a new subpart I to read as set forth below.

I have determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 25, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

Subpart I—Electrical Systems

GENERAL

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183.460 Overcurrent protection: special applications.

AUTHORITY: 46 U.S.C. 1454; 49 CFR 1.46(n)(1).

Subpart I—Electrical Systems

GENERAL

§ 183.401 Purpose, applicability, and effective dates.

(a) This subpart applies to all boats that have gasoline engines for electrical or mechanical power or propulsion, except outboard engines.

(b) The sections in this subpart are effective on the following dates:

August 1, 1977: § 183.401, § 183.405, § 183.420, § 183.445.
February 1, 1978: § 183.415, § 183.425, § 183.430, § 183.435, § 183.440, § 183.450, § 183.455, § 183.460.
August 1, 1978: § 183.410.

§ 183.402 Definitions.

As used in this subpart—(a) "ASTM" means American Society for Testing and Materials. ASTM standards in this subpart may be examined at Coast Guard Headquarters, Room 4314, Trans Point Building, 2100 2nd St., SW., Washington, D.C. 20590 and may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(b) "AWG" means American Wire Gauge.

(c) "Electrical component" means electrical equipment such as, but not limited to, conductors, solenoids, motors, generators, alternators, distributors, resistors, appliances and electrical control devices.

(d) "IEEE" means Institute of Electrical and Electronic Engineers, Inc. IEEE standards in this subpart may be examined at Coast Guard Headquarters, Room 4314, Trans Point Building, 2100 2nd St., SW., Washington D.C. 20590 and may be obtained from the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, N.Y. 10017.

(e) "NFPA" means National Fire Protection Association. NFPA standards in this subpart may be examined at Coast Guard Headquarters, Room 4314, Trans Point Building, 2100 2nd St., SW., Washington, D.C. and may be obtained from the National Fire Protection Association, 470 Atlantic Ave., Boston, MA 02110.

(f) "Pigtails" means external power conductors or wires that are part of electrical components and appliances, such as bilge pumps, blowers, lamps, switches, solenoids, and fuses.

(g) "SAE" means Society of Automotive Engineers, Inc. SAE standards in this subpart may be examined at Coast Guard Headquarters, Room 4314, Trans Point Building, 2100 2nd St., SW, Washington, D.C. 20590 and may be obtained from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096.

(h) "Sheath" means a material used as a continuous protective covering, such as electrical tape, molded rubber, molded plastic, or flexible tubing, around one or more insulated conductors.

(i) "UL" means Underwriters Laboratories Inc. UL standards in this subpart may be examined at Coast Guard Headquarters, Room 4314, Trans Point Building, 2100 2nd St., SW, Washington, D.C. 20590 and may be obtained from Underwriters Laboratories Inc., 207 East Ohio Street, Chicago, IL 60611.

§ 183.405 General.

Each electrical component on a boat to which this subpart applies must meet the requirements of this subpart unless the component is part of an outboard engine or part of portable equipment.

MANUFACTURER REQUIREMENTS

§ 183.410 Ignition protection.

(a) Each electrical component must not ignite a propane gas and air mixture that is 4.25 to 5.25 percent propane gas by volume surrounding the electrical component when it is operated at each of its manufacturer rated voltages and current loadings, unless it is isolated from gasoline fuel sources, such as engines, and valves, connections, or other fittings in vent lines, fill lines, distribution lines or on fuel tanks, in accordance with paragraph (b) of this section.

(b) An electrical component is isolated from a gasoline fuel source if—

(1) A bulkhead that meets the requirements of paragraph (c) of this section is between the electrical component and the gasoline fuel source;

(2) The electrical component is—

(i) Lower than the gasoline fuel source and a means is provided to prevent fuel and fuel vapors that may leak from the gasoline fuel source from becoming exposed to the electrical component; or

(ii) Higher than the gasoline fuel source and a deck or other enclosure is between it and the gasoline fuel source; or

(3) The space between the electrical component and the gasoline fuel source is at least two feet and the space is open to the atmosphere.

(c) Each bulkhead required by paragraph (b)(1) of this section must—

(1) Separate the electrical component from the gasoline fuel source and extend both vertically and horizontally the distance of the open space between the fuel source and the ignition source;

(2) Resist a water level that is 12 inches high or one-third of the maximum height of the bulkhead, whichever is less, without seepage of more than one-quarter fluid ounce of fresh water per hour; and

(3) Have no opening located higher than 12 inches or one-third the maximum height of the bulkhead, whichever

is less, unless the opening is used for the passage of conductors, piping, ventilation ducts, mechanical equipment, and similar items, or doors, hatches, and access panels, and the maximum annular space around each item or door, hatch or access panel must not be more than one-quarter inch.

§ 183.415 Grounding.

If a boat has more than one gasoline engine, grounded cranking motor circuits must be connected to each other by a common conductor circuit that can carry the starting current of each of the grounded cranking motor circuits.

§ 183.420 Batteries.

(a) Each installed battery must not move more than one inch in any direction when a pulling force of 90 pounds or twice the battery weight, whichever is less, is applied through the center of gravity of the battery as follows:

(1) Vertically for a duration of one minute.

(2) Horizontally and parallel to the boat's center line for a duration of one minute fore and one minute aft.

(3) Horizontally and perpendicular to the boat's center line for a duration of one minute to starboard and one minute to port.

(b) Each battery must be installed so that metallic objects cannot come in contact with the ungrounded battery terminals.

(c) Each metallic fuel line and fuel system component within 12 inches and above the horizontal plane of the battery top surface as installed must be shielded with dielectric material.

(d) Each battery must not be directly above or below a fuel tank, fuel filter, or fitting in a fuel line.

(e) Hydrogen gas discharged by a battery must not accumulate in the boat.

(f) The positive terminal of each battery must be identified by the letters "POS", or "P", or the symbol "+" marked on the terminal or on the battery case near the terminal.

(g) Each battery terminal connector must not depend on spring tension for its mechanical connection to the terminal.

§ 183.425 Conductors: general.

(a) Each conductor must be insulated, stranded copper.

(b) Except for intermittent surges each conductor must not carry a current greater than that specified in Table 5 for the conductor's gauge and temperature rating.

(c) For conductors in engine spaces, amperages must be corrected by the appropriate correction factor in note 1 of Table 5.

(d) Each conductor in a multiconductor sheath must be at least a No. 18 AWG conductor.

(e) Each conductor installed separately must be at least a No. 16 AWG conductor.

(f) Each No. 18 AWG conductor in a multiconductor sheath may not extend out of the sheath more than 30 inches.

(g) This section does not apply to communication systems; electronic navigation equipment; resistance conductors that control circuit amperage; high voltage secondary conductors and terminations that are in ignition systems; pigtails of less than seven inches of exposed length; and cranking motor conductors.

TABLE 5.—*Allowable amperage of conductors*

Conductor size (AWG)	Temperature rating of conductor insulation						
	60° C (140° F)	75° C (167° F)	80° C (176° F)	90° C (194° F)	105° C (221° F)	125° C (257° F)	200° C (392° F)
18	10	10	15	20	20	25	25
16	15	15	20	25	25	30	35
14	20	20	25	30	35	40	45
12	25	25	35	40	45	50	55
10	40	40	50	55	60	70	70
8	55	65	70	70	80	90	100
6	80	95	100	100	120	125	135
4	105	125	130	135	160	170	180
3	120	145	150	155	180	195	210
2	140	170	175	180	210	225	240
1	165	195	210	210	245	265	280
0	195	230	245	245	285	305	325
00	225	265	285	285	330	355	370
000	260	310	330	330	385	410	430
0000	300	360	385	385	445	475	510

NOTES

1. See the following table:

	60° C (140° F)	75° C (167° F)	80° C (176° F)	90° C (194° F)	105° C (221° F)	125° C (257° F)	200° C (392° F)
Temperature rating of conductor	0.58	0.75	0.78	0.82	0.85	0.89	1.00

2. See the following table:

Number of current carrying conductors:	*Correction factor*
3	0.70
4 to 6	.60
7 to 24	.50
25 and above	.40

§ 183.430 Conductors in circuits of less than 50 volts.

(a) Each conductor in a circuit that has a nominal voltage of less than 50 volts must—

(1) Meet the requirements of § 183.435; or

(2) Meet—

(i) The insulating material temperature rating requirements of SAE Standard J378b dated November 1976; and

(ii) SAE Standard J1127 dated November 1975, or SAE Standard 1128 dated November 1975.

(b) This section does not apply to communication systems; electronic navigation equipment; resistance conductors that control circuit amperage; and pigtails of less than seven inches of exposed length.

§ 183.435 Conductors in circuits of 50 volts or more.

(a) Each conductor in a circuit that has a nominal voltage of 50 volts or more must be—

(1) A conductor that has insulation listed and classified moisture resistant and flame retardant in Article 310, NFPA No. 70–1975, National Electric Code 1975;

(2) A flexible cord type SO, STO, ST, SJO, SJT, or SJTO listed in Article 400, NFPA No. 70–1975, National Electric Code 1975;

(3) A conductor that meets IEEE Std. 45–1971, dated December 3, 1970;

(4) A conductor listed for marine use by an independent testing laboratory which provides listing, labeling, and follow-up service; or

(5) A conductor that meets the mechanical water absorption and flame retardant standards of UL Standard 83, dated July 8, 1976.

(b) Where the nominal circuit voltage of each of three or more current carrying conductors in a duct, bundle, or cable is 50 volts or more, the amperages of each of those conductors must not exceed the value in Table 5 multiplied by the correction factor in note 2 to Table 5 for the number of conductors that carry 50 volts or more.

(c) This section does not apply to communication systems; electronic navigation equipment; resistance conductors that control circuit amperage conductors in secondary circuits of ignition systems; and pigtails of less than seven inches of exposed length.

§ 183.440 Secondary circuits of ignition systems.

(a) Each conductor in a secondary circuit of an ignition system must meet SAE Standard J557, dated January, 1968.

(b) The connection of each ignition conductor to a spark plug, coil, or distributor must have a tight fitting cap, boot, or nipple.

§ 183.445 Conductors: support and protection.

(a) Each conductor or group of conductors must be supported by clamps or straps not more than 18 inches apart unless the conductor or group of conductors is enclosed in a rigid duct or conduit. The clamps, straps, ducts, or conduits must be designed to prevent chafing or damage to the conductor insulation.

(b) If a conductor or group of conductors is connected between two components that can move in relation to each other, each conductor or group of con-

ductors must have a loop, slack, or other strain relief.

(c) Each conductor or group of conductors that passes through a bulkhead, structural member, junction box, or other rigid surface must be protected from abrasion.

(d) This section does not apply to communications systems; electronic navigation equipment; and high voltage secondary conductors and terminations in the ignition system.

§ 183.450 Conductors: termination.

(a) Each connection to a screw terminal or stud that is outside of a junction box or enclosure must be connected by a closed ring connector, eyelet connector, captive spade connector, mechanical locking connector, or spring locking connector.

(b) Each stripped conductor connected to a compression screw terminal that is outside a junction box or enclosure must be secured mechanically to provide strain relief for the stripped conductor connection.

(c) Each single friction connector, spring type connector, and multi-connector plug that is outside of a junction box or enclosure must not separate if subjected to a six pound tensile force along the axial direction of the connector for one minute.

(d) A soldered connection must not be the sole means of connection between two or more conductors or between a conductor and a connector, except a conductor may be soldered to a connector that joins the conductor to a battery terminal or stud, if the length of the soldered joint is at least 1.5 times the diameter of the stranded portion of the battery conductor.

(e) Each connection that is outside of a junction box and that is used to join conductors to each other or that is used to join a conductor to a connector must not break when subjected for 10 minutes to a tensile force shown in Table 6 for the smallest conductor size in the connection.

(f) Each ungrounded terminal or stud that is continuously energized must meet § 183.455 or must have a boot, nipple, cap, cover, or shield that prevents accidental short-circuiting at the terminals or studs.

(g) Each termination composed of an ungrounded current carrying conductor, terminal fitting, and connector must be protected from accidental short circuiting with—

(1) Another termination from another circuit composed of an ungrounded current carrying conductor, terminal fitting, and connector; or

(2) Any metal that is grounded.

(h) A conductor must not be joined to another conductor by a wire nut or wire screw.

(i) This section does not apply to communication systems and electronic navigation equipment.

§ 183.455 Overcurrent protection: general.

(a) Each ungrounded current-carrying conductor must be protected by a manually reset, tripfree circuit breaker or fuse.

(b) A manually reset, tripfree circuit breaker or fuse must be—

(1) At the source of power for each conductor;

(2) At the point where the conductor size is reduced to a smaller gauge; or

(3) At the origin of a circuit, if the circuit breaker or fuse has a current rating that prevents overloading of the smallest conductor in the circuit.

(c) The current rating of each circuit breaker or fuse must not exceed—

(1) For circuits of less than 50 volts, 150% of the value of the amperage in Table 5 for the conductor size it is protecting; and

(2) For circuits of 50 volts or more, the value of the amperage in Table 5 for the conductor size it is protecting. If this value does not correspond to a standard size or rated circuit breaker or fuse the next larger size or rated circuit breaker or fuse may be used if it does not exceed 150% of the allowed current capacity of the conductor.

(d) The voltage rating of each circuit breaker or fuse must not be less than the nominal circuit voltage of the circuit it is protecting.

(e) This section does not apply to resistance conductors that control circuit amperage; conductors in secondary circuits of ignition systems; pigtails of less than seven inches of exposed length; and power supply conductors in cranking motor circuits.

TABLE 6.—TENSILE TEST VALUES FOR CONDUCTOR SPLICES

(CONDUCTOR-CONDUCTOR AND CONDUCTOR-CONNECTOR JOINTS)

Wire size (AWG):	*Tensile force pounds*
18	10
16	15
14	30
12	35
10	40
8	45
6	50
5	60
4	70
3	80
2	90
1	100
0	125
00	150
000	175
0000	225

§ 183.460 Overcurrent protection: special applications.

(a) Each ungrounded supply conductor from a storage battery must have a manually reset, tripfree circuit breaker or fuse, unless the supply conductor is in the main power feed circuit from the battery to an engine cranking motor. The circuit breaker or fuse must be within 72 inches of the battery measured along the conductor, unless the circuit has a switch that disconnects the battery.

(b) Each ungrounded output conductor from an alternator or generator, except for self-limiting alternators or generators, must have a circuit breaker or fuse that has a current rating that does not exceed 120 percent of the maximum rated current of the alternator or generator at 60° C.

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CGD 74-209)

PART 183—BOATS AND ASSOCIATED EQUIPMENT

Safety Standards for Boat Gasoline Fuel Systems

• *Purpose.* This rule contains minimum safety standards for fuel systems on boats. The purpose of the rule is to reduce the number of deaths and injuries and the amount of property damage caused by fires and explosions of gasoline on boats. •

BACKGROUND

On September 30, 1976, the Coast Guard published its Proposed Safety Standards for Boat Gasoline Fuel Systems. Interested persons were invited to submit written data, views, or arguments concerning that notice prior to December 1, 1976.

All relevant comments were considered and several changes are made to the rule as a result of the comments. These regulations reflect the best possible accommodation of viewpoints from industry, surveyors, insurance companies, testing laboratories and private citizens.

DISCUSSION OF COMMENTS

The comments received are grouped according to the section to which they relate and are discussed below.

Section 183.501—Applicability. One commentor on § 183.501 requested that more time be granted before compliance is required with §§ 183.542 and 183.568 Section 183.582 deals with pressure tests for fuel systems and § 183.568 contains requirements for anti-siphon protection. The commentor requested the additional time because of possible tooling changes that may be necessary to comply with § 183.582 and because of the unavailability of the anti-siphon valves required by § 183.568. This comment is not accepted. The anti-siphon valves required by § 183.568 are commercially available, allowing boats to comply with this section immediately. Section 183.582(e) is, however, modified by excepting from the required examination each connection at fill and vent fittings. This modification of the rule eliminates the need for tooling changes.

One commentor requested that inboard boats with open engine installations be exempted from this rule because outboard engines are exempted. This comment is rejected. Even if the absence of an engine cover reduces fuel vapors, fuel leaks still occur, allowing fuel to leak into the boat where it can be ignited by electrical devices or other sources of ignition in the boat. Boats with outboard engines are exempted from these rules because outboard boats have a significantly lower rate of accidents involving fires and explosions of fuel.

One comment from an industry association suggested that outboard boats that have permanent fuel tanks be cov-

ered by these rules because these fuel tank installations are similar to those on inboard boats. This comment is rejected because present statistics show that the accident rate is too low, when compared with the cost of compliance, to warrant the inclusion of outboard boats.

Section 183.505—Definitions. One commentor pointed out that the specification for the fuel hoses in § 183.505 is too vague because it refers only to SAE Standard J30B. The SAE Standard J30B describes four different types of hoses, and specifies different test criteria for each application to which the hose is subjected. Specifically the commentor suggests that the fuel line should be specified SAE J30RI, one of the four types of hose in the SAE Standard. This comment is not accepted because it would prohibit the use of the other types of hoses which are specified in SAE J30B.

One commentor claimed that the description of the "USCG Type A Hose" and "USCG Type B Hose" in § 183.505 does not clearly state to what extent the SAE Standard has to be followed. The proposed § 183.505 was worded in such a way to require compliance with both the performance requirements and the construction dimensions of the SAE Standard. In response to this comment the word "performance" is added to the description to clarify that the requirement is to comply only with the performance requirements of the SAE Standard.

One commentor pointed out that the proposed rule also referred to a SAE J30B standard dated August 1973. The SAE J30B standard was recently replaced by SAE J30C, dated March 1976. The reference in § 183.505 to the SAE J30B has been changed to require compliance with the SAE J30C. Because Military Specification MIL P-2192913 is added to § 183.516(a)(2), a definition of the term "Military Specification" and a statement of the specification's availability are added to § 183.505.

Section 183.510—Fuel tanks. One commentor objected to the requirement in § 183.510 for mechanical testing of fuel tanks and proposed that these tests be deleted because tanks can be built sufficiently strong without the need to perform costly tests on them to determine their actual strength. This comment is rejected because mechanical tests are necessary to determine if a tank can survive the physical stresses encountered in the marine environment.

Several comments were received requesting the deletion of §§ 183.510 (d)(1) and (e)(1). Paragraphs 183.510 (d)(1) and (e)(1) require fuel tanks with a capacity of 25 gallons or more to be shock tested under § 183.584. The commentors argued that the shock test is not realistic because it simulates conditions that are more severe than the conditions that boats encounter in normal use. This comment is accepted because tests have shown that the proposed test does not simulate actual conditions. For this reason the requirement that tanks with capacities of 25 gallons or more be shock tested has been removed from §§ 183.510 (d) and (e)(1).

Section 183.512—Fuel tanks: prohibited materials. Two commentors asked that § 183.512 be changed to require that materials used for fuel tanks be of a specified thickness and alloy because some industry standards include those specifications. This request is rejected, because as long as the tank meets the tests for mechanical strength in § 183.510 there is no need to specify material and tank thickness.

One commentor objected to allowing metal tanks to be foamed in place. He argued that moisture can collect between the metal and the foam, causing the tank to corrode. The comment is rejected. The risk of moisture collecting between the tank and the foam, causing corrosion of the tank, is reduced by restrictions on the type of materials that can be used to construct the tank and by restrictions on the type of bond that must exist between the tank surface and the foam.

Section 183.514—Fuel tanks: labels One commentor suggested that § 183.514 should require the tank label to be placed on the tank where it can be easily inspected. The comment is rejected because a tank manufacturer cannot know which, if any, surface on the tank will be visible once the tank is installed.

Another commentor pointed out that § 183.514(b)(6), which requires the fuel tank label to include shock test classification in "g's," if applicable, be deleted as because the requirement is redundant in light of § 183.514(b)(8), which requires that a tank be installed in a location determined by the "g" load for which it has been tested. This comment is accepted. Section 183.514(b)(6) is removed and the subsequent paragraphs are renumbered.

Section 183.516—Cellular plastic used to encase fuel tanks. Some commentors objected to the requirement in § 183.516 that requires the use of polyurethane foam with a minimum density of 3.2 pounds per cubic foot. These commentors suggested the use of foam with a density of two pounds per cubic foot for encasing metal fuel tanks. The commentor claimed that two pounds density foam is sufficiently strong for encasing fuel tanks. The merits of these comments have been carefully reviewed and are rejected. The heavier density foam is needed for adequate compression strength and minimum water absorption.

One commentor suggested that ASTM Specification C-272 in § 183.516(b) of the proposal be replaced by Military Specification MIL P-21929B, a standard that is widely used by the boating industry and the military. Like the Military Specification, the ASTM Specification sets a limit on the amount of water that can be absorbed by cellular plastic foam. Most cellular plastic foams manufactured today, the commentor pointed out, absorb more water than is allowed to be absorbed under the ATSM standard. All of these foams, however, are able to meet the water absorption requirements of Military Specification MIL P-21929B. Because this rule sets only minimum acceptable safety standards for boats and because the Military Specification is an acceptable standard for marine use, it is substituted for the ASTM standard that appeared in proposed § 183.516(b). Proposed § 183.516(b) appears as § 183.516(a)(2) in this rule.

The density specification for polyurethane foam in proposed § 183.516(d) was incorrectly specified as 3.6 pounds per cubic foot. The density specification is corrected to 3.2 pounds per cubic foot.

One commentor pointed out that the proposed rule required cellular plastic to meet two different requirements: one for compressive strength, and one for a minimum density, because the word "and" was placed between the two requirements in the proposed rule. The commentor claimed that no cellular plastic meets both requirements. He suggested that the regulations should be changed to specify that only one of the requirements has to be met. This suggestion is accepted. It has been determined that cellular plastic used to encase metallic fuel tanks is acceptable as long as it meets either the requirement for compressive strength or the requirement for a minimum density for polyurethane foam. To make this determination clear an editorial change is made by rearranging the order of the paragraphs in § 183.516.

Section 183.520—Fuel tank systems. One commentor suggested that the heading of § 183.520 be changed from "Fuel tank vents" to "Fuel tank systems", to indicate that the vents are not part of the fuel tank, but instead are part of the fuel tank system. This suggestion is accepted because ventilation of the fuel tank is achieved through a system of components such as hoses and fittings. The word "system" is added after the word "vent" in the phrase "each fuel tank must have a vent * * *" in § 183.520 (a) for the same reason. Based on this comment, the word "system" is also added to the heading of § 183.552 for this same reason.

One commentor wanted to know why § 183.522(a) prohibits fuel from blowing back through the fill fitting when a tank is between one-fourth and three-fourths full. Fuel blowback can occur before a steady flow of fuel has started to pour into a tank that is about one-fourth full or when, during refueling, the fuel in the tank reaches the three-fourth full level and begins to surge along the inside top surface of the tank. Fuel that is blown back through the fill fitting may enter the boat and come in contact with a source of ignition and cause a fire or explosion.

Some commentors claimed that a flow rate for filling a fuel tank at nine gallons per minute, required by § 183.522 (b), is too high and should be lowered. This suggestion is not accepted because a flow rate of nine gallons per minute approximates the actual flow from a gasoline pump nozzle when it is used to fill the fuel tank in a boat. Unless the fuel tank, in combination with the fill and vent hoses, is capable of being filled up at a rate of at least nine gallons per minute, an overflow of gasoline is likely to occur. Another commentor suggested that the flow rate be changed to "at a

prudent rate". This suggestion is also rejected because a flow rate must be specified so a test can be conducted to determine compliance with this requirement.

Section 183.524—Fuel pumps. One commentor suggested that the materials used for fuel pumps be specified because of the chance that some materials might melt in a fire. This proposal is not accepted; the fire test requirement in § 183.590 assures that the material used for fuel pumps is durable enough to withstand a fire of at least 2½ minutes in duration. In this time period persons in the boat can notice the first and extinguish it before it spreads.

Section 183.526—Carburetors. Several commentors wanted to know if "leakage" as used in § 183.526(a) includes internal leaks within a carburetor. As used in the regulation, the word "leaks" means to leak externally from the carburetor into the boat. Any flow of fuel from the carburetor to the engine is internal and does not constitute a leak. The words "must meet the requirements of paragraph (b) of this section" are added to § 183.526(a) to specify how the presence of a leak is determined after the fire test under § 183.590 is conducted.

One commentor pointed out that under the regulation twin carburetors could leak ten cubic centimeters of fuel into an engine compartment and still comply with this regulation. This amount of leakage is acceptable; there still is a safety margin before the fuel vapors in an engine compartment reach an explosive level.

One commentor asked if carburetors that have been modified using racing kits have to be in compliance. The manufacturer of the boat is responsible for the modified carburetor meeting the requirements of this section if he installs or furnishes the kit. Modifications performed by the boat owner are not subject to this regulation.

Section 183.528—Fuel stop valves. One commentor suggested that § 183.528 require an expansion valve in the fuel line, if a fuel line has a closed stop valve in each end. An expansion valve eliminates the risk of the fuel line rupturing by relieving the pressure build-up in the fuel line if fuel expands due to temperature increases. This suggestion is not accepted because this type of failure has not shown up in accident statistics.

Section 183.530—Spud, pipe, and hose fitting configuration. One commentor suggested that fill lines should meet the requirements in § 183.530. Section 183.530 requires each spud, pipe, or hose fitting used with hose clamps, except those used for a fuel fill line, to have a bead, flare, or a series of grooves or separations to prevent the connection from coming loose. The commentor believes that vibrations in the boat might cause the hose to come off a fill fitting spud that does not have a bead or grooves. The rule is not changed in response to this comment. The fill fittings are excepted from § 183.530 because the relatively stiff fill hose is hard to properly install over a spud with a bead and improper installation might result in a fuel leak. Moreover, the requirement that two clamps be used for installing fill hoses ensures a secure connection without need for a bead or grooves on the spud.

Section 183.532—Clips, straps, and hose clamps. Some commentors suggested that the word "nominal" be included where the proposed § 183.532(c) and Table 7 specified "minimum band width" because the band widths of mass produced clamps are narrower than the widths specified in Table 7 due to manufacturing tolerances. For this reason the regulation is changed by adding the word "nominal" to § 183.532(c) and to the heading of Table 7.

One commentor said that § 183.532(c) restricts the design of fuel line connections by requiring the use of hose clamps which have a minimum band width that is contingent on the outside diameter of the hose to which it is attached. The commentor suggested that, as an alternative to specifying minimum band widths for clamps, the Commandant should develop a performance standard for hose clamps that would specify how tightly a clamp must be fastened to a hose. This comment is rejected because a performance standard would require a manufacturer to conduct a complicated test to determine clamp tightness. The use of Table 7 is an advantage over the commentor's suggestion because it is an easy method of determining the size of clamp to use that experience shows will ensure a secure connection between the hose and fuel line without having to test the tightness of the connection.

Section 183.536—Seals and gaskets in fuel filters and strainers. One commentor suggested that ASTM D-471 Reference Fuel C be specified in § 183.536(b) instead of a gasoline that has at least 50 percent aromatic content. The reason for this suggestion is that ASTM Reference Fuel C has a 50 percent aromatic content and is readily available. This suggestion is rejected because the aromatic content of fuel is the characteristic that deteriorates seals and gaskets. The other characteristics in ASTM D-471 Reference Fuel C are not necessary for the purpose of § 183.536.

Another commentor suggested that the requirements for gaskets in § 183.536 should also apply to gaskets in fuel gauges installed on fuel tanks. These gaskets are exposed to fuel and are, therefore, subject to deterioration. This comment is rejected. Because fuel gauge gaskets are located above the normal level of fuel in a tank, they are not constantly exposed to liquid fuel, and, because of this fact, there is little chance of their deterioration. Gaskets in fuel filters and strainers, on the other hand, are constantly exposed to the deteriorating effects of liquid fuel.

Section 183.538—Metallic fuel line materials. One commentor suggested that the word "metallic" be included in the heading of § 183.538 to clarify that this section does not apply to rubber fuel hoses. This suggestion is adopted.

Another commentor suggested that the minimum wall thickness specification of 0.029 inches in § 183.538(b) be replaced with a performance test in view of the different physical properties of the materials specified. This suggestion is rejected because its adoption would make it necessary for a boat manufacturer to perform costly tests to determine the strength and corrosion resistance of fuel line materials. Experience has shown that the use of the specified materials at the specified thickness ensures a safe fuel line.

One commentor wanted to know if stainless steel braided teflon covered aircraft hose is considered metallic fuel hose. Teflon covered hose is not considered metallic because the teflon is the material that comes in contact with fuel. Thus, teflon covered hose must meet the requirements for USCG Type A or B hoses.

Section 183.540—Hoses: identification. One commentor pointed out an error in § 183.540(d). In the proposal, the paragraph said that the marking on the hose must be "at no less than 12 inch intervals." This wording allows any spacing above 12 inches. The paragraph should have restricted the spacing to 12 inches or less. Paragraph 183.540(d) is modified by substituting the words "at intervals of 12 inches or less" for the words "at no less than 12 inch intervals."

Section 183.550—Fuel tanks: installation. One commentor pointed out that in the proposal § 183.550(g) specified that cellular plastic used to encase nonmetallic fuel tanks is required to meet two different requirements: one for compressive strength, and one for a minimum density. The proposed rule was in error because cellular plastic used to encase non-metallic fuel tanks is acceptable as long as it meets either the requirement for compressive strength or the requirement for a minimum density for polyurethane foam. An editorial change is made to § 183.550(g) by substituting the phrase "§ 183.516 (b) or (c)" for the phrase "§ 183.516 (a) and (d)."

A commentor asked what part of the tank must be aft of the boat's half length. Paragraph 183.550(h) of the proposal specified where fuel tanks must be installed in relation to the boat's half length. Paragraph 183.550(h) did not specify what part of the tank should be used as reference when installing the tanks in the boat. The intent of paragraph § 183.550(h) is that the tank should be located with its center of gravity either forward or aft of the boat's half length, depending on the shock test to which the tank was subjected. A tank rated for a shock of less than 25 g's can only be installed in the aft half of the boat, where the pounding from waves is less severe than in the forward half of the boat. These tanks are labeled under § 183.514(b)(8) with the words, "Must be installed aft of the boat's half length."

The words "installed with its center of gravity" are added to § 183.550(h) to clarify this intent so the paragraph now reads as follows:

"Each fuel tank labeled under § 183.514(b)(8) for installation aft of the boat's half length must be installed with its center of gravity aft of the boat's half length."

Section 183.556—Plugs and fittings. One commentor suggested that § 183.556(b) be amended to require the use of a non-corrosive material for the construction of plugs used to service the fuel filter or strainer. This suggestion is rejected because the materials presently used for plugs do not corrode enough to cause leaks in the fuel system.

Section 183.558—Hoses and connections. One commentor pointed out a typographical error in Table 8. The dimension 0.020 inch had incorrectly been printed 0.29 inch. The error is corrected in Table 8.

Several commentors proposed that USCG Type B hose be allowed only on boats 26 feet in length or less. They cited that a fire in boats over 26 feet can go undetected for 2½ or more minutes and for this reason all hoses on these boats should be USCG Type A, the type of hose that is required to meet the fire test in § 183.590. This suggestion is rejected because the Coast Guard does not have accident statistics that would indicate a need for requiring boats over 26 feet to use only fire resistant hose. A long fuel hose which might be used in a boat over 26 feet might not be readily accessible in case of a fire, but that hose, because of its length, would contain more than five ounces of fuel and thus it is required to be fire proof. A short hose which contains less than five ounces of fuel, and thus does not have to be fire resistant, would be installed close to the engine and thus is readily accessible to a fire extinguisher in case of a fire.

Section 183.564—Fuel tank fill system. Several commentors claimed that the gasoline overflow rate standard in § 183.564(a) is excessive because no time period is specified for the duration of the overflow. Paragraph 183.564(a) requires a tank's fuel fill opening to be in a place where a gasoline overflow at the rate of five gallons per minute will not enter the boat. An overflow might occur during refueling when the fuel tank becomes full, but fuel continues to be pumped through the fuel fill nozzle into the tank. When this situation occurs, the fuel is blown back into the nozzle which causes the nozzle to automatically shut off the flow of fuel, thus limiting the amount of fuel that actually overflows. The amount of fuel that overflows depends on the rate that the fuel is pumped into the tank and the period of time that it takes for the nozzle to shut off and be removed from the fill opening once an overflow begins. Because no time period was stated in the proposed § 183.564(a), the commentors felt that an unlimited and undeterminable amount of fuel might be allowed to overflow during compliance testing. For this reason, the standard, as proposed, did not duplicate the actual conditions it was designed to protect against. In response to the comment, therefore, a time period of five seconds has been added to the standard. Five seconds is considered adequate for the purpose of approximating the time it takes a fuel pump nozzle to shut off and be removed from the fill opening once fuel begins to overflow from a full fuel tank.

Another commentor objected to the requirement of having to use two hose clamps in § 183.564(b)(3) instead of one, because a second clamp, incorrectly installed, can cut the fuel line causing a leak. The proposed regulation is not changed in response to this comment. Two clamps are required to ensure that the relatively stiff hose will not slide off the fitting or twist into a position that would cause a fuel leak. If a hose is cut because of an improperly installed clamp a leak can occur whether one or two clamps are used.

Two commentors recommended that the word "nominal" be added immediately before the words "band width" in § 183.564(d)(1) because band clamps, due to manufacturing tolerances are narrower than the widths specified in the rule. This recommendation is accepted for the reason given by the commentors.

Section 183.566—Fuel pump: placement. One commentor suggested that all fuel pumps should be mounted on the engine, to reduce the risk of vibration causing a rupture in a fuel line connection between the fuel pump and the engine. The commentor, therefore, suggested that the phrase "or within 12 inches of the engine" be deleted from § 183.566. This suggestion is rejected. A fuel leak occurs where the fuel line is connected to the engine or fuel pump, and whether the pump is mounted on the engine or not does not change the chances of leaks; in each case the hose is subjected to the same amount of vibration.

Section 183.568—Anti-siphon protection. One commentor suggested that anti-siphon valves be required to pass the fire test under § 183.590 because the other components in the fuel system are required to pass the test. This comment is rejected. If a fuel stop valve fails in a fire, air is induced into the valve. This process has the effect of preventing siphoning of fuel from the fuel tank. The other components in the fuel system are required to meet the fire test, because if any of them fail, fuel would leak out of them and feed the fire.

Some other commentors requested the deletion of the requirement that electrically operated fuel stop valves and anti-siphon valves be mounted at the fuel tank withdrawal fitting. The commentors suggested this change because it would allow a fuel filter to be placed in the fuel line between the tank and valve. This filter would prevent dirt in the fuel from reaching the valves and interfere with their function. This reasoning is accepted and § 183.568 is changed to allow the valves to be installed away from the tank if the valve and fuel line are mounted higher than the top of the tank. By mounting the fuel line higher than the top of the tank, fuel runs back into the tank, instead of running out of the fuel line, if the line is severed.

Section 183.582—Static pressure test for fuel systems. Some commentors requested that carburetors not be included in the pressure test under § 183.582(a) because the carburetor can not be pressurized without pressurizing the engine. This comment is accepted. The intent of the pressure test is to ensure that the fuel system, excluding the carburetor and engine, does not leak fuel. Paragraph 183.582(a) is modified to indicate that only that portion of the fuel system that is between the carburetor and the fill and vent fittings on the boat is pressure tested.

Several commentors questioned the requirement in § 183.582(e) for examination of all connections after the static pressure test. These commentors pointed out the difficulty in visually inspecting for possible leaks the fill and vent fittings below a boat deck and suggested that this requirement be deleted. This suggestion is adopted. Because they are at the highest point in the fuel system, fuel hoses at the deck fittings normally do not contain any fuel which can leak into the boat. Section 183.582(e) is modified by excepting each connection between the fill and vent fitting and the line at the deck or hull from the examination required under § 183.582(e).

Section 183.584—Shock test. One commentor pointed out that the requirement in § 183.584 to cap and seal each opening in the tank should be omitted because if these openings are capped there is no outlet for pressure that may build up due to changes in the water temperature. Without openings in the tank, excessive pressure can build up, causing the tank to fail structurally. For this reason, this comment is accepted and § 183.584(e) of the proposal is deleted and the subsequent paragraphs are renumbered.

Several commentors suggested that the shock test under § 183.584 for tanks with a capacity of 25 gallons or more does not simulate actual boating conditions and should be deleted or modified. The duration of the shock between 35 and 45 milliseconds was claimed to be especially severe. This reasoning is accepted and the reference to the alternative testing for tanks 25 gallons or more is deleted from § 183.584(e) (1) and (2). The tests required under §§ 183.586 and 183.588 are sufficient to ensure that fuel tanks with a capacity of 25 gallons or more are strong enough to withstand actual usage in boats.

Two commentors suggested that § 183.584(f), which requires each vertical acceleration pulse to approximate a half sine wave, be omitted because a half sine wave is neither definable nor reasonably achievable. The shock test ensures that the tank can withstand actual boating conditions without the need of specifying the shape of the shock wave. The requirement to approximate a half sine

wave for the shock would have imposed unnecessary cost on the tank manufacturers because of the sophisticated equipment that would have been required to perform the test. For these reasons the commentors suggestion is accepted and the requirement is removed.

Section 183.588—Slosh test. Some commentors pointed out that § 183.588(c) of the proposal, which requires preconditioning the tank in fuel for 30 days prior to testing, is redundant because the preconditioning has already taken place under § 183.586 and should not have to be repeated. This is correct, § 183.588(c) is deleted and the subsequent paragraphs are renumbered.

Section 183.590—Fire test. Several commentors requested that regular pump gasoline, because of its lower cost, be allowed as an alternative to the use of heptane in the fire test under § 183.590. This comment is rejected because regular pump gasoline produces a different temperature than heptane produces. Unless heptane is used in the test, a manufacturer can not be certain that his product meets the temperature requirement of this rule.

PREPARATION OF COMPLIANCE GUIDELINES

Several comments were received requesting more detailed definitions and test procedures on many of the sections in this subpart. To the extent that it has been feasible, the regulations have been modified to be more specific. In other instances it has not been possible to change the regulation because a suggested change would impose restrictions on a manufacturer which would prohibit him from developing new materials and assembly methods.

The Coast Guard recognizes that a regulation of this magnitude is complex. For that reason a grant was given to the American Boat and Yacht Council, Inc. (ABYC). Under the grant, the ABYC is preparing a compliance guideline for these regulations. The guideline will contain explanatory and interpretative information, illustrations, and diagrams to aid manufacturers in complying with the regulations. The guideline will not prescribe the method a manufacturer must follow to comply with the regulations, but it will be a guide to methods that, if followed, will be acceptable to the Coast Guard as meeting the intent and purpose of these rules.

The Coast Guard is working closely with ABYC in the preparation of the guideline. Attention is being given specifically in areas where public comments indicated that additional information is needed. The guideline will be distributed by the Coast Guard through the National Technical Information Service and will be available to the public at cost before this rule is effective.

STANDARDS AND CODES

The standards and codes referenced in these regulations have been approved for incorporation by reference by the Director of the FEDERAL REGISTER and they are on file in the Federal Register Library.

ECONOMIC IMPACT

This rule has been reviewed for economic effects under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200). The regulations will result in a cost to industry of approximately $2.75 million to $9.35 million per year. These industry costs will result in an increased cost to the consumer of .16 percent to 3.3 percent, depending on the size of boat purchased. The benefit of the regulations is a reduction in the amount of property damage, the number of injuries, and the number of lives lost as a result of fires and explosions of gasoline on boats.

Effective date: These rules are effective on August 1, 1977.

AUTHORITY: This rule is adopted under authority of the Federal Boat Safety Act of 1971 (46 U.S.C. 1454). The authority vested in the Secretary of Department of Transportation by the Act is delegated to the Commandant of the Coast Guard at 49 CFR 1.46(n)(1).

Accordingly, with these changes and additions, Part 183 of Chapter 1 of Title 33 of the Code of Federal Regulations is amended by adding a new Subpart J to read as set forth below.

I have determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive order 11821 and OMB Circular A-107.

Dated: January 25, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

Subpart J—Fuel Systems

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AUTHORITY: 46 U.S.C. 1454; 49 CFR 1.46 (n)(1).

Subpart J—Fuel Systems

GENERAL

§ 183.501 Applicability.

(a) This subpart applies to all boats that have gasoline engines, except outboard engines, for electrical generation or mechanical power for propulsion.

(b) The sections in this subpart are effective on the following dates:

AUGUST 1, 1977

183.501	183.562
183.505	183.566
183.507	183.568
183.518	183.572
183.520	183.580
183.528	183.582
183.534	183.584
183.536	183.586
183.538	183.588
183.542	183.590
183.556	

FEBRUARY 1, 1978

183.510	183.550
183.514	183.554
183.522	183.560
183.530	183.564
183.532	183.570

AUGUST 1, 1978

183.512	183.540
183.516	183.552
183.524	183.558
183.526	

§ 183.505 Definitions.

As used in this subpart—

"ASTM" means American Society for Testing and Materials. ASTM standards in this subpart may be examined at Coast Guard Headquarters, Room 4314, Trans Point Building, 2100 2nd St., S.W., Washington, D.C. 20590 and may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

"Flame arrestor" means a device or assembly that prevents passage of flame through a fuel vent.

"Fuel system" means the entire assembly of the fuel fill, vent, tank, and distribution components, including pumps, valves, strainers, carburetors, and filters.

"Military Specification" means a specification developed by the U.S. Armed Forces. Military Specifications in this subpart may be examined at Coast Guard Headquarters, room 4314, Trans Point Building, 2100 2nd St., S.W. Washington, D.C. 20590 and may be obtained from the Commander, Naval Ship Engineering Center, DOD Standardization Program & Documents Branch, Hyattsville, Maryland 20782.

"SAE" means Society of Automotive Engineers, Inc. SAE standards in this subpart may be examined at Coast Guard Headquarters, Room 4314, Trans Point Building, 2100 2nd St., S.W., Washington, D.C. 20590 and may be obtained from the Society of Automotive Engineers, Inc., 400 Commonwealth Dr., Warrendale, PA 15096.

"Static floating position" means the attitude in which a boat floats in calm water, with each fuel tank filled to its rated capacity, but with no person or item of portable equipment on board.

"UL" means Underwriters' Laboratories, Inc. UL standards in this subpart may be examined at Coast Guard Headquarters, Room 4314, Trans Point Building, 2100 2nd St., S.W., Washington, D.C. 20590 and may be obtained from Underwriters' Laboratories, Inc., 207 East Ohio Street, Chicago, IL 60611.

"USCG Type A Hose" means hose that meets the performance requirements of—

(1) SAE Standard J30C, dated March, 1976 and the requirements of § 183.590; or

(2) UL Standard 1114 dated September 15, 1976.

"USCG Type B Hose" means hose that meets the performance requirements of SAE Standard J30C, dated March, 1976.

§ 183.507 General.

Each fuel system component on a boat to which this subpart applies must meet the requirements of this subpart unless the component is part of an outboard engine or is part of portable equipment.

EQUIPMENT STANDARDS

§ 183.510 Fuel tanks.

(a) Each fuel tank in a boat must have been tested by its manufacturer under § 183.580 and not leak.

(b) Each fuel tank must not leak if subjected to the fire test under § 183.590. Leakage is determined by the static pressure test under § 183.580, except that the test pressure must be at least one-fourth PSIG.

(c) Each fuel tank of less than 25 gallons capacity must not leak if tested under § 183.584.

(d) Each fuel tank with a capacity of 25 to 99 gallons must not leak if tested under § 183.586.

(e) Each fuel tank of 100 gallons capacity or more must not leak if tested under §§ 183.586 and 183.588.

§ 183.512 Fuel tanks: prohibited materials.

(a) A fuel tank must not be constructd from terneplate.

(b) Unless it has an inorganic sacrificial galvanic coating on the inside and outside of the tank, a fuel tank must not be constructed from black iron or carbon steel.

(c) A fuel tank encased in cellular plastic or in fiber reinforced plastic must not be constructed from a ferrous alloy.

§ 183.514 Fuel tanks: labels.

(a) Each fuel tank must have a label that meets the requirements of paragraphs (b) through (d) of this section.

(b) Each label required by paragraph (a) of this section must contain the following information:

(1) Fuel tank manufacturer's name (or logo) and address.

(2) Month (or lot number) and year of manufacture.

(3) Capacity in U.S. gallons.

(4) Material of construction.

(5) The pressure the tank is designed to withstand without leaking.

(6) Model number, if applicable.

(7) The statement, "This tank has been tested under 33 CFR 183.580."

(8) If the tank is tested under § 183.584 at less than 25g vertical accelerations the statement, "Must be installed aft of the boat's half length."

(c) Each letter and each number on a label must—

(1) Be at least $\frac{1}{8}$ inch high and

(2) Contrast with the basic color of the label or be embossed on the label.

(d) Each label must—

(1) Withstand the combined effects of exposure to water, oil, salt spray, direct sun light, heat, cold, and wear expected in normal operation of the boat, without loss of legibility; and

(2) Resist efforts to remove or alter the information on the label without leaving some obvious sign of such efforts.

§ 183.516 Cellular plastic used to encase fuel tanks.

(a) Cellular plastic used to encase metallic fuel tanks must—

(1) Not change volume by more than five percent or dissolve after being immersed in any of the following liquids for 24 hours at 29° C:

(i) Reference fuel B ASTM D-471, dated December 18, 1968.

(ii) No. 2 reference oil of ASTM D-471, dated December 18, 1968.

(iii) Five percent solution of trisodium phosphate in water; and

(2) Not absorb more than 0.12 pound of water per square foot of cut surface, measured under Military Specification MIL P-21929B, dated June 22, 1970.

(b) Non-polyurethane cellular plastic used to encase fuel tanks must have a compressive strength of at least 60 pounds per square inch at ten percent deflection measured under ASTM D-1621, "Compressive Strength of Rigid Cellular Plastics", dated August 31, 1964.

(c) Polyurethane cellular plastic used to encase fuel tanks must have a density of at least 3.2 pounds per cubic foot, measured under ASTM D-1622, "Apparent Density of Rigid Cellular Plastics", dated September 30, 1963.

§ 183.518 Fuel tank opening.

Each opening into the fuel tank must be at or above the topmost surface of the tank.

§ 183.520 Fuel tank systems.

(a) Each fuel tank must have a vent system that prevents pressure in the tank from exceeding 80 percent of the pressure marked on the tank label under § 183.514(b)(5).

(b) Each vent must—

(1) Have a flame arrester that can be cleaned unless the vent is itself a flame arrestor; and

(2) Not allow a fuel overflow at the rate of up to two gallons per minute to enter the boat.

§ 183.522 Fuel tank fill systems.

Fuel must not blow back through the fuel fitting when a tank is—

(a) Between one-fourth and three-fourths full; and

(b) Refueled at a rate of at least nine gallons per minute.

§ 183.524 Fuel pumps.

(a) Each diaphragm pump must not leak fuel from the pump if the primary diaphragm fails.

(b) Each electrically operated fuel pump must not operate except when the engine is operating or when the engine is started.

(c) If tested under § 183.590, a fuel pump must not leak fuel.

§ 183.526 Carburetors.

(a) If tested under § 183.590, a carburetor must meet the requirements of paragraph (b) of this section.

(b) Each carburetor must not leak more than five cubic centimeters of fuel in 30 seconds when—

(1) The float valve is open;

(2) The carburetor is at half throttle; and

(3) The engine is cranked without starting; or

(4) The fuel pump is delivering the maximum pressure specified by its manufacturer.

(c) Each updraft and horizontal draft carburetor must have a device that—

(1) Collects and holds fuel that flows out of the carburetor venturi section toward the air intake;

(2) Prevents collected fuel from being carried out of the carburetor assembly by the shock wave of a backfire or by reverse air flow; and

(3) Returns collected fuel to the engine induction system after the engine starts.

§ 183.528 Fuel stop valves.

(a) Each electrically operated fuel stop valve in a fuel line between the fuel tank and the engine must—

(1) Open electrically only when the ignition switch is on; and

(2) Operate manually.

(b) If tested under § 183.590, a fuel stop valve must not leak fuel.

§ 183.530 Spud, pipe, and hose fitting configuration.

Except when used for a tank fill line, each spud, pipe, or hose fitting used with hose clamps must have—

(a) A bead;

(b) A flare; or

(c) A series of annular grooves or serrations no less than 0.015 inches deep, except a continuous helical thread, knurl, or groove.

§ 183.532 Clips, straps, and hose clamps.

(a) Each clip, strap, and hose clamp must—

(1) Be made from a corrosion resistant material; and

(2) Not cut or abrade the fuel line.

(b) When tested under § 183.590, a clip, strap, or hose clamp must not separate under a one pound tensile force.

(c) The minimum nominal band width of a hose clamp is determined under Table 7 by the outside diameter of the hose.

TABLE 7

Outside hose diameter (inches):	*Minimum nominal clamp band width (inches)*
Less than $\frac{5}{16}$	$\frac{1}{4}$
$\frac{5}{16}$ to $\frac{7}{8}$	$\frac{5}{16}$
Greater than $\frac{7}{8}$ to $1\frac{1}{2}$	$\frac{3}{8}$
Greater than $1\frac{1}{2}$	$\frac{1}{2}$

§ 183.534 Fuel filters and strainers.

When tested under § 183.590, each fuel filter and strainer must not leak fuel from the filter, strainer, or its connections.

§ 183.536 Seals and gaskets in fuel filters and strainers.

(a) Each gasket and seal used in a fuel filter and strainer must form an unsplit ring.

(b) Each gasket and each sealed joint in a fuel filter and strainer must not leak when subjected for 24 hours to a gasoline that has at least a 50 percent aromatic content at the test pressure determined under § 183.582(a).

§ 183.538 Metallic fuel line materials.

Each metallic fuel line connecting the fuel tank with the fuel inlet connection on the engine must—

(a) be made of seamless annealed copper, nickel copper, or copper-nickel; and

(b) except for corrugated flexible fuel line, have a minimum wall thickness of 0.029 inches.

§ 183.540 Hoses: identification.

(a) Each "USCG Type A" hose and each "USCG Type B" hose must be identified by the manufacturer by a marking on the hose itself. If the complete text of the marking is not on a section of hose, the boat manufacturer must attach a tag that meets the requirements of paragraphs (b) and (c) of this section.

(b) Each marking and tag must contain the following information in English:

(1) The statement "USCG TYPE (insert A or B) HOSE."

(2) The year in which the hose was manufactured.

(3) The manufacturer's name or registered trademark.

(c) Each character must be block capital letters and numerals that are at least one-eighth inch high.

(d) Each marking must be permanent, legible, and on the outside of the hose at intervals of 12 inches or less.

§ 183.542 Fuel systems.

Each fuel system in a boat must have been tested under § 183.582 by the boat manufacturer and not leak.

MANUFACTURER REQUIREMENTS

§ 183.550 Fuel tanks: installation.

(a) Each fuel tank must not be integral with any boat structure or mounted on an engine.

(b) Each fuel tank must not move at the mounting surface more than one-fourth inch in any direction.

(c) Each fuel tank must not support a deck, bulkhead, or other structural component.

(d) Water must drain from the surface of each metallic fuel tank when the boat is in its static floating position.

(e) Each fuel tank support, chock, or strap that is not integral with a metallic fuel tank must be insulated from the tank surface by a nonmoisture absorbing material.

(f) Cellular plastic must not be the sole support for a metallic fuel tank.

(g) If cellular plastic is the sole support of a non-metallic fuel tank, the cellular plastic must meet the requirements of § 183.516 (b) or (c)

(h) Each fuel tank labeled under § 183.514(b)(8) for installation aft of the boat's half length must be installed with its center of gravity aft of the boat's half length.

§ 183.552 Plastic encased fuel tanks: installation.

(a) Each fuel tank encased in cellular plastic foam or in fiber reinforced plastic must have the connections, fittings, and labels accessible for inspection and maintenance.

(b) If a metallic fuel tank is encased in cellular plastic or in fiber reinforced plastic, water must not collect between the plastic and the surface of the tank or be held against the tank by capillary action.

(c) If the plastic is bonded to the surface of a metallic fuel tank, the adhesive strength of the metal to the plastic bond must exceed the cohesive strength of the plastic.

§ 183.554 Fittings, joints, and connections.

Each fuel system fitting, joint, and connection must be arranged so that it can be reached for inspection, removal, or maintenance without removal of permanent boat structure.

§ 183.556 Plugs and fittings.

(a) A fuel system must not have a fitting for draining fuel.

(b) A plug used to service the fuel filter or strainer must have a tapered pipe-thread or be a screw type fitted with a locking device other than a split lock washer.

§ 183.558 Hoses and connections.

(a) Each hose between the fuel pump and the carburetor must be "USCG Type A" hose.

(b) Each hose used for a vent line or fill line and each hose from the fuel tank to the fuel inlet connection on the engine must be—

(1) "USCG Type A" hose; or

(2) "USCG Type A" or "USCG Type B" hose, if no more than five ounces of fuel is discharged in 2½ minutes when—

(i) The hose is severed at the point where maximum drainage of fuel would occur,

(ii) The boat is in its static floating position, and

(iii) The fuel system is filled to the capacity marked on the tank label under § 183.514(b)(5).

(c) Each hose must be secured by—

(1) A swaged sleeve;

(2) A sleeve and threaded insert; or

(3) A hose clamp.

(d) The inside diameter of a hose must not exceed the actual minor outside diameter of the connecting spud, pipe, or fitting by more than the distance shown in Table 8.

TABLE 8

If minor outside diameter of the connecting spud, pipe, or fitting is—	The inside diameter of the hose must not exceed the minor outside diameter of the connecting spud, pipe, or hose fitting by more than the following distance:
Less than $\frac{3}{8}$ in.	0.020 in.
$\frac{3}{8}$ in. to 1 in.	0.035 in.
Greater than 1 in.	0.065 in.

§ 183.560 Hose clamps: installation.

Each hose clamp on a hose from the fuel tank to the fuel inlet connection on the engine, a hose between the fuel pump and the carburetor, or a vent line must—

(a) Be used with hose designed for clamps;

(b) Be at least one clamp width from the hose end;

(c) Be beyond the bead, flare, or over the serrations of the mating spud, pipe, or hose fitting; and

(d) Not depend solely on the spring tension of the clamp for compressive force.

§ 183.562 Metallic fuel lines.

(a) Each metallic fuel line that is mounted to the boat structure must be connected to the engine by a flexible fuel line.

(b) Each metallic fuel line must be attached to the boat's structure within four inches of its connection to a flexible fuel line.

§ 183.564 Fuel tank fill system.

(a) Each fuel fill opening must be located so that a gasoline overflow of up to five gallons per minute for at least five seconds will not enter the boat when the boat is in its static floating position.

(b) Each hose in the tank fill system must be secured to a pipe, spud, or hose fitting by—

(1) A swaged sleeve;

(2) A sleeve and threaded insert; or

(3) Two adjacent metallic hose clamps that do not depend solely on the spring tension of the clamps for compressive force.

(c) Each hose clamp in the tank fill system must be used with a hose designed for clamps.

(d) Hose clamps used in the tank fill system must—

(1) Have a minimum nominal band width of at least one-half inch; and

(2) Be over the hose and the spud, pipe, or hose fitting and not less than one-half inch from the end of the hose.

§ 183.566 Fuel pumps: placement.

Each fuel pump must be on the engine it serves or within 12 inches of the en-

gine, unless it is a fuel pump used to transfer fuel between tanks.

§ 183.568 Anti-siphon protection.

Each fuel line from the fuel tank to the fuel inlet connection on the carburetor must—

(a) Be above the level of the tank top; or

(b) Have an anti-siphon device or an electrically operated fuel stop valve—

(i) at the tank withdrawal fitting; or

(ii) installed so the line from the fuel tank is above the top of the tank.

§ 183.570 Fuel filters and strainers: installation.

Each fuel filter and strainer must be supported on the engine or boat structure independent from its fuel line connections, unless the fuel filter or strainer is inside a fuel tank.

§ 183.572 Grounding.

Each metallic component of the fuel fill system and fuel tank which is in contact with fuel must be statically grounded so that the resistance between the ground and each metallic component of the fuel fill system and fuel tank is less than 100 ohms.

TESTS

§ 183.580 Static pressure test for fuel tanks.

A fuel tank is tested by performing the following procedures in the following order:

(a) Fill the tank with air or inert gas to the pressure marked on the tank label under § 183.514(b)(5). The pressure is measured by a calibrated pressure gauge with a pressure range not exceeding three times the test pressure required by this paragraph or by a manometer.

(b) Examine each tank fitting and seam for leaks using a leak detection method other than the pressure drop method.

§ 183.582 Static pressure test for fuel systems.

A fuel system is tested by performing the following procedures in the following order:

(a) Fill the portion of the system that is between the fuel line connection at the carburetor and the fill and vent fitting on the boat with air or inert gas to the greater of the following pressures:

(1) Three PSIG.

(2) One and one-half times the pressure created at the lowest point in the fuel system when the fill or vent line, whichever is lower in height, is filled to its top with fuel.

(b) Read the pressure. The pressure is measured by a calibrated pressure gauge with a pressure range not exceeding three times the test pressure required by this paragraph or by a manometer.

(c) Wait at least five minutes and thereafter wait one additional minute for each 10 gallon increment, or fraction thereof, in the tank's capacity greater than 50 gallons.

(d) Read the pressure in accordance with paragraph (b) of this section. A pressure drop measured at the end of the time required by paragraph (c) of this section is due to leakage.

(e) If no pressure drop is measured by the manometer or pressure gauge, then while the system remains pressurized, examine each fuel fitting, joint, and connection except each connection at fill and vent fittings for leaks, using a leak detection method other than the pressure drop method.

§ 183.584 Shock test.

A fuel tank is tested by performing the following procedures in the following order:

(a) Perform the static pressure test under § 183.580.

(b) If the tank is non-metallic, fill it to capacity with a gasoline that has at least a 50 percent aromatic content. Keep the fuel in the tank at 21° C or higher for 30 days prior to testing.

(c) Mount the tank to the platform of an impact test machine.

(d) Fill the tank to capacity with water.

(e) Apply one of the following accelerations within three inches of the center of the horizontal mounting surface of the tank. The duration of each vertical acceleration pulse is measured at the base of the shock envelope.

(1) If the tank is not labeled under § 183.514(b)(8) for installation aft of the half length of the boat, apply 1000 cycles of 25g vertical accelerations at a rate of 80 cycles or less per minute. The duration of the acceleration pulse must be between six and 14 milliseconds.

(2) If the tank is manufactured for installation with its center of gravity aft of the half length of the boat, apply 1000 cycles of 15g vertical accelerations at a rate of 80 cycles or less per minute. The duration of the shock pulse must be between six and 14 milliseconds.

(f) Perform the static pressure test under § 183.580.

§ 183.586 Pressure impulse test.

A fuel tank is tested by performing the following procedures in the following order:

(a) Perform the static pressure test under § 183.580.

(b) If the tank is non-metallic, fill it to capacity with a gasoline that has at least a 50 percent aromatic content. Keep the fuel in the tank at 21° C or higher for 30 days prior to testing.

(c) Mount the tank on a test platform.

(d) Fill the tank to capacity with water.

(e) Cap and seal each opening in the tank.

(f) Apply 25,000 cycles of pressure impulse at the rate of no more than 15 impulses per minute varying from zero to three PSIG to zero inside the tank top from a regulated source of air, inert gas, or water.

(g) Perform the static pressure test under § 183.580.

§ 183.588 Slosh test.

A fuel tank is tested by performing the following procedures in the following order:

(a) Perform the static pressure test under § 183.580.

(b) Perform the pressure impulse test under § 183.586.

(c) Secure the tank to the platform of a tank rocker assembly.

(d) Fill the tank to one-half capacity with water.

(e) Cap and seal each opening in the tank.

(f) Apply 500,000 cycles of rocking motion 15 degrees to each side of the tank centerline at the rate of 15 to 20 cycles a minute. The axis of rotation of the rocker and fuel tank must be perpendicular to the centerline of the tank length at a level six inches or less above or below the tank's bottom.

(g) Perform the static pressure test under § 183.580.

§ 183.590 Fire test.

(a) A piece of equipment is tested under the following conditions and procedures:

(1) Fuel stop valves, "USCG Type A" hoses, clips, straps, and hose clamps are tested in a fire chamber.

(2) Fuel filters, strainers, pumps, and carburetors are tested in a fire chamber or as installed on the engine.

(3) Fuel tanks must be tested filled with fuel to one-fourth the capacity marked on the tank in a fire chamber or in an actual or simulated hull section.

(b) Each fire test is conducted with free burning heptane and the component must be subjected to a flame for 2½ minutes.

(c) If the component is tested in a fire chamber—

(1) The temperature within one inch of the component must be at least 648°C sometime during the 2½ minute test;

(2) The surface of the heptane must be eight to 10 inches below the component being tested; and

(3) The heptane must be in a container that is large enough to permit the perimeter of the top surface of the heptane to extend beyond the vertical projection of the perimeter of the component being tested.

(d) If the component is being tested as installed on an engine, heptane sufficient to burn 2½ minutes must be poured over the component and allowed to run into a flat bottomed pan under the engine. The pan must be large enough to permit the perimeter of the top surface of the heptane to extend beyond the vertical projection of the perimeter of the engine.

(e) If a fuel tank is being tested in an actual or simulated hull section, the actual or simulated hull section must be of sufficient size to contain enough heptane to burn for 2½ minutes in a place adjacent to the tank.

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federal register

MONDAY, JANUARY 31, 1977

PART XII



DEPARTMENT OF TRANSPORTATION

Coast Guard

■

NAVIGATION SAFETY AND VESSEL INSPECTION REGULATIONS

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74-77]

PART 164—NAVIGATION SAFETY REGULATIONS

Navigation Procedures, Testing, and Equipment Requirements

The purpose of these amendments to Title 33 of the Code of Federal Regulations is to add a new Part 164 prescribing rules for navigation procedures, preliminary tests, and minimum equipment for vessels of 1600 gross tons or more when operating on the navigable waters of the United States, except the Panama Canal and St. Lawrence Seaway.

On page 18766 of the FEDERAL REGISTER of May 6, 1976, the Coast Guard published a notice of proposed rulemaking for these amendments. Operation of vessels that are as large as 1600 gross tons or more within coastal and harbor regions, where 80 percent of vessel casualties occur, regularly creates hazardous conditions with risks to persons, property, and the environment, especially if proper navigation procedures are not followed, essential vessel equipment is not operating properly, or a vessel does not have necessary equipment. As discussed in the preamble of the proposal, most vessels follow proper procedures, have the necessary equipment, and keep that equipment operating properly. It is those vessels that do not follow proper procedures or do not have properly operating, necessary equipment that aggravate the hazard. The hazard is compounded not only by the recrurring problems of reduced visibility, adverse weather, and vessel congestion, but by the increasing speed and size of vessels, especially when carrying hazardous cargoes or other cargoes that can adversely affect the environment. The number of vessels involved in reported collisions, rammings, and groundings is increasing. Vessel casualties, such as those involving the *Torrey Canyon*, the *Tamano*, the *Oregon Standard*, and certain of those that have occurred in December of 1976 and January of 1977, might not have occurred if proper navigation procedures had been followed or if the vessels had had properly operating essential equipment. The purpose of these amendments is to prevent future casualties by requiring, for those larger vessels, that proper navigation procedures are followed, that necessary equipment is on board, and that all essential equipment is operating when those vessels are navigating in the coastal waters and harbors of the United States.

The public was invited to comment in writing on the proposed rules from May 6, 1976, through August 6, 1976, and at public hearings in Washington, D.C. on June 11, 1976, and in San Francisco, California on June 17, 1976. A discussion of comments received and changes in the proposed rules follows.

General comments: Fifteen commenters suggested that more and better training, not regulation, is needed. More and better training is desirable and the Coast Guard is considering many ways to help improve it; however, that training would not preclude the need for the proper navigational procedures and vessel equipment that these amendments address. Furthermore, these rules do apply to the large number of foreign flag vessels operating within our navigable waters, while licensing and certification requirements, including training, promulgated by the Coast Guard now do not. Five commenters recommended increasing the difficulty of license exams or establishing a higher license, such as the United Kingdom's "Extra Master". The Coast Guard is considering these recommendations for possible future action.

Ten commenters stated that the proposal includes nothing that is not already addressed in statute or regulation. The rules in this new part require navigation procedures that are not included in the statutory "rules of the road." The rules also require equipment for all U.S. and foreign vessels of 1600 gross tons or more that is not required under statute or other regulations for all those vessels and under all the operating conditions to which this part applies. Some of the proposed rules, such as those for lights, day signals, and fog signals, were duplicative and have not been included in these final rules.

One commenter stated that the proposed operating procedures would restrict a master's use of good judgment. The operating procedures in these amendments are safe operating procedures that most masters follow. If these rules are restrictive, the restriction applies to those few masters who in the past have not followed these minimally safe practices.

As one commenter observed, most vessels that operate exclusively upon rivers will not be affected by these rules because they are smaller than 1600 gross tons.

One commenter suggested that the Coast Guard should require, instead of the rules in this part, that shipping companies issue an operating manual. Although an operating manual consistent with these rules might be desirable, a rule requiring it could be applicable only to U.S. companies and would not be as comprehensive as these amendments, especially the equipment requirements, nor have the force of regulations.

Several commenters stated that some of the rules were vague. Some of the rules do not include detailed standards because all of the practical variables are not quantifiable. Those rules that could be more detailed have been changed, such as a detailed description of the maneuvering information that is required under paragraph (g) of § 164.35, paragraph (f) of the proposal.

Section 164.01 Applicability. Nine commenters requested a definition of "navigable waters of the United States." "Navigable waters of the United States" is defined in 33 CFR 2.05-25.

Applicability to tug and barge combinations that have large aggregate tonnages was suggested by seven commenters, to tugs and towing vessels by five commenters, to all vessels by one commenter, and to small passenger vessels by one commenter. These regulations are not appropriate for all of the vessels in each of those classifications. The Coast Guard is considering regulations for these vessels that would be the subject of separate rulemaking actions.

Section 164.11 Navigation underway: general. Ten commenters stated that the proposed operating procedures would create a heavy workload that would require additional manning. Changes in this section, which are discussed later in this preamble, should eliminate the need for any unnecessary manning in addition to that normally required upon vessels to which these rules apply.

Two commenters suggested that the rules be published as a code of navigational practices and not as mandatory regulations. As stated at the beginning of this preamble, the navigation procedures in these rules are followed by most masters. The Coast Guard is making them mandatory, instead of publishing a voluntary code, to reach those who now do not follow good navigation procedures.

One commenter stated that the regulation requires the master or person in charge to be guarantor of compliance and that he could not always, in his capacity, ensure compliance. The Coast Guard agrees that this would be especially true for equipment requirements. Therefore, the final rule is changed to include the "owner" of the vessel as an ensurer of compliance. Although this change is included in these amendments, any interested person may submit written comments on this particular change to the Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Each person submitting a comment should include his name, address, identify the notice (CGD 74-77), and give reasons in support of his comments. The Coast Guard will consider comments received before May 2, 1977 and may change the requirement in light of them. Copies of the comments received will be available for examination in Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C.

Section 164.11(a). Six commenters requested a definition of "adequate number" of persons required to constantly man the wheelhouse to direct and control the movement of the vessel and fix the vessel's position. The intent of the paragraph is that the wheelhouse be "constantly manned" and that those functions be performed. Because of the variety of vessels to which this part applies, quantitative definition of "adequate number" is not practical. Therefore, to avoid confusion, the phrase "adequate number" is deleted.

Section 164.11(b). This paragraph requires the owner, master, or person in charge to ensure that persons performing the duties required under paragraph (a) be competent. Six commenters stated that the Coast Guard is responsible for ensuring competency through licensing and certification. "Competent" means more than qualified through licensing and certification. It also means physical

and mental capacity to do the job at the time the person assumes the duty.

Section 164.11(c) in the proposal. This paragraph would have required the vessel's position to be fixed every 15 minutes. After further consideration, the Coast Guard has determined that this would not be practicable in all navigable waters. Therefore, it is not included in this final rule.

Section 164.11(c). This was paragraph (d) of the proposal which would have required the plotting of the vessel's position at each fix and the revised track on a chart of the area and that the person directing the movement of the vessel is informed of the vessel's position. Ten commenters stated that compliance would not be possible at present manning levels. Ten more commenters stated that the requirement is superfluous on rivers and in channels. Four others said this plotting would distract watch officers who are performing other duties. It is necessary for safety that the appropriate vessel's officers be aware of the vessel's position to supplement the functioning of a pilot; however, the Coast Guard has determined that the plotting of the track is unnecessarily burdensome in consideration of practical manning levels and the necessities of other duties. Therefore, the track plotting requirement is not included in the final rule.

Section 164.11(d). This was paragraph (e) in the proposal. This paragraph does not require specific navigation equipment, but requires the use of the electronic and other navigational equipment that is on a vessel plus geographic reference points and hydrographic contours for fixing positions. It should be read with the next paragraph which prohibits sole reliance on buoys.

Section 164.11(e). This was paragraph (f) in the proposal. Eight commenters suggested that buoys should be used to fix a position if no other aids are available. Buoys may be used to establish an estimated position if no other aids are available; however, they cannot be relied upon to establish a fix. Four commenters suggested that the Coast Guard spend more money on buoy maintenance. Three more stated that several buoys could be used to establish a fix. As stated in the note to this paragraph (e), strong currents, heavy seas, ice, and collisions with vessels can move, sink, or set adrift a buoy. "Spending more money" would not solve these problems. It is also not likely under these circumstances that several buoys could be used to establish a fix, but could only be used to establish an estimated position. The charted position of a buoy is approximate.

Section 164.11(g) in the proposal. This proposed requirement, to maintain a proper lookout, is included in the Federal "rules of the road", which are applicable to all vessels. Since it is therefore redundant, it is not included in the final rule.

Section 164.11(f). This was paragraph (h) in the proposal. Four commenters stated that the requirement to evaluate each closing radar contact conflicts with the radar Annex to the International Regulations for Preventing Collisions at Sea, 1960. That Annex cautions against reliance solely upon "scanty information" such as radar contacts and states what actions should be taken under certain circumstances. Paragraph (f) of these rules requires that each closing radar contact be evaluated, but does not require sole reliance upon radar and does not suggest what action should be taken once a contact is evaluated. One commenter stated that the rule was "pointless" in rivers and channels. The rule does not require plotting of course, speed, and closest point of approach of closing visual or radar contacts, which might not be effective in rivers and channels. The rule does require that the person directing the vessel's movement be aware of the actions of those contacts and the evaluation of how they may affect the navigation of that person's vessel.

Section 164.11 (g) and (h). These were paragraph (i) and (j) in the proposal. These rules require that rudder, engine speed, and direction orders be executed as given. One commenter stated that these rules would not prevent errors. Another commenter suggested that the requirement should be that the person directing the vessel's movement have a "positive indication" of proper execution. The intent of the rule is that the person directing the vessel's movement does what is necessary to ensure that these orders are being executed correctly, such as watching the direction the helmsman turns the wheel, the rudder angle indicator, and the engine order telegraph, so that person can respond immediately to correct any error being made. Some "positive indications," such as the movement of the vessel's head or change in vessel speed or engine vibrations, may not occur in time for correction of an error, especially on "very large" vessels.

One commenter suggested that the engine speed and direction orders be given using terms such as "ahead one-third" instead of terms such as "slow ahead," because there is less chance that the orders would be heard incorrectly. Application to foreign vessels to which this part applies of a rule requiring the use of this specific terminology would not be practicable.

Section 164.11(i). This was paragraph (k) in the proposal. One commenter stated the requirement that magnetic variation and deviation be known and correctly applied was "ridiculous" because the deviation changes can be so frequent. A survey of 300 randomly selected vessels showed that the deviation tables on many of these vessels were so out of date that the tables were of little use. The intent of this requirement is that a person directing the movement of a vessel be aware of the vessel's deviation. If that person has reasonably up to date tables or acts to verify deviation, such as by gyrocompass or celestial comparison, the requirement of this paragraph would be met and the safe navigation of the vessel enhanced.

Section 164.11(j). This was paragraph (l) in the proposal which would have required a qualified person to be at the steering position at all times. Six commenters stated that requiring the person to be at the steering position when a vessel was on automatic pilot was unreasonable. In light of this comment, the final rule requires only that the person be in the wheelhouse at all times. "Qualified person" has been changed to "competent" for the same reasons discussed earlier in this preamble for paragraph (a) of this section.

Section 164.11(k). This was paragraph (m) in the proposal. This paragraph requires a master and pilot conference to familiarize the pilot with the vessel because, although a pilot may be familiar with the type of vessel, each vessel has its own characteristics that often change with draft, trim, and speed. Furthermore, the pilot may not be familiar with the bridge layout and equipment and it would be too late to learn these things when risk of collision exists. Two commenters thought that the requirement was too vague. The paragraph is a clear expression of the intent of the requirement as just discussed. Further detail would be impractical because of the great variety of vessels to which this part applies. Three commenters asked about possible language barrier problems. If the pilot is unable to communicate somehow with the master, the Captain of the Port should be contacted under § 164.53 of this new part.

Paragraph (m)(2) in the proposal, which would have required the pilot to inform the master of abnormal characteristics of the area, is not included in this final rule. It may be the subject of a separate rulemaking at another time.

Section 164.11(l). This was paragraph (n) in the proposal. This paragraph requires the person directing the movement of the vessel to know the current velocity and direction for the area. One commenter stated that river current predictions are often inaccurate. The intent of the paragraph is that the person directing the movement of the vessel know as much about current velocity and direction as is possible.

Section 164.11(m). This was paragraph (o) in the proposal. One commenter stated that the predicted set and drift are unpredictable upon rivers. The intent of this paragraph is that the person directing the movement of the vessel use whatever data on current that is available to predict set and drift.

Section 164.11(n). This was paragraph (p) in the proposal. The words "tidal value" are replaced by "tidal state," as used in tide tables, to clarify the intent of the paragraph.

Section 164.11(q) in the proposal. This was to be a requirement for minimum net bottom clearance. It is not included in this final rule, but is to be the subject of a future rulemaking action.

Section 164.11(o). This was paragraph (r) in the proposal. It requires that the vessel's anchors be ready for letting go. Seven commenters suggested that application of the rule be limited to waters that are shallow enough for anchor use. Trying to narrowly define areas where the rule should apply would be impractical.

The intent of the rule is that the anchor be ready for use if necessary, such as when a vessel sheers suddenly into an area where it may ground. Nor should the rule be limited to confined or congested waters, as three commenters suggested, for the same reason. Six persons asked what "ready for letting go" means. "Ready for letting go" means that stoppers, covers, jackasses, and similar items are removed from the ground tackle and that the chain be rigged for quick release. It does not mean that the anchor should be walked out.

Section 164.11 (s) and (t) in the proposal. These proposed requirements were for the proper display of lights and day signals and the sounding of proper fog signals. These are included under the Federal "rules of the road," which are applicable to all vessels, and are therefore not included in this final rule.

Section 164.11(p). This was paragraph (u) in the proposal. Five commenters suggested that the Coast Guard coordinate this rule for setting a vessel's speed with the new Rule 6 of the International Regulations for Preventing Collisions at Sea, 1972. The Coast Guard has done so and the rules are consistent. Since Rule 6 applies to international waters, it is supplemented by this paragraph (p), which is more appropriate for the coastal and inland waters to which it applies.

Section 164.11(q). This was paragraph (v) in the proposal. The proposed paragraph, in part, required that the results of the tests required under § 164.25 be recorded in the vessel's "pilot house log." Two commenters suggested that the entry be in the "deck log." The intent of the rule is simply that the results be recorded in an official log of the vessel. To avoid confusion, the words "pilot house" are not included in the final rule.

Section 164.11(r). This was paragraph (w) in the proposal. This paragraph is the requirement that equipment required by this new part be maintained in operable condition. Four commenters suggested a "best effort" criterion. Two others stated that compliance is not always possible because of lack of parts and available technical ability. One commenter stated that radar, gyro, or depth finder malfunction should not be a reason to delay departure from a port where there are inadequate repair facilities. Notwithstanding these considerations, the intent of the rule is that this necessary equipment should be operating.

Section 164.15 Navigation underway: confined or congested waters and *Section 164.16 List of confined or congested waters.* These are special rules for the hazards of navigation in confined or congested waters. The substantive rules in § 164.15 are promulgated in this final rule as discussed in this preamble. The practical application of § 164.15, however, will not occur until specific geographic areas in which they would apply are included under § 164.16. The definition of "confined or congested waters," as requested by nine commenters, would be implicit in the naming of those waters. Those waters would be particularly hazardous because of restricted maneuvering room or a high volume of vessel traffic. The Coast Guard will conduct separate rulemaking actions for the listing of specific waters under § 164.16. A discussion of the rules in § 164.15 follows.

Section 164.15(a). The proposed rule stated that propulsion machinery is to be in the "maneuvering mode". One commenter requested a definition of "manuevering mode." To clarify the intent of the requirement, the final rule requires propulsion machinery to be ready to "respond immediately through its full operating range."

Section 164.15(b). This paragraph requires that the engine room be manned to operate the propulsion machinery as required under paragraph (a) of the section. Four commenters suggested that vessels that are designed for "unmanned" engine rooms be exempted. The intent of the paragraph is to require no more manning than is necessary to meet paragraph (a) of this section. "Engine room" also includes the main engine control station, even if it is not physically in the "engine room."

Section 164.15(c). This paragraph requires the availability of persons to anchor the vessel rapidly in an emergency. One commenter suggested that vessels with remote control of anchors be exempted. If there is remote control of anchors, the requirement is met by having persons at the remote control.

Section 164.15 (d) and (e) in the proposal. Paragraph (d) would have required the manning of the steering engine room to shift steering control from the pilot house to the steering engine room. Seventeen commenters stated that the requirement would be ineffective because a steering casualty cannot be so remedied quickly enough. In light of these comments, the requirement is not included in these final rules but will be considered further. Because of this, paragraph (e) of the proposal, which would have required communication between the pilot house and the person manning the steering engine room, is also deleted.

Section 164.15(d). This was paragraph (f) in the proposal. This paragraph prohibits the use of the automatic pilot device in confined or congested waters. Two commenters stated that automatic pilot is better than manual steering in certain situations. One suggested that the requirement be for use of the safest steering mode for a particular situation. One commenter stated that component failure in an auto pilot often causes a sudden sheer and that in confined or congested waters, there may be no time to shift. Furthermore, he stated that many companies have standing orders to use hand steering in "tight quarters." The last commenter's statements are consistent with the intent of the rule and the concept of the confined or congested waters in which it would apply. The paragraph is included in this final rule.

Section 164.17 of the proposal. The proposal stated that a rule for tug assistance in confined waters would be developed. This is to be the subject of a future rulemaking action.

Section 164.19 Requirements for vessels at anchor. To be chronologically consistent, paragraphs (a) and (b) of the proposal are interchanged in this final rule.

Section 164.19(a). This was paragraph (b) in the proposal. This paragraph requires the maintenance of a proper anchor watch. The proposed wording was "lookout". "Anchor watch" replaces it in this final rule in agreement with a comment, which stated that "anchor watch" was more appropriate.

Section 164.19(c). This paragraph combines paragraphs (c) and (d) in the notice. One commenter stated that veering chain or dropping a second anchor may solve the problem and that if repairs are being made to the vessel at anchor, it may not be able to get underway. Depending upon the severity of conditions, veering chain or dropping a second anchor may solve an anchor dragging problem; however, if conditions warrant, the vessel should be ready for getting underway if the other actions do not solve the problem. If the vessel has no propulsion, standby tug assistance may be appropriate.

Section 164.19 (e) and (f) in the proposal. These paragraphs would have required the display of proper light and day signals and sounding fog signals while at anchor. Since these are already required under the Federal "rules of the road", which are applicable to all vessels, they are not included in this final rule.

Section 164.23 in the proposal. This section would have required notification to the Captain of the Port or the Vessel Traffic Service of an area before getting underway under conditions that may abnormally affect vessel movement. There were 27 comments about the impracticality of this requirement. After consideration of these comments, the Coast Guard has determined that the practical value of this requirement is outweighed by its impractical aspects and it is not included in this final rule.

Section 164.25 Tests before entering or getting underway. Five commenters stated that the equipment tests required by this section are normal practice on "well-run" vessels and one commenter stated that the requirements are already included in parts of 46 CFR. The intent of the section is that these tests also be made on all those vessels to which this new part applies and not just the vessels to which the requirements in 46 CFR apply. 46 CFR is being amended to be consistent with this new rule. One commenter stated that compliance with this requirement is "impossible" for short inland or coastal voyages. These tests are as necessary for vessels of 1,600 or more gross tons that make short inland or coastal voyages, such as between Philadelphia and Baltimore, as they are for vessels that make longer voyages. If this seems impractical for a particular vessel, the Captain of the Port should be contacted under the requirements of § 164.55 of this new part.

Section 164.25(a). This paragraph requires the testing of primary and secondary steering gear. One commenter stated that careful inspection by a chief

engineer or other qualified person would be sufficient. Visual inspection does not always disclose whether the system will fail and is less reliable than actual testing. One commenter suggested that testing a "trick wheel" is not practical while a vessel is underway. If this system is the only backup steering system, the test is necessary. Vessels to which this new part applies usually have at least two means of steering. To enhance safe navigation, both should be tested to ensure that they are operable.

Section 164.25(b). This paragraph requires the testing of internal vessel control communications and vessel control alarms. One commenter suggested that this apply only when necessary for safe maneuvering. These systems should be ready for all circumstances, including the unforeseen, for the purposes of safe navigation. One commenter stated that "all" of these systems on a highly automated vessel is a large number. Nevertheless, it is necessary for the purposes of safe navigation that these systems operate properly.

Section 164.25(c). The proposed paragraph (c) required the testing of "each emergency generator for at least fifteen minutes." Four commenters stated that once a week is sufficient. These are critical systems and whether or not they are working should be known at the time of actual vessel operation. Since the intent of the section is that there be a second working electrical power source, the final rule allows a standby or emergency generator. One commenter correctly suggested that, instead of a fifteen minute requirement, the test be as long as necessary to show proper functioning, including steady state temperature and pressure readings. The final wording has been changed accordingly.

Section 164.25(d). One commenter suggested that this requirement for the testing of storage batteries for emergency lighting and power systems to vessel control and propulsion machinery spaces not apply to vessels for which there is a regular testing program. The necessity of testing these critical systems at the time of entering or getting underway in the navigable waters of the United States is as discussed for the systems required under paragraphs (a) through (c) of this section.

Section 164.25(e). This paragraph requires the testing of main propulsion machinery, ahead and astern. Five commenters stated that backing engines in coastal waters might be dangerous. The Coast Guard assumes that reasonable masters would not do this test where it might be dangerous, such as in close proximity to other vessels. Two commenters suggested that the machinery be required to be tested only as is necessary to show that it can respond. That would meet the paragraph's requirement. One commenter suggested that the backing test of the engines be made when the vessel slows to pick up a pilot. This machinery must be tested, both ahead and astern, before entering the navigable waters of the United States, which is consistent with the intent of all the regulations in this new part as discussed in the beginning of this preamble.

Section 164.30 Charts, publications, and equipment: general. This section prohibits the operation of a vessel by any person unless the vessel has the charts, publications, and equipment as required by §§ 164.33 through 164.37 of this new part. Six commenters suggested a "due diligence" criterion for this requirement. That concept is reasonably included under the charts and publication requirements in § 164.33 as this section is rewritten in this final rule.

Section 164.33 Charts and publications. Seven commenters stated that the requirement to have the "most recently published" charts under paragraph (a)(1) is unreasonable under the present distribution system. Three commenters stated the same for the requirement under paragraph (a)(2) to have the "current" copy of the listed publications. Accordingly, the requirements are changed to require the "most recently published and available" charts and the "most recent, available * * *" copy of the publications.

Section 164.35 Equipment: all vessels. Seventeen commenters suggested that there be a requirement for "collision avoidance" device. Five commenters suggested a Loran C requirement for "large" vessels. Both will be the subject of a rulemaking action in the near future. Two commenters suggested that radio direction finding equipment be required. This equipment is now required for certain U.S. vessels. The Coast Guard is considering requiring it for all vessels of 1600 or more gross tons operating on the navigable waters of the United States.

Four commenters suggested that the burden of compliance for these equipment requirements be affirmatively placed upon vessel owners. Under the requirement of § 164.30 of this new part, if the owner, through his action or general policy, can reasonably be expected to ensure that the requirements of this equipment section are met, then the burden of compliance would be upon the owner.

Section 164.35(a). This paragraph requires a marine radar system for surface navigation. Four commenters suggested the requirement of gyro stabilization with north up capability. Three commenters suggested the requirement of reflection plotters. One comment suggested the requirement of a minimum 16 inch Plan Position Indicator (PPI) scope with moveable range rings. The Coast Guard has determined that these types of specifications are unnecessary at this time and that the usual radars that are available are sufficient for basic navigational safety. If further experience shows that more specification is necessary, the Coast Guard would conduct appropriate rulemaking actions.

Section 164.35(b). This paragraph requires an illuminated magnetic steering compass. Two commenters stated that many inland vessels do not use a compass. As stated earlier in this preamble, this part does not apply to most inland vessels because they are not 1600 gross tons or more. If an inland vessel is of 1600 gross tons or more and the compass is unnecessary for that vessel, a deviation may be requested under the requirements of § 164.55 of this new part.

Section 164.35(c). This paragraph requires a current magnetic compass deviation table or graph or compass comparison record for the steering compass. The comments on this requirement are discussed earlier in this preamble for § 164.11(i).

Section 164.35 (d) and (e). These were paragraph (d) in the proposal. For clarity, the two requirements, that there be a gyrocompass and that it or a repeater be illuminated and be at the main steering stand, are divided into two paragraphs.

Section 164.35(g). This was paragraph (f) in the proposal. It requires the display of maneuvering information on a fact sheet in the wheelhouse. To be consistent with a similar requirement in 46 CFR 35.20-40 and to clarify the intent of the requirement, the specific information required is stated in the paragraph in this final rule.

Section 164.35(h). This was paragraph (g) in the proposal. It requires an echo sounding device. Two commenters stated that the requirement was unnecessary in pilot waters and two other commenters stated that it was unnecessary for the Great Lakes. It is as important to know the depth of water in these waters as it is in any others. The requirement is unchanged.

Section 164.35(i). This was paragraph (h) in the proposal. It requires a device that can continuously record the depth readings of a vessel's echo sounding device. Nine commenters stated that the device serves no navigational purpose. The recorder is useful for navigational purposes as a valuable positioning device. One commenter stated that the requirement conflicted with IMCO Resolution A.224, which recommends a 15 minute recording capability. The requirement is that the device be one that can record continuously and not a requirement that it run continuously.

Section 164.35(j) in the proposal. This paragraph would have required an illuminated device that displays vessel speed, such as a pitometer log, revolutions-per-minute counter with speed equivalent table, or a direct read out device, such as a doppler indicator. Two commenters stated that such a device would not be useful on rivers. One commenter suggested that direct reading indicators, such as dopplers, be required on "large" vessels. After consideration of these comments and the facts that pitometer log swords would not be extended in shallow waters and revolutions-per-minute counters and speed equivalent tables are only valid in a steady state situation, the Coast Guard has determined that the requirement is insufficient as proposed. Because of the potential value of a direct speed indicating device, the Coast Guard is considering it as the subject of a future rulemaking action after more study; however, the requirement is not included in this final rule.

Section 164.37 in the proposal. This proposed section would have required two marine radar systems on vessels of 10,000 or more gross tons. As stated in the discussion of § 164.35 in this preamble, "collision avoidance" devices for vessels of 10,000 or more gross tons will be the subject of a rulemaking action in the near future. Since a radar system is a component part of some "collision avoidance" devices, this proposed requirement for a second radar is not included in this final rule; however, if after rulemaking procedures a requirement for collision avoidance devices is not promulgated as a final rule, the proposed requirement for a second radar would be reinstated.

Section 164.39 in the proposal. This proposed section would have required an illuminated rate of turn indicator on vessels of 35,000 gross tons or more. Two commenters stated that the device was not necessary on vessels of 100,000 gross tons or more. One commenter stated that the device was designed for use on rivers and was not appropriate for seagoing vessels. One commenter stated that the device had been insufficiently accurate when used on several of his vessels. The Coast Guard has determined that, although the rate of turn indicator may be useful on vessels of this size, further study is necessary and there is insufficient basis for requiring it in these rules.

Section 164.51 Deviations from rules: emergency. This section allows emergency deviations from these rules to avoid endangering persons, property, or the environment. Five commenters stated that this section only repeats the substance of Rule 29 of the International Regulations for Preventing Collisions at Sea, 1960, and Article 29 of the statutory inland "rules of the road" (33 U.S.C. 221). Although this section is consistent with those provisions, it applies specifically to the rules in this new part and not just to general navigation practices governed by the international regulations and inland "rules of the road." Proposed paragraph (b) of this section would have required a report of any deviation under this section to the Captain of the Port or Coast Guard District Commander. Two commenters stated this is unnecessary for brief emergency deviations. In light of these comments, the final rule is changed to require this report for only the failure of critical navigation equipment: the radar, gyrocompass, echo sounding device, or primary steering gear. This requirement is in paragraph (b) of new § 164.53. Paragraph (a) of this new section allows the person directing the movement of the vessel to continue a voyage if any equipment required by this new part stops operating properly, subject to the directions of the Captain of the Port under Part 160 of this chapter.

Section 164.55 Deviations from rules: continuing operation or period of time. This was § 164.53 in the proposal. Under this section, the Captain of the Port may authorize a deviation from these rules, if safe navigation is not impaired or the rules for preventing collisions at sea are not violated, for a vessel operating in the waters under his jurisdiction, for a continuing operation or for a period of time that he specifies. Two commenters stated that there would be "uneven enforcement" because Captains of the Port may interpret the rules differently. One commenter suggested that the section include a requirement that authorizations not be "unreasonably withheld." Another commenter suggested an internal procedure for informing Captains of the Port of the different deviations that have been authorized. The Coast Guard intends to issue internal guidelines so that this deviation authorization would be as consistent as is practicable. The intent of this section is to allow reasonable deviations from these rules if safe navigation of the vessel is not impaired and the rules for preventing collisions at sea are not violated. If a vessel operates in waters that include the jurisdiction of two or more Captains of the Port, an authorization from each is necessary. Deviation from the rules because of equipment failure on a particular voyage is covered under new § 164.53(a).

Section 164.61 Marine Casualty record retention. Two commenters stated that this requirement for record retention when a vessel is involved in a marine casualty is unreasonable. One commenter stated that the requirement is already included in 46 CFR. This section cross references the record retention requirement in 46 CFR 4.05-15 for the convenience of those persons using these rules, which will be in 33 CFR. That requirement in Title 46 is necessary for the purposes of the marine casualty investigations that the Coast Guard is required to conduct.

This rule has been reviewed for economic effects under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200). Because the operational rules in this new part are followed already on most vessels and can be met with most existing manning levels, there should be no cost increase due to increased manning. The Coast Guard estimates that there should be no more than 1,100 U.S. flag vessels and 5,000 foreign flag vessels of 1,600 or more gross tons navigating in the navigable waters of the United States in any year. The following is based, in part, on a 1975 random survey of 300 vessels. Where appropriate, annual cost is based upon a 10 year amortization period. All of the vessels had radar. Adding a good marine radar to 5% of the 6,100 vessels for approximately $15,000 each would result in a cost of $1,282,500 in the first year and $457,500 in each of the following nine years. All the vessels had a magnetic compass. Adding the compass to 5% of the 6,100 vessels for $2,000 each would result in a cost of $496,000 in the first year and $61,000 in each of the following nine years. One vessel did not have a rudder angle indicator. Adding this indicator to 5% of the 6,100 vessels for approximately $4,000 each would result in a cost of $342,000 for the first year and $122,000 in each of the following nine years. Two vessels did not have a gyrocompass. Adding a gyrocompass to 10% of the 6,100 vessels for approximately $60,000 each would result in a cost of $10,260,000 in the first year and $3,660,000 in each of the following nine years. One hundred and seventy-nine vessels did not have their maneuvering characteristics posted. All U.S. vessels, approximately 1,100, are required to have it posted. If all 5,000 foreign vessels did not have it posted, testing for the information would cost approximately $5,000 each resulting in an amortized cost of $2,500,000 each year for ten years. Two vessels did not have a recording fathometer. Adding the fathometer to 10% of the vessels for $20,000 each would result in a cost of $2,420,000 in the first year and $1,000,000 in each of the following nine years.

The economic impact on the U.S. economy from U.S. vessels is the total cost of compliance in the first year plus 10% passed to the consumer in each of the ten years. The cost of foreign vessel compliance will be passed to the U.S. consumer evenly over the 10 year amortization period. The estimated first year cost from compliance to the U.S. shipping industry is $6,979,500. The estimated cost to the U.S. economy is $17,300,500 in the first year and $7,800,500 in each of the following nine years. The benefits from having this equipment and following the proper operating procedures would result not only in tangible savings, including less vessel damage or loss, less post vessel casualty costs, including investigation costs, and search and rescue costs, and less pollution clean up costs of which spill clean up costs alone are estimated at $30,000,000 to $35,000,000 per year, but significant intangible benefits, including less loss of life or injury, less pollution and resulting harm to the environment, and less hazards to navigation caused by abandoned vessels.

In consideration of the foregoing, Chapter I of Title 33, Code of Federal Regulations, is amended by adding a new Part 164 to read as follows:

Sec.

164.01 Applicability.
164.11 Navigation underway: general.
164.15 Navigation underway: confined or congested waters.
164.16 List of confined or congested waters.
164.19 Requirements for vessels at anchor.
164.25 Tests before entering or getting underway.
164.30 Charts, publications, and equipment: general.
164.33 Charts and publications.
164.35 Equipment: all vessels.
164.51 Deviation from rules: emergency.
164.53 Deviations from rules and reporting: non-operating equipment.
164.55 Deviations from rules: continuing operation or period of time.
164.61 Marine casualty reporting and record retention.

AUTHORITY: Sec. 104, 86 Stat. 427 (33 U.S.C. 1224); 49 CFR 1.46 (m) and (n)(4).

§ 164.01 Applicability.

This part applies to each self-propelled vessel of 1600 or more gross tons when

it is operating in or on the navigable waters of the United States, except the Panama Canal and the St. Lawrence Seaway.

§ 164.11 Navigation underway: general.

The owner, master, or person in charge of each vessel underway shall ensure that:

(a) The wheelhouse is constantly manned by persons who—

(1) Direct and control the movement of the vessel; and

(2) Fix the vessel's position;

(b) Each person performing a duty described in paragraph (a) of this section is competent to perform that duty;

(c) The position of the vessel at each fix is plotted on a chart of the area and the person directing the movement of the vessel is informed of the vessel's position.

(d) Electronic and other navigational equipment, external fixed aids to navigation, geographic reference points, and hydrographic contours are used when fixing the vessel's position;

(e) Buoys alone are not used to fix the vessel's position;

NOTE.—Buoys are aids to navigation placed in approximate positions to alert the mariner to hazards to navigation or to indicate the orientation of a channel. Bouys may not maintain an exact position because strong or varying currents, heavy seas, ice, and collisions with vessels can move or sink them or set them adrift. Although buoys may corroborate a position fixed by other means, buoys cannot be used to fix a position; however, if no other aids are available, buoys alone may be used to establish an estimated position.

(f) The danger of each closing visual or each closing radar contact is evaluated and the person directing the movement of the vessel knows the evaluation;

(g) Rudder orders are executed as given;

(h) Engine speed and direction orders are executed as given;

(i) Magnetic variation and deviation and gyrocompass errors are known and correctly applied by the person directing the movement of the vessel;

(j) A person whom he has determined is competent to steer the vessel is in the wheelhouse at all times; [1]

(k) If a pilot other than a member of the vessel's crew is employed, the pilot is informed of the draft, maneuvering characteristics, and pecularities of the vessel and of any abnormal circumstances on the vessel that may affect its safe navigation;

(l) Current velocity and direction for the area to be transited are known by the person directing the movement of the vessel;

(m) Predicted set and drift are known by the person directing movement of the vessel;

(n) Tidal state for the area to be transited is known by the person directing movement of the vessel;

(o) The vessel's anchors are ready for letting go;

(p) The person directing the movement of the vessel sets the vessel's speed with consideration for—

(1) The prevailing visibility and weather conditions;

(2) The proximity of the vessel to fixed shore and marine structures;

(3) The tendency of the vessel underway to squat and suffer impairment of maneuverability when there is small underkeel clearance;

(4) The comparative proportions of the vessel and the channel;

(5) The density of marine traffic;

(6) The damage that might be caused by the vessel's wake;

(7) The strength and direction of the current; and

(8) Any local vessel speed limit;

(q) The tests required by § 164.25 are made and recorded in the vessel's log; and

(r) The equipment required by this part is maintained in operable condition.

§ 164.15 Navigation underway: confined or congested waters.

In the confined or congested waters described in § 164.16, the master or person in charge of each vessel underway shall ensure that—

(a) Propulsion machinery can respond immediately through its full operating range;

(b) The engine room, including the main engine control station even if it is not in the engine room, is manned to operate the propulsion machinery as required by paragraph (a) of this section;

(c) Persons are available to rapidly anchor the vessel in an emergency; and

(d) The automatic pilot device is not in use.

§ 164.16 List of confined or congested waters. [Reserved]

§ 164.19 Requirements for vessels at anchor.

The master or person in charge of each vessel that is anchored shall ensure that—

(a) A proper anchor watch is maintained;

(b) Procedures are followed to detect a dragging anchor; and

(c) Whenever weather, tide, or current conditions are likely to cause the vessel's anchor to drag, action is taken to ensure the safety of the vessel, structures, and other vessels, such as being ready to veer chain, let go a second anchor, or get underway using the vessel's own propulsion or tug assistance.

§ 164.25 Tests before entering or getting underway.

No person may cause a vessel to enter into or get underway on the navigable waters of the United States unless, no more than 12 hours before entering or getting underway, the following equipment has been tested:

(a) Primary and secondary steering gear.

(b) All internal vessel control communications and vessel control alarms.

(c) Standby or emergency generator for as long as necessary to show proper functioning, including steady state temperature and pressure readings.

(d) Storage batteries for emergency lighting and power systems in vessel control and propulsion machinery spaces.

(e) Main propulsion machinery, ahead and astern.

§ 164.30 Charts, publications, and equipment: general.

No person may operate or cause the operation of a vessel unless the vessel has the charts, publications, and equipment as required by §§ 164.33 through 164.35 of this part.

§ 164.33 Charts and publications.

(a) Each vessel must have the following:

(1) Except as provided by paragraph (b) of this section, charts of the area to be transited published by the National Ocean Survey, U.S. Army Corps of Engineers, or a river authority that—

(i) are of a large enough scale and have enough detail to enable safe navigation of the area; and

(ii) are the most recently published and available for the area and currently corrected.

(2) Except as provided by paragraph (b) of this section, the most recent, available, and currently corrected copy of, or applicable extract from, each of the following publications, if it includes the area to be transited:

(i) U.S. Coast Pilot.

(ii) Coast Guard Light List.

(iii) Notices to Mariners published by Defense Mapping Agency Hydrographic Center and local Coast Guard Notice to Mariners.

(iv) Tide Tables published by the National Ocean Survey.

(v) Tidal Current Tables published by the National Ocean Survey, or river current publication issued by the U.S. Army, Corps of Engineers, or a river authority.

(b) A vessel may have a chart or publication published by a foreign government instead of a chart or publication required by this section if the chart or publication contains similar information to the U.S. Government publication or chart. A vessel bound from a foreign port to a port in the United States may have the latest charts and publications that were available at previous ports of call.

§ 164.35 Equipment: all vessels.

Each vessel must have the following:

(a) A marine radar system for surface navigation.

(b) An illuminated magnetic steering compass, mounted in a binnacle, that can be read at the vessel's main steering stand.

(c) A current magnetic compass deviation table or graph or compass comparison record for the steering compass, in the wheelhouse.

(d) A gyrocompass.

(e) An illuminated repeater for the gyrocompass required by paragraph (d) of this section that is at the main steering stand, unless that gyrocompass is il-

[1] See also 46 U.S.C. 672, which requires an able seaman at the wheel on U.S. vessels of 100 gross tons or more in narrow or crowded waters or during low visibility.

luminated and is at the main steering stand.

(f) An illuminated rudder angle indicator in the wheelhouse.

(g) The following maneuvering information prominently displayed on a fact sheet in the wheelhouse:

(1) For full and half speed, a turning circle diagram to port and starboard that shows the time and the distance of advance and transfer required to alter the course 90 degrees with maximum rudder angle and constant power settings.

(2) The time and distance to stop the vessel from full and half speed while maintaining approximately the initial heading with minimum application of rudder.

(3) For each vessel with a fixed propeller, a table of shaft revolutions per minute for a representative range of speeds.

(4) For each vessel with a controllable pitch propeller, a table of control settings for a representative range of speeds.

(5) For each vessel that is fitted with an auxiliary device to assist in maneuvering, such as a bow thruster, a table of vessel speeds at which the auxiliary device is effective in maneuvering the vessel.

(6) The maneuvering information for the normal load and normal ballast condition for—

(i) Calm weather—wind 10 knots or less, calm sea;

(ii) No current;

(iii) Deep water conditions—water depth twice the vessel's draft or greater; and

(iv) Clean hull.

(7) At the bottom of the fact sheet, the following statement:

WARNING

The response of the (name of the vessel) may be different from that listed above if any of the following conditions, upon which the maneuvering information is based, are varied:

(1) Calm weather—wind 10 knots or less, calm sea;

(2) No current;

(3) Water depth twice the vessel's draft or greater;

(4) Clean hull; and

(5) Intermediate drafts or unusual trim.

(h) An echo depth sounding device.

(i) A device that can continuously record the depth readings of the vessel's echo depth sounding device.

(j) Equipment on the bridge for plotting relative motion.

§ 164.51 Deviations from rules: emergency.

Except for the requirements of § 164.53 (b), in an emergency, any person may deviate from any rule in this part to the extent necessary to avoid endangering persons, property, or the environment.

§ 164.53 Deviations from rules and reporting: non-operating equipment.

(a) If during a voyage any equipment required by this part stops operating properly, the person directing the movement of the vessel may complete the voyage subject to the requirements in Part 160 of this chapter.

(b) If the vessel's radar, gyrocompass, echo depth sounding device, or primary steering gear stops operating properly, the person directing the movement of the vessel must report or cause to be reported that it is not operating properly to the nearest Captain of the Port or Coast Guard District Commander as soon as possible.

§ 164.55 Deviations from rules: continuing operation or period of time.

The Captain of the Port, upon written application, may authorize a deviation from any rule in this part if he determines that the deviation does not impair the safe navigation of the vessel under anticipated conditions and will not result in a violation of the rules for preventing collisions at sea. The authorization may be issued for vessels operating in the waters under the jurisdiction of the Captain of the Port for any continuing operation or period of time the Captain of the Port specifies.

§ 164.61 Marine casualty reporting and record retention.

When a vessel is involved in a marine casualty as defined in 46 CFR 4.03–1, the master or person in charge of the vessel shall—

(a) Ensure compliance with 46 CFR Subpart 4.05, "Notice of Marine Casualty and Voyage Records;" and

(b) Ensure that the voyage records required by 46 CFR 4.05–15 are retained for—

(1) 30 days after the casualty if the vessel remains in the navigable waters of the United States; or

(2) 30 days after the return of the vessel to a United States port if the vessel departs the navigable waters of the United States within 30 days after the marine casualty.

Effective date: This rule becomes effective on June 1, 1977.

The Coast Guard 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.

Dated: January 26, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.77-2994 Filed 1-28-77;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75-074]

Vessel Inspection Regulations

On September 16, 1975, a document was published in the FEDERAL REGISTER (40 FR 24585) proposing to amend the vessel inspection regulations in Chapter I of Title 46 of the Code of Federal Regulations. Interested parties were given an opportunity to submit, not later than October 31, 1975, data, views and recommendations regarding the proposed amendments. These regulations are interrelated with and therefore must be read together with the Navigation Safety Regulations (33 CFR 164) published in this FEDERAL REGISTER.

Several comments were received in response to this proposal. One commentor felt that the proposed rules concerning nautical publications should apply only to vessels on the high seas and international waters and should not apply to tankships operating exclusively on bays, sounds, and lakes other than the Great Lakes. Current rules require that these vessels meet the same navigation requirements as other tankships in ocean, coastwise, and Great Lakes service. There are sufficient hazards to safe navigation in all waters to warrant the required carriage of nautical publications for the intended voyage in addition to the presently required charts. For this reason, the comment has not been adopted.

One commentor expressed concern about the effect of the proposed rules regarding radar, gyrocompass, and radio directional finders on vessels solely navigating the Great Lakes. The requirements of these regulations for radar and gyrocompasses apply only to vessels operating in ocean or coastwise service and are not applicable to vessels navigating solely on the Great Lakes. However, the regulations in 33 CFR Part 164, which require radar and gyrocompasses, apply to vessels navigating on the Great Lakes. The proposed rules did not address radio directional finders. The Coast Guard did not intend to extend the requirements for radar, magnetic compasses, and gyrocompasses to barges. This was not clear in the proposed regulations. To clarify this, the following changes are made in the final regulations. The words "mechanically propelled" are added to §§ 77.09–1(a), 77.11–1 (a) and (b), 96.17–1 (a) and (b), 96.25–1(a), 167.40–40(a), 167.40–45 (a) and (b), 195.17(a), 195.19–1 (a) and (b), as appropriate. One commentor suggested that the term "helmsman" could be interpreted as limited to a specific position rather than a specific function and suggested the use of the term "qualified person". The Coast Guard agrees that the term "helmsman" could possibly be misinterpreted as the commentor suggested. For this reason, the term "qualified helmsman" has been changed to "competent person".

The references to Federal Communications Commission regulations for radar have been deleted to make these regulations consistent with the Navigation Safety Regulations in 33 CFR Part 164 which require marine radars.

In consideration of the foregoing, Chapter I of Title 46 of the Code of Federal Regulations is amended as follows:

PART 32—SPECIAL EQUIPMENT MACHINERY AND HULL REQUIREMENTS

§ 32.15–10 [Amended]

1. In 32.15–10, by deleting the words "mechanical or" in the first sentence.

2. By adding a new sentence at the end of § 32.15–20(a) to read as follows:

§ 32.15–20 Radiotelegraph and Radiotelephone—T/ALL.

(a) * * * All vessels on an international voyage that are required to carry a radiotelegraph or radiotelephone in accordance with Chapter IV of the Safety of Life at Sea Convention, 1960, must carry the International Code of Signals.

3. By adding a new § 32.15–30 to read as follows:

§ 32.15–30 Radar—T/OC.

All tankships of 1,600 gross tons and over in ocean or coastwise service must be fitted with a marine radar system for surface navigation. Facilities for plotting radar readings must be provided on the bridge.

4. By adding a new § 32.15–35 to read as follows:

§ 32.15–35 Magnetic Compass and Gyrocompass—T/OC.

(a) All tankships in ocean or coastwise service must be fitted with a magnetic compass.

(b) All tankships of 1,600 gross tons and over in ocean or coastwise service must be fitted with a gyrocompass in addition to the magnetic compass.

(c) Each tankship must have an illuminated repeater for the gyrocompass required under paragraph (b) that is at the main steering stand unless the gyrocompass is illuminated and is at the main steering stand.

PART 35—OPERATIONS

5. By revising § 35.20–1(d) to read as follows:

§ 35.20–1 Notice to Mariners; aids to navigation—T/OCLB.

* * * * *

(d) As appropriate for the intended voyage, all vessels must carry adequate and up-to-date—

(1) Charts;
(2) Sailing directions;
(3) Coast pilots;
(4) Light lists;
(5) Notices to mariners;
(6) Tide tables;
(7) Current tables; and
(8) All other nautical publications necessary.[1]

6. By adding a new § 35.20–45 to read as follows:

§ 35.20–45 Use of Auto Pilot—T/ALL.

Except as provided in 33 CFR 164.15, when the automatic pilot is used in—

(a) Areas of high traffic density;
(b) Conditions of restricted visibility; and
(c) All other hazardous navigational situations, the master shall ensure that—

(1) It is possible to immediately establish manual control of the ship's steering;
(2) A competent person is ready at all times to take over steering control; and
(3) The changeover from automatic to manual steering and vice versa is made by, or under, the supervision of the officer of the watch.

7. By revising the first sentence of § 35.30–20 to read as follows:

§ 35.30–20 Emergency Equipment—TB/ALL.

(a) Two emergency outfits, stored for use in widely separated, accessibe locations, are required for the following:

* * * * *

PART 77—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

8. By adding a new Subpart 77.09 to read as follows:

Subpart 77.09—Radar

§ 77.09–1 When required.

All mechanically propelled vessels of 1,600 gross tons and over in ocean or coastwise service must be fitted with a marine radar system for surface navigation. Facilities for plotting radar readings must be provided on the bridge.

9. By adding a new Subpart 77.11 to read as follows:

Subpart 77.11—Magnetic Compass and Gyrocompass

§ 77.11–1 When required.

(a) All mechanically propelled vessels in ocean, coastwise or Great Lakes service must be fitted with a magnetic compass.

(b) All mechanically propelled vessels 1,600 gross tons and over in ocean or coastwise service must be fitted with a gyrocompass in addition to the magnetic compass.

(c) Each vessel must have an illuminated repeater for the gyrocompass required under paragraph (b) that is at the main steering stand unless the gyrocompass is illuminated and is at the main steering stand.

10. By adding a new paragraph (b) to § 77.13–1 to read as follows:

Subpart 77.13—Radiotelegraph and Radiotelephone

§ 77.13–1 Required by Federal Communications Commission.

* * * * *

(b) All vessels on an international voyage which are required to carry a radiotelegraph or radiotelephone installation in accordance with Chapter IV of the Safety of Life at Sea Convention, 1960, must carry the International Code of Signals.

§ 77.27–1 [Amended]

11. In 77.27–1, by deleting the words "mechanical or" from the first sentence.

PART 78—OPERATIONS

12. By revising § 78.05–5 to read as follows:

§ 78.05–5 Charts and Nautical Publications.

As appropriate for the intended voyage, all vessels except barges, ferryboats and vessels operating exclusively on rivers, must carry adequate and up-to-date—

(a) Charts;
(b) Sailing directions;
(c) Coast pilots;
(d) Light lists;
(e) Notices to mariners;
(f) Tide tables;
(g) Current tables; and
(h) All other nautical publications necessary.[1]

13. By adding a new Subpart 78.19 to read as follows:

Subpart 78.19—Auto Pilot

§ 78.19–1 Use of Auto Pilot.

Except as provided in 33 CFR 164.15, when the automatic pilot is used in—

(a) Areas of high traffic density;
(b) Conditions of restricted visibility; and
(c) All other hazardous navigational situations, the master shall ensure that—

(1) It is possible to immediately establish manual control of the ship's steering;
(2) A competent person is ready at all times to take over steering control; and
(3) The changeover from automatic to manual steering and vice versa is made by, or under, the supervision of the officer of the watch.

PART 96—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

14. By adding a new paragraph (b) to § 96.13–1 to read as follows:

Subpart 96.13—Radiotelegraph and Radiotelephone

§ 96.13–1 Required by Federal Communications Commission.

* * * * *

(b) All vessels on an international voyage which are required to carry a radiotelegraph or radiotelephone installation in accordance with Chapter IV of the Safety of Life at Sea Convention, 1960, must carry the International Code of Signals.

15. By adding a new Subpart 96.17 to read as follows:

Subpart 96.17—Magnetic Compass and Gyrocompass

§ 96.17–1 When required.

(a) All mechanically propelled vessels in ocean or coastwise service must be fitted with a magnetic compass.

(b) All mechanically propelled vessels of 1,600 gross tons and over in ocean or coastwise service must be fitted with a gyrocompass in addition to the magnetic compass.

(c) Each vessel must have an illuminated repeater for the gyrocompass required under paragraph (b) that is at the main steering stand unless the gyrocompass is illuminated and is at the main steering stand.

16. By adding a new Subpart 96.25 to read as follows:

[1] For United States vessels in or on the navigable waters of the United States, see 33 CFR 164.33.

[1] For United States vessels in or on the navigable waters of the United States, see 33 CFR 164.33.

Subpart 96.25—Radar

§ 96.25–1 When required.

All mechanically propelled vessels of 1,600 gross tons and over in ocean or coastwise service must be fitted with a marine radar system for surface navigation. Facilities for plotting radar readings must be provided on the bridge.

§ 96.27–1 [Amended]

17. In 96.27–1, by deleting the words "mechanical or" in the first sentence of paragraph (a).

18. By revising § 96.35–15 to read as follows:

§ 96.35–15 Stowage.

The fireman's outfits must be stored in widely separated, accessible locations.

PART 97—OPERATIONS

19. By revising § 97.05–5(a) to read as follows:

§ 97.05–5 Charts and nautical publications.

As appropriate for the intended voyage, all vessels except barges, vessels operating exclusively on rivers, and motorboats other than those certificated for ocean or coastwise route, must carry adequate and up-to-date—

(a) Charts;
(b) Sailing directions;
(c) Coast pilots;
(d) Light lists;
(e) Notices to mariners;
(f) Tide tables;
(g) Current tables; and
(h) All other nautical publications necessary.[1]

20. By adding a new Subpart 97.16 to read as follows:

Subpart 97.16—Auto Pilot

§ 97.16–1 Use of auto pilot.

Except as provided in 33 CFR 164.15, when the automatic pilot is used in—

(a) Areas of high traffic density;
(b) Conditions of restricted visibility; and
(c) All other hazardous navigational situations, the master shall ensure that—

(1) It is possible to immediately establish manual control of the ship's steering;

(2) A competent person is ready at all times to take over steering control;

(3) The changeover from automatic to manual steering and vice versa is made by, or under, the supervision of the officer of the watch.

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

§ 167.40–20 [Amended]

21. In § 167.40–20, by deleting the words "mechanical or" from the first and second sentences.

22. By adding a new § 167.40–40 to read as follows:

§ 167.40–40 Radar.

All mechanically propelled vessels of 1,600 gross tons and over in ocean or coastwise service must be fitted with a marine radar system for surface navigation. Facilities for plotting radar readings must be provided on the bridge.

23. By adding a new § 167.40–45 to read as follows:

§ 167.40–45 Magnetic compass and gyrocompass.

(a) All mechanically propelled vessels in ocean or coastwise service must be fitted with a magnetic compass.

(b) All mechanically propelled vessels of 1,600 gross tons and over in ocean or coastwise service must be fitted with a gyrocompass in addition to the magnetic compass.

(c) Each vessel must have an illuminated repeater for the gyrocompass required under paragraph (b) that is at the main steering stand unless the gyrocompass is illuminated and is at the main steering stand.

24. By adding a new § 167.65–35 to read as follows:

§ 167.65–35 Use of auto pilot.

Except as provided in 33 CFR 164.15, when the automatic pilot is used in—

(a) Areas of high traffic density;
(b) Conditions of restricted visibility; and
(c) All other hazardous navigational situations, the master shall ensure that—

(1) It is possible to immediately establish human control of the ship's steering;

(2) A competent person is ready at all times to take over steering control; and

(3) The changeover from automatic to manual steering and vice versa is made by, or under, the supervision of the officer of the watch.

25. By revising § 167.65–45(d) to read as follows:

§167.65–45 Notice to mariners; aids to navigation.

* * * * *

(d) As appropriate for the intended voyage, all nautical school ships must carry adequate and up-to-date—

(1) Charts;
(2) Sailing directions;
(3) Coast pilots;
(4) Light lists;
(5) Notices to mariners;
(6) Tide tables;
(7) Current tables; and
(8) All other nautical publications necessary.[1]

PART 184—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

26. By adding a new paragraph (c) to § 184.25–1 to read as follows:

Subpart 184.25—Radio

§ 184.25–1 Requirements of the Federal Communications Commission.

* * * * *

(c) All vessels on an international voyages which are required to carry a radiotelegraph or radiotelephone installation in accordance with Chapter IV of the Safety of Life at Sea Convention, 1960, must carry the International Code of Signals.

PART 185—OPERATIONS

27. By adding a new § 185.20–30 to read as follows:

Subpart 185.20—Miscellaneous Operating Requirements

§ 185.20–30 Use of auto pilot.

Except as provided in 33 CFR 164.15, when the automatic pilot is used in—

(a) Areas of high traffic density;
(b) Conditions of restricted visibility; and
(c) All other hazardous navigational situations, the operator shall ensure that—

(1) It is possible to immediately establish manual control of the ship's steering;

(2) That a competent person is ready at all times to take over steering control; and

(3) The changeover from automatic to manual steering and vice versa is made by, or under, the supervision of the operator.

28. By adding a new § 185.20–35 to read as follows:

Subpart 185.20—Miscellaneous Operating Requirements

§ 185.20–35 Charts and nautical publications.

As appropriate for the intended voyage, all vessels must carry adequate and up-to-date—

(a) Charts;
(b) Sailing directions;
(c) Coast pilots;
(d) Light lists;
(e) Notices to mariners;
(f) Tide tables;
(g) Current tables; and
(h) All other nautical publications necessary.[1]

PART 195—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

29. By adding a new paragraph (b) to § 195.13–1 to read as follows:

Subpart 195.13—Radiotelegraph and Radiotelephone

§ 195.13–1 Required by Federal Communications Commission.

* * * * *

(b) All mechanically propelled vessels on an international voyage which are required to carry a radiotelegraph or radio telephone installation in accordance with Chapter IV of the Safety of Life at Sea Convention, 1960, must carry the International Code of Signals.

30. By adding a new Subpart 195.17 to read as follows:

[1] For United States vessels in or on the navigable waters of the United States, see CFR 164.33.

[1] For United States vessels in or on the navigable waters of the United States, see 33 CFR 164.33.

[1] For United States vessels in or on the navigable waters of the United States, see 33 CFR 164.33.

Subpart 195.17—Radar

§ 195.17–1 When required.

All mechanically propelled vessels of 1,600 gross tons and over in ocean or coastwise service must be fitted with a marine radar system for surface navigation. Facilities for plotting radar readings must be provided on the bridge.

31. By adding a new Subpart 195.19 to read as follows:

Subpart 195.19—Magnetic Compass and Gyrocompass

§ 195.19–1 When required.

(a) All mechanically propelled vessels in ocean or coastwise service must be fitted with a magnetic compass.

(b) All mechanically propelled vessels of 1,600 gross tons and over in ocean or coastwise service must be fitted with a gyrocompass in addition to the magnetic compass.

(c) Each vessel must have an illuminated repeater for the gyrocompass required under paragraph (b) that is at the main steering stand unless the gyrocompass is illuminated and is at the main steering stand.

§ 195.27–1 [Amended]

32. In 195.27–1, by deleting the words "mechanical or" in the first sentence.

33. By adding a new sentence at the end of § 195.35–10(b) to read as follows:

§ 195.35–10 Fireman's outfit.

* * * * *

(b) * * * The fireman's outfits must be stored in widely separated, accessible locations.

PART 196—OPERATIONS

34. By revising § 196.05–5 to read as follows:

§ 196.05–5 Charts and nautical publications.

As appropriate for the intended voyage, all vessels except barges, and vessels operating exclusively on rivers, must carry adequate and up-to-date—

(a) Charts;
(b) Sailing directions;
(c) Coast pilots;
(d) Light lists;
(e) Notices to mariners;
(f) Tide tables;
(g) Current tables; and
(h) All other nautical publications necessary.[1]

(46 U.S.C. 375, 416, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Effective date: These amendments are effective on June 1, 1977.

The Coast Guard 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.

Dated: January 26, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77–2995 Filed 1–28–77;8:45 am]

[1] For United States vessels in or on the navigable waters of the United States, see 33 CFR 164.33.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 164]

[CGD 77-002]

PROPOSED NAVIGATION SAFETY REQUIREMENTS

LORAN-C on Vessels of 1600 Gross Tons or More

• *Purpose.* The Coast Guard is considering amending the navigation safety requirements by adding LORAN-C to the list of required equipment for vessels of 1600 gross tons or more. •

Written comments. Interested persons are invited to participate in this proposed rulemaking by submitting written data, views, or arguments to the Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C., 20590. Each person submitting a comment should include his name and address, identify this notice (CGD 77-002), and give reasons for support of his comment. Comments received before April 1, 1977 will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons in Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. The proposal may be changed in light of the comments received.

Public Hearing. The Coast Guard will hold a public hearing on March 4, 1977, beginning at 10:00 a.m., in Room 2232, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. An additional public hearing will be held on March 16, 1977, beginning at 9:30 a.m., in the Marine Room, Travel Lodge at The Wharf, 250 Beach Street, San Francisco, California. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. It is requested that anyone desiring to make oral comments at either hearing notify the Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590, at least 10 days before the scheduled date of the public hearing and specify the approximate length of time needed for the presentation. It is urged that a written summary or copy of the oral presentation be included with the request.

Summary of Proposal. New Navigation Safety Regulations (Part 164) are being published on page 5956 of this issue of the FEDERAL REGISTER. When the Navigation Safety Regulations were proposed in the May 6, 1976, issue of the FEDERAL REGISTER (41 FR 18766), the Coast Guard stated that the purposes of the rules would be to prevent vessel collisions and groundings and protect the navigable waters from environmental harm resulting from vessel collisions and groundings. The Coast Guard noted a concern about some vessels that do not currently approach an appropriate level of navigation practice and equipment. That concern has been intensified by recent tanker groundings. Some of these might not have occurred if the vessels involved had been making use of the best navigational tools available.

The Department of Transportation maintains a National Plan for Navigation. It is the official source of navigation policy and plans for the Department. The April, 1972, edition of the National Plan for Navigation was amended by an Annex published as a Notice in the July 19, 1974, issue of the FEDERAL REGISTER (39 FR 26468). The amendment announced the designation and implementation of LORAN-C as the government-provided radionavigation system for the U.S. maritime coastal confluence zone. The coastal confluence zone is defined as the seaward approaches to land, the inner boundary of which is the harbor entrance, and the outer boundary of which is 50 nautical miles offshore or the edge of the continental shelf (100 fathom curve), whichever is greater.

The July, 1974, Annex describes in detail how LORAN-C was selected after consideration of the alternative systems, LORAN-A, Differential Omega, and Decca.

The LORAN-C service in the coastal confluence zone is designed to provide 95% assurance that a vessel can fix its position to an accuracy of ¼ mile. The navigation system accuracy requirement has been established so that a vessel could be navigated safely along a track to its destination or within its designated shipping lane.

The existing LORAN-C system is being expanded to provide coverage for the entire U.S. coastal confluence zone and the Great Lakes. Overseas stations will continue to be operated by the Coast Guard in response to the requirements of the Department of Defense. Existing system coverage and new Pacific Coast service, which will become available by mid-1977, is depicted in the LORAN-C Coverage Diagram, Defense Mapping Agency Hydrographic Center Chart No. 5130. Basically, LORAN-C presently provides ¼ nautical mile accuracy over about two-thirds of the U.S. East Coast waters, throughout the Bering Sea, and in parts of the Hawaiian Islands and surrounding waters.

The expanded system is to provide coverage, with a fix accuracy of ¼ nautical mile or better, throughout the Great Lakes and in all U.S. coastal waters (out to 200 miles or more) except northern Alaskan waters and some Hawaiian areas. Scheduled dates for the availability of expanded service are approximately:

West Coast	Spring, 1977
Gulf of Alaska	Spring, 1977
East Coast	Expanded service: Summer, 1978.
East Coast	Complete service: Summer, 1979.
Gulf of Mexico	Summer, 1978
Great Lakes	Early 1980

Since, as of Spring 1977, LORAN-C will provide coverage of a major fraction of the coastal confluence zone, since the system is programmed for future expansion, and since there is a need to upgrade the ability of vessels entering the navigable waters of the U.S. to be informed accurately and continuously of their progress along a track, the Coast Guard has concluded that the use of LORAN-C should be a requirement for certain vessels entering U.S. waters. While this rule, of course, only applies on the navigable waters of the United States, the Coast Guard feels that operators of vessels with LORAN-C receivers installed will avail themselves of the benefits of the system in the offshore approaches, as well as in the overseas coverage areas. An incidental benefit will be the ability to navigate with greater confidence through areas of outer continental shelf resource exploration and production.

The Coast Guard randomly sampled navigation practice and equipment in mid-1975. Of the vessels boarded, 40% were equipped with LORAN-C receivers. Vessels under U.S. flag comprised 21% of the sample; 70% of these were equipped with LORAN-C. This 70% figure included both tankers and freighters. With respect to vessels sailing under foreign flag, 39% of foreign freighters were equipped with LORAN-C, and only 24% of foreign tankers were so equipped. Considering the reasonable marketing costs of receivers, it would not appear that adequate use is being made of this navigational aid.

While the Coast Guard proposes to require LORAN-C receivers on all vessels of 1600 or more gross tons that enter U.S. waters, it recognizes that a requirement of this nature would place a sudden surge on manufacturers' capabilities and would cause a severe backlog problem for those manufacturers. Accordingly, the Coast Guard proposes that if the amendment is adopted, it will become effective for each category of vessel at a staggered interval. Because the tank vessel segment of the industry is somewhat smaller than the freighter segment, and because the ability to accurately navigate tankers has assumed much greater importance of late, it is proposed that this segment of the industry would be required to comply with the regulation at the earliest time, such as 120 days after publication of the rule. It is proposed to require the remaining vessels to comply one year after publication of the rule.

In consideration of the foregoing, it is proposed to revise § 164.35 of Title 33, Code of Federal Regulations, by adding a new paragraph (k) to read as follows:

§ 164.35 Equipment: all vessels.

* * * * *

(k) A LORAN-C receiver.

(Sec. 104, 86 Stat. 427 (33 U.S.C. 1224); sec. 201(3), 86 Stat. 428, as amended (46 U.S.C. 391a(3)); 49 CFR 1.46 (n)(4).)

The Coast Guard has determined that this document does not contain a major rule requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 26, 1977.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard Chief, Office of Marine Environment and Systems.

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