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1934

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H.R. 2647..... Pub. L. 95–14

To amend the Small Business Act and the Small Business Investment Act of 1958. Mar. 24, 1977; 91 Stat. 25. Price: $.35.

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

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

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

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Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 214—NONIMMIGRANT CLASSES

Nonimmigrant Alien Physicians; Eligibility for Extension of Stay

AGENCY: Immigration and Naturalization Service.

ACTION: Final rule.

SUMMARY: The amendments prescribed in this order provide that a nonimmigrant alien physician who was admitted to the United States under section 101(a)(15)(H)(i), (ii), or (iii) prior to January 10, 1977 may be granted one extension of stay of up to one year on or after that date where such alien physician would not otherwise be eligible for an extension under the provisions of Title VI of Pub. L. 94-484. The amendments also provide that a nonimmigrant alien physician granted such an extension may be readmitted to the United States after a brief absence abroad, and remain until the expiration of the time his stay had been previously authorized.

EFFECTIVE DATE: March 28, 1977.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536 (202-376-8373).

SUPPLEMENTARY INFORMATION: Pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (66 Stat. 173; 8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1, certain amendments as set forth herein are prescribed to Part 214 of Chapter I of Title 8 of the Code of Federal Regulations.

Prior to its amendment by Title VI of the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484), section 101(a)(15)(H)(i) of the Immigration and Nationality Act provided that an alien of distinguished merit and ability could be admitted to the United States temporarily to perform services of an exceptional nature requiring such merit and ability. Section 101(a)(15)(H)(ii) provided that an alien could be admitted to the United States temporarily to perform temporary services or labor if unemployed persons capable of performing such services or labor could not be found in the United States. Section 101(a)(15)(H)(iii) provided that an alien could be admitted temporarily to the United States as a trainee.

Title VI of Pub. L. 94-484 which became effective January 10, 1977 amended section 101(a)(15)(H) to provide that clause (ii) would not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession; and amended clause (iii) to provide that it would not apply to aliens seeking to enter the United States as trainees to receive graduate medical education or training.

Section 101(a)(15)(H)(i) was amended to provide that in order to qualify under that section an alien graduate of a medical school coming to perform services as a member of the medical profession would be required to be coming to this country pursuant to an invitation to teach or conduct research or both at or for a public or nonprofit private educational or research institution. Thus these statutory amendments restrict the admissibility of "H" nonimmigrant alien physicians to those who are coming by invitation to teach or conduct research at or for a public or private nonprofit research or educational institution, and prohibit the entry of such nonimmigrant physicians coming to perform general services as members of the medical profession or to receive graduate medical education or training.

Since the time these amendments to section 101(a)(15)(H) became effective, it has come to Service attention that there are communities in the United States dependent for health care solely on the services of physicians presently in the United States who were admitted as nonimmigrants under section 101(a)(15)(H) of the Act. Under the new requirements imposed by Pub. L. 94-484, these physicians may not be eligible to qualify for extensions of stay or for permanent residence. Therefore, in order to ease the transition, the Service will permit one extension of stay for the "H" nonimmigrant physician who was admitted on or before January 9, 1977, who would not otherwise be eligible for an extension, provided such physician is lawfully in the United States; is maintaining status under section 101(a)(15)(H)(i), (ii), or (iii), and is found to be otherwise eligible.

In the light of the foregoing the Service will amend 8 CFR 214.2(h)(11) by adding to that paragraph a provision whereby a physician admitted to the United States under section 101(a)(15)(H) for employment or training as a member of the medical profession, may be granted one extension of stay of up to one year on or after January 10, 1977, if that individual would have been otherwise ineligible for such extension solely because of the amendment which became effective January 10, 1977 and provided that individual is maintaining the status under which admitted and continues the employment or training with the same employer or trainer for whom the last visa petition was approved.

Also 8 CFR 214.2(h)(9) will be amended to provide that a physician who has been granted an extension of stay under 8 CFR 214.2(h)(11), as amended, may be readmitted as an "H" nonimmigrant following a temporary absence from the United States, if otherwise qualified, for a period not to exceed the date until which his temporary stay had been previously authorized.

The following amendments are hereby prescribed to Part 214 of Title 8 of Chapter I of the Code of Federal Regulations:

1. Section 214.2(h)(9) is revised by adding a sentence to the end thereof, and § 214.2(h)(11) is revised by adding a sentence to the end thereof.

§ 214.2 **Special requirements for admission, extension, and maintenance of status.**

* * * * *

(h) *Temporary employees.* * * *

* * * * *

(9) *Admission.* A beneficiary may apply for admission to the United States only during the period of validity of the petition, or during the period of any extension of his temporary stay authorized on Form I-171C. The authorized period of the beneficiary's admission shall be governed by the period of established need for his temporary services or training, but shall not exceed the date of validity of the petition or the date until which his temporary stay had been previously authorized by the Service. Under this subparagraph a physician who had been granted extension of stay under the terms of paragraph (h)(11) of this section may after a temporary absence from the United States be readmitted as a nonimmigrant under sections 101(a)(15)(H)(i), (ii), or (iii) and 214(a) of the Act, if otherwise qualified, for a period not to exceed the date until which his temporary stay had been previously authorized.

* * * * *

(11) *Extension of stay.* An extension of stay may be authorized in increments of not more than 12 months each under the same terms and conditions that apply to an admission, except that an applicant for an individual extension on Form I-539 shall not require a new petition to continue previously authorized

employment or training. A new petition shall be required on behalf of an applicant who seeks to pursue employment or training other than that previously authorized and the applicant, if he is maintaining status, may be granted an extension of stay for the period of validity of the approved petition without a Form I-539. Form I-129B shall be used when filing an application for a group extension: *Provided*, That when Form I-129B is filed solely for that purpose, no appeal shall lie from the denial thereof. In the case of an alien defined in section 101(a)(15)(H)(ii) of the Act, the application for extension shall be accompanied by a labor certification or a notice that such certification cannot be made; and the alien shall not be granted an extension which would result in an unbroken stay in the United States for more than 3 years. The physician who prior to January 10, 1977 was admitted to the United States under section 101(a)(15)(H) of the Act for employment or graduate training as a member of the medical profession, and who would not ordinarily now be eligible under that section solely because of the amendment which became effective January 10, 1977, may nevertheless be granted one extension of stay of up to one year on or after that date: *Provided*, That he/she is continuing to maintain the status under which admitted and will continue employment or training with the same employer/trainer for whom the last visa petition was approved.

* * * * *

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103.)

Compliance with the provisions of 5 U.S.C. 553 (80 Stat. 383) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendments prescribed in this order relieve a restriction and confer a benefit on the persons affected thereby.

Effective date: The amendments prescribed in this order become effective on March 28, 1977.

Dated: March 23, 1977.

L. F. CHAPMAN, Jr.,
Commissioner of Immigration and Naturalization.

[FR Doc.77-9091 Filed 3-25-77;8:45 am]

PART 341—CERTIFICATES OF CITIZENSHIP

Suspension of Regulatory Provision

AGENCY: Immigration and Naturalization Service.

ACTION: Final rule, extension of suspension of rule.

SUMMARY: This notice further suspends until October 1, 1977, the special procedure provided in 8 CFR 341.1(b) which permits certain naturalization applicants to make application for certificates of citizenship for their children who are under 16 years of age and will derive citizenship under sections 320 and 321 of the Immigration and Nationality Act, in advance of the naturalization of the parents. This further suspension is necessitated by manpower considerations in the Service.

EFFECTIVE DATE: April 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Lowell R. Palmes, Deputy Assistant Commissioner for Naturalization, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536 (202-376-8459).

SUPPLEMENTARY INFORMATION: On September 1, 1970, the Service implemented a procedure whereby applicants for naturalization who believed that their children under 16 years of age would derive United States citizenship under sections 320 or 321 of the Immigration and Nationality Act could apply for certificates of citizenship on behalf of such children in advance of the parents' naturalization. However, due to manpower considerations which arose subsequently, it became necessary to suspend the operation of this procedure by notices published in the FEDERAL REGISTER October 21, 1974 (39 FR 37355), September 15, 1975 (40 FR 42532), March 17, 1976 (41 FR 11172) and October 1, 1976 (41 FR 43393). The provisions now stand suspended to April 1, 1977.

Due to the continuing manpower considerations which resulted in the temporary suspension of the special procedure provided by 8 CFR 341.1(b) as set forth in the above-cited prior notices, it is necessary to suspend the provisions of § 341.1(b) for an additional period, until October 1, 1977, unless manpower considerations render feasible or practicable their reinstitution at an earlier date.

In the light of the foregoing, the provisions of 8 CFR 341.1(b) are hereby suspended until October 1, 1977, unless the suspension is revoked prior thereto by notice published in the FEDERAL REGISTER.

Dated: March 23, 1977.

L. F. CHAPMAN, Jr.,
Commissioner of Immigration and Naturalization.

[FR Doc.77-9092 Filed 3-25-77;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 36—EXPORT AND IMPORT OF BYPRODUCT MATERIAL

Export of Certain Byproduct Material to Other Than Schedule A Countries

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: This rule amends 10 CFR 36.21(a) to clarify the general license therein designated NRC-GL-3621. The amendment clarifies that the phrase in § 36.21(a) "when contained in luminous safety devices installed in aircraft as generally licensed items pursuant to § 31.7 of this chapter," modifies only "tritium". It is not intended that byproduct material having an atomic number from 3 to 83 must be contained in luminous safety devices in order to be exported under the general license of § 36.21(a).

EFFECTIVE DATE: March 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. Tel. (301) 492-7211.

SUPPLEMENTARY INFORMATION: Prior to this amendment § 36.21(a) read as follows:

(a) A general license designated NRC-GL-3621 is hereby issued authorizing any licensee of the Commission or of an Agreement State to export from the United States byproduct material covered by his license having an atomic number from 3 to 83, inclusive, or tritium when contained in luminous safety devices installed in aircraft as generally licensed items pursuant to § 31.7 of this chapter, to any foreign country except Southern Rhodesia or countries or destinations listed in § 36.50, Schedule A.

Although it is generally understood that the phrase "when contained in luminous safety devices installed in aircraft as generally licensed items pursuant to § 31.7 of this chapter," modifies only "tritium", it appears that some licensees have read this phrase to modify also "byproduct material covered by this license having an atomic number from 3 to 83".

It is not intended that byproduct material having an atomic number from 3 to 83 must be contained in luminous safety devices in order to be exported under the general license of § 36.21(a). The amendment of § 36.21(a) set forth below is intended to clarify this intent.

Since the amendment is of a minor nature and is a procedural and clarifying change, general notice of proposed rule making and public procedure thereon are unnecessary and good cause exists to make the amendment effective March 28, 1977.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 36, is published as a document subject to codification.

Section 36.21(a) of 10 CFR Part 36 is revised to read as follows:

§ 36.21 Export of certain byproduct material to countries other than Schedule A countries.

(a) A general license designated NRC-GL-3621 is hereby issued authorizing any licensee of the Commission or of an Agreement State to export the following byproduct materials from the United States to any foreign country except Southern Rhodesia or countries or destinations listed in § 36.50, Schedule A:

(1) Byproduct material in any physical or chemical form covered by his license having an atomic number from 3 to 83, inclusive; and

(2) Tritium when contained in luminous safety devices installed in aircraft as generally licensed items pursuant to § 31.7 of this chapter.

* * * * *

(Secs. 81, 161, Pub. L. 83-703, 68 Stat. 935, 948 (42 U.S.C. 2111, 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Bethesda, Maryland this 8th day of March 1977.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.77-9025 Filed 3-25-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-CE-6-AD; Amdt. 39-2856]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Model 340A Airplanes

AGENCY: Federal Aviation Administration/DOT (FAA).

ACTION: Final Rule.

SUMMARY: This amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) adds a new Airworthiness Directive (AD) applicable to certain Cessna Model 340A airplanes. It requires certain portions of the oxygen system on these aircraft to be cleaned and repaired using a lubricant specified for the assembly of an oxygen system as provided in Cessna Service Letter ME 77-3, dated February 16, 1977. To provide for the safe operation of the airplane pending accomplishment of the above, the AD requires deactivation of the oxygen system. The AD is necessary because a graphite filled petroleum based lubricant may have been inadvertently used during the assembly of the oxygen system installed on these airplanes. This lubricant, when exposed to oxygen, will ignite and could result in a fire hazard to the airplane and/or its occupants.

EFFECTIVE DATE: March 31, 1977, to all persons except those to whom it was made effective earlier by air mail letters dated March 3, 1977, which were sent to the owners of Cessna Model 340A airplanes.

Initial compliance required for deactivation of the oxygen system and the installation of a temporary placard is prior to further flight.

Cleaning and repair of the oxygen system is required within the next 25 hours' time in service after the effective date of this AD.

ADDRESSES: Cessna Service Letter ME 77-3, dated February 16, 1977, may be obtained from Cessna Aircraft Company, Marketing Division, Wichita, Kansas 67201.

FOR FURTHER INFORMATION CONTACT:

E. J. Griffin, Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-3446.

SUPPLEMENTARY INFORMATION: The agency has determined that the problem described in the Summary is an unsafe condition which is likely to exist or develop in other products of the same type design as set forth in § 39.1 of the Federal Aviation Regulations (14 CFR § 39.1). Since the agency determined that an emergency situation existed and that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest. Accordingly, all registered owners/operators of the affected aircraft were notified by air mail letter dated March 3, 1977, of the AD which became effective to those individuals upon receipt of the letter notification. Since the unsafe condition still exists, the AD is being published in the FEDERAL REGISTER as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective as to all persons who did not receive the letter of notification.

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 (14 CFR § 39.13) of the Federal Aviation Regulations is amended by adding the following new AD.

Subpart B—Airworthiness Directives

CESSNA. Applies to Model 340A (Serial Numbers 340A0040 thru 340A0225, 340A0229 and 340A0230) airplanes.

To preclude a fire hazard that could result from oxygen coming in contact with an improper lubricant which may have been used in the assembly of the oxygen system, accomplish the following:

(A) Prior to further flight: 1. Deactivate the oxygen system by disconnecting the control cable at the oxygen regulator and safety the regulator control in the off position.

2. Install a temporary placard on the instrument panel in full view of the pilot which reads as follows: Oxygen Inoperative, Do Not Operate Above 23,500 Feet, and operate the airplane in accordance with the placard limitation.

3. Install a tag on the oxygen filler line assembly with wording that prohibits servicing of the oxygen system.

(B) Within the next 25 hours' time in service after the effective date of this AD, repair and clean the oxygen system in accordance with Cessna Service Letter ME77-3, dated February 16, 1977, or later approved revisions. When this paragraph has been accomplished, Paragraph (A) is no longer applicable.

(C) Airplanes may be flown in accordance with FAR 21.197 to a location where Paragraph (A) may be accomplished.

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

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

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

Dated: March 11, 1977, to become effective March 31, 1977.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc.77-9174 Filed 3-25-77;8:45 am]

[Docket No. 77-GL-7; Amdt. 39-2855]

PART 39—AIRWORTHINESS DIRECTIVES

Enstrom Models F28C and 280C Helicopters

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.89) an Airworthiness Directive was adopted March 1, 1977, and made effective immediately to all known United States operators of certain Enstrom Helicopters Models F28C and 280C helicopters. The directive requires removal from service of the tail rotor assembly P/N 28-150000-3 and replace with an airworthy assembly which has been assembled using a forged blade grip fitting P/N 28-150013-11.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the Airworthiness Directive effective immediately as to all known United States operators of Enstrom Helicopter Model F28C with serial numbers 362, 367, 372 and 374 and Model 280C with serial numbers 1007, 1020, 1060, 1062, and 1065, by individual air mail letters dated March 2, 1977. These conditions still exist and the Airworthiness Directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

ENSTROM. Applies to Enstrom Model F28C helicopters with serial numbers 364, 367, 373 and 374 and Model 280C with serial numbers 1007, 1020, 1060, 1062, 1065 certificated in all categories.

Before further flight, unless already accomplished, remove from service the tail rotor assembly P/N 28-150000-3 and replace with an airworthy assembly which has been assembled using forged blade grip fitting P/N 28-150013-11.

The removed tail rotor assembly should be returned to Enstrom Helicopter Corporation, Menominee, Michigan 49858.

This amendment becomes effective March 31, 1977, to all persons except those to whom it was made effective earlier by air mail letter dated March 2, 1977.

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

(Secs. 313(a), 601, and 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)).)

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

Issued in Des Plaines, Illinois, on March 17, 1977.

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

[FR Doc.77-9173 Filed 3-25-77;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

PART 1—RULES OF PRACTICE AND PROCEDURE

PART 101—UNIFORM SYSTEM OF ACCOUNTS FOR PUBLIC UTILITIES AND LICENSEES (CLASS A AND B)

Miscellaneous Amendments

Notice is hereby given of the following minor changes in Title 18, Code of Federal Regulations:

1. In Part 1—Rules of Practice and Procedure—§ 1.24 Depositions, paragraph (e), change the designation "Washington 25, D.C." to "Washington, D.C." The next to the last sentence in paragraph (e) should read: "Unless otherwise directed in the authorization, after the deposition has been subscribed and certified, it shall, together with the number of copies specified in the authorization, the copies being made by such Officer or under his direction, be forwarded by such Officer in a sealed envelope addressed to the Commission at its office in Washington, D.C., with sufficient stamps for postage affixed."

2. In Chapter 1, Subchapter C—Accounts, Federal Power Act—change the title of Part 101 from "Uniform System of Accounts Prescribed for Class A and Class B Public Utilities and Licensees" to "Uniform System of Accounts for Public Utilities and Licensees (Class A and Class B)." This change is consistent with the provisions of Order 561, published February 15, 1977, 42 FR 9161.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9110 Filed 3-25-77;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regs. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart K—Income and Exclusions

EXCLUSIONS FROM COUNTABLE INCOME OF STATE PAYMENTS

On October 7, 1976, there was published in the FEDERAL REGISTER (41 FR 44192), a notice of proposed rulemaking with proposed amendments to Subpart K, Regulations No. 16, of the Social Security Administration. The amendments concern the treatment as exclusions from countable income of certain State payments under Sec. 9 of Pub. L. 94-202 which was enacted January 2, 1976.

Sec. 9 of Pub. L. 94-202 amends Sec. 1612(b)(2) of the Social Security Act (42 U.S.C. 1382a(b)(2)) by providing an additional exclusion in determining countable income for individuals claiming benefits under the supplemental security income program. The amending legislation and the amendments to the regulations provide for the exclusion from income but not resources of monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973, if such payments are made by the State and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual. The regulations also provide that these payments will not be considered income for the purpose of deeming under §§ 416.1185 and 416.1190.

Currently, only the State of Alaska makes payments of this nature under a program established prior to July 1, 1973, which are commonly referred to as the Alaska Longevity Bonus Payments.

An exclusion from income and resources of the Alaska Longevity Bonus Payments under a three-year demonstration project was granted under the authority of Sec. 1115(a) of the Social Security Act, effective January 1973, the first month of the bonus payment. On effectuation of the Supplemental Security Income program in January 1974, a new waiver of certain provisions under title XVI of the Social Security Act (and related regulations) became necessary. This was granted in May 1974 under the authority of Sec. 11 of Pub. L. 93-233, and was given retroactive effect to January 1, 1974. As this waiver was terminable on December 31, 1975, it was renewed for a period of six months, expiring June 30, 1976, to provide time to capture data that had been lost on account of the delay in approving the renewal of the original waiver. The waiver provided for exclusion of income and resources (if payments are retained into a subsequent quarter) and continued in effect through June 30, 1976.

For further information contact Mr. Henry D. Lerner, Legal Assistant, 6401 Security Boulevard, Baltimore, Md. 21235, Phone (301) 594-7336.

Interested parties were given the opportunity to submit, within 45 days, data, views, or arugments with regard to the proposed changes. Because the comment period has expired and no comments were received, the amendments are hereby adopted without change, as set forth below, and shall be effective upon publication in the FEDERAL REGISTER.

(Secs. 1102, 1612, and 1631 of the Social Security Act, as amended; 49 Stat. 647, as amended, 86 Stat. 1468 and 1475; (42 U.S.C. 1302, 1382a, and 1383); sec. 9 of Pub. L. 94-202, 89 Stat. 1140.)

Effective date. The amendments shall be effective March 28, 1977.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

NOTE: The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order No. 11821 and OMB Circular A-107.

Dated: January 10, 1977.

J. B. CARDWELL,
Commissioner of
Social Security.

Approved: March 18, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health,
Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 416.1145 is amended by adding paragraph (b)(5-a) to read as follows:

§ 416.1145 Exclusions from income; order of application.

* * * * * *

(b) * * *

* * * * * *

(5-a) Periodic payments made by a State to any individual under a program where such payments are based solely on attainment of age 65 and duration of residence in such State and not on need (§ 416.1158).

* * * * *

2. Section 416.1158 is added to read as follows:

§ 416.1158 State payments based on age and residence.

Monthly (or other periodic) payments received by any individual under a program established prior to July 1, 1973, shall not be considered in determining countable income under § 416.1115 or in determining income to be deemed under §§ 416.1185 and 416.1190 if: (a) Such payments are made by the State of which the individual receiving such payments is a resident, and (b) eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual.

[FR Doc.77-9076 Filed 3-25-77;8:45 am]

[Reg. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart K—Income and Exclusions

Subpart L—Resources and Exclusions

EXCLUSION OF HOUSING ASSISTANCE PAYMENTS FROM COUNTABLE INCOME OR RESOURCES, INTERIM REGULATIONS

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the interim regulations set forth in tentative form below are proposed by the Commissioner of Social Security with the approval of the Sec-

retary of Health, Education, and Welfare. The proposed amendments to Subparts K and L of Part 416 of Title 20 of the Code of Federal Regulations (20 CFR), which do not have major program significance, concern the exclusion of certain housing assistance payments from consideration as income or a resource for purposes of the Supplemental Security Income program.

The purpose of these amendments to the regulations is to reflect section 2(h) of Pub. L. 94-375, enacted August 3, 1976. Section 2(h) provides that the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or title V of the Housing Act of 1949 may not be considered as income or a resource for the purpose of determining the eligibility of, or the amount of benefits payable to, any person living in such a unit for assistance under title XVI of the Social Security Act. The proposed amendments will provide a limited number of eligible individuals with an increase in their supplemental security income benefits and allow a limited number of aged, blind, and disabled individuals to become eligible for supplemental security income benefits. Section 2(h) of Pub. L. 94-375 is effective October 1, 1976.

The current provisions of § 416.1146 (k) are applicable to Experimental Housing Allowance Program payments, under Annual Contributions Contracts entered into before January 1, 1975, under section 23 of the United States Housing Act of 1937, provided prior to October 1, 1976. The proposed revision of this section includes this provision as to the period beginning October 1, 1976, and, in fact, expands this section by also excluding as income, the value of assistance payments made under the other housing acts cited in the preceding paragraph. Accordingly 20 CFR 416.1146(k) is being revised and paragraph (a)(12) is being added to 20 CFR 416.1236 to reflect these changes.

These amendments to the regulations are being published with interim effectiveness because they are substantive rules which grant an exclusion of certain income or resources, effective October 1, 1976, as required by section 2(h) of Pub. L. 94-375. Thus, the Notice of Proposed Rule Making is being dispensed with because a delay in implementing these amendments would be impractical, unnecessary, and contrary to the public interest (5 U.S.C. 553(b)(3)(B)).

If there are any questions concerning the interim regulations you may contact Mr. S. J. Weissman, Legal Assistant, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone—(301) 594-7341. Mr. Weissman will respond to questions, but will not accept comments on the interim regulations.

Prior to final adoption of these proposed interim regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before May 12, 1977.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, S.W., Washington, D.C. 20201.

The interim regulations are to be issued under the authority contained in sections 1102, 1611, 1612, 1613, and 1631 of the Social Security Act, 49 Stat. 647, as amended, 86 Stat. 1466, 86 Stat. 1468, 86 Stat. 1470, and 86 Stat. 1475; 42 U.S.C. 1302, 1382, 1382a, 1382b, and 1383; section 2(h) of Pub. L. 94-375, 90 Stat. 1068.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

NOTE: The Social Security 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.

Dated: December 29, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: March 18, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

1. Section 416.1146 is amended by revising the material preceding paragraph (a) and by revising paragraph (k) to read as follows:

§ 416.1146 Exclusions from income; provided by other statutes.

For the purpose of § 416.1145(a), payments or benefits provided under a Federal statute other than title XVI of the Social Security Act where exclusion from income is required by such statute include:

* * * * *

(k) Effective October 1, 1976, the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or title V of the Housing Act of 1949, as provided by section 2(h) of Pub. L. 94-375 (90 Stat. 1068).

* * * * *

2. Section 416.1236 is amended by revising the introductory text of paragraph (a) and adding new paragraph (a)(12) to read as follows:

§ 416.1236 Exclusions from resources; provided by other statutes.

(a) For the purpose of § 416.1210(j), payments or benefits provided under a Federal statute other than title XVI of the Social Security Act where exclusion from resources is required by such statute include:

* * * * *

(12) Effective October 1, 1976, the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or title V of the Housing Act of 1949, as provided by section 2(h) of Pub. L. 94-375 (90 Stat. 1068).

[FR Doc.77-9078 Filed 3-25-77;8:45 am]

Title 22—Foreign Relations

CHAPTER V—UNITED STATES INFORMATION AGENCY

PART 501—APPOINTMENT OF FOREIGN SERVICE INFORMATION OFFICERS

Revisions Reflecting Current Procedures

The following revisions update Part 501 of the Agency's regulations to reflect current procedures being followed by the Board of Examiners for the Foreign Service.

1. The Table of Contents for Part 501 is amended as follows:

Sec.
501.13 Lateral entry appointment of Foreign Service information officers.
501.14 Reappointment of Foreign Service information officers.

2. Section 501.5 Appointment to Class 7 or 8 is revised to read as follows:

§ 501.5 Appointment to Class 7 or 8.

Appointment as a Foreign Service information officer of Class 8, or of Class 7, is governed by §§ 501.6-501.14.

3. In § 501.6, paragraph (c) is revised to read as follows:

§ 501.6 Written examination.

* * * * *

(c) *Content.* The written examination is designated to permit the Board to test the candidate's intelligence and breadth and quality of knowledge and understanding. It will consist of three parts: (1) A general background test; (2) an English expression test; and (3) a functional field test.

4. In § 501.7, paragraph (c)(2) is revised to read as follows:

§ 501.7 Oral examination.

(c) * * *

(2) *Purpose of examination.* The examination will be conducted in the light of all available information concerning the candidate and will be designed to determine the candidate's competence to perform the work of a Foreign Service officer at home and abroad, potential for growth in the Service, and suitability to serve as a representative of the United States abroad. Panels examining candidates for the Department of State will be chaired, whenever possible, by a For-

eign Service officer of the Department. Panels examining candidates for the U.S. Information Agency will be chaired, whenever possible, by a Foreign Service information officer of the Agency.

5. In § 501.9, paragraph (b) is revised to read as follows:

§ 501.9 Certification for appointment.

* * * * *

(b) *Separate rank-order registers.* (1) Successful candidates for the U.S. Information Agency will have their names placed on a rank-order register separate from the Department of State register(s). Appointments will be made from the register according to the needs of the Agency.

(2) Postponement of entrance on duty for required active military service, or required alternative service, civilian Government service abroad (to a maximum of 2 years of such civilian service), or Peace Corps volunteer service will be authorized.

(3) A candidate may be certified for appointment to Class 7 or 8 without first having passed an examination in a foreign language, but the appointment will be subject to the condition that the newly appointed officer may not receive more than one promotion unless, within a specified period of time, adequate proficiency in a foreign language is achieved.

6. Section 501.13 is revised to read as follows:

§ 501.13 Lateral entry appointment of Foreign Service information officers.

Appointments of Foreign Service information officers, under the provisions of Pub. L. 90-494 and Section 517 of the Foreign Service Act of 1946, as amended, are governed by this section.

(a) *Purposes of lateral entry appointment.* (1) The lateral entry program is a means by which the intake of Foreign Service information officers through the written examination for Foreign Service information officer can be supplemented to meet total requirements for Foreign Service information officers. Lateral entry FSIO appointments are made primarily to Classes 1 through 6, ensuring retention of the career principle of entry primarily at Classes 7 and 8 through competitive examination. However, appointments may be made to Class 7 for a career Foreign Service Staff or Foreign Service Reserve officer who (1) is receiving a base salary equivalent to that of an FSIO-7 and (2) is currently serving in the Foreign Service under an Upward Mobility Program or the Comprehensive Minority Recruitment and Training Program.

(2) The great majority of lateral entrants will be drawn from officers of the U.S. Information Agency of proven ability who possess high potential for advancement, or similar personnel of other foreign affairs agencies who may be appointed based on agreements between the Agency and those agencies.

(3) The need for other lateral entrants in Classes 2 through 5 is met by appointing applicants who are officers or former officers of other Federal Government agencies. Principally, these will be persons possessing skills and abilities in short supply in the Agency's Foreign Service appointed to meet rapidly changing requirements. On a limited and highly selective basis, however, other persons may be appointed who have demonstrated outstanding qualities of leadership and who possess capabilities, insights, techniques, experiences, and differences of outlook which would serve to enrich and stimulate the Agency's Foreign Service and enable them to perform effectively in assignments both abroad and in the Agency.

(b) *Magnitude.* (1) The Agency places no numerical limitation on the lateral appointment of FSR, FSRU, FSS, and Civil Service personnel on its rolls who apply, are certified for examination on the basis of service need by personnel management authorities, and are found qualified by the Board of Examiners for the Foreign Service.

(2) Lateral entry from other sources is limited and based on intake levels established in accordance with total Foreign Service information officer manpower and functional requirements upon certification of service needs. Appointments from other sources will, in any event, be restricted to FSIO Classes 2 through 5, unless an exception is approved by the Assistant Director, or Deputy Assistant Director, USIA (Personnel and Training).

(c) *Eligibility requirements.* The religion, race, sex, marital status or plans, color, creed, national origin, physical handicap, political affiliation, membership in or activity on behalf of employee organizations, or initiation of or participation in grievance procedures of a candidate will not be considered in designations examinations, or certifications.

(1) *Citizenship.* Each applicant must be a citizen of the United States and, if married, shall be married to a citizen of the United States.

(2) *Service.* (i) On the date of application, each applicant must have completed at least 3 years of service (4 years if under age 31) in a position of responsibility in a Federal Government agency or agencies. For this purpose, a position of responsibility is defined as service as a Foreign Service Reserve officer at Class 7, a Foreign Service Staff officer at Class 6, in the Civil Service at GS-9, and the Armed Forces of the United States at the grade of First Lieutenant or Lieutenant Junior Grade, or higher. The duties and responsibilities of the position occupied by the applicant must have been similar or closely related to that of a Foreign Service information officer in terms of knowledge, skills, and abilities. To be eligible, an applicant must have been in or currently be in a grade or class comparable to FSIO-6 (FSIO-7 if the applicant is a career Foreign Service Staff or Foreign Service Reserve officer of the Agency currently serving in the Foreign Service under an Upward Mobility Program or the Comprehensive Minority Recruitment and Training Program) or be receiving a base salary at least equal to the first salary step of the class.

(ii) Candidates who at the time of application lack 3 years of service (4 years if under 31) in a position of responsibility similar or closely related to that of a Foreign Service information officer in terms of knowledge, skills, abilities, and overseas work experience will be considered if applying under the provision of § 501.13(b). If found qualified, the candidate will be employed as a Foreign Service Reserve officer (FSIO candidate) as a transitional step to FSIO commissioning. At the conclusion of 3 years' service, the candidate's performance record and oral examination will be reviewed by the Board of Examiners to determine if it is sufficiently meritorious to justify appointment as a Foreign Service information officer. If there is an affirmative finding, the candidate will be certified for such an appointment. If the candidate's performance record does not justify such a certification, candidacy is terminated.

(3) *Age.* (i) On the date of application, an applicant for lateral entry must be at least 30 years old and under 54 (under 50 if applying for appointment initially as a Foreign Service Reserve officer (FSIO candidate)). The minimum age for appointment under the lateral entry program is 31, either as an FSIO or as an FSR (FSIO candidate), and in addition, candidates must be no younger than the average of the youngest 5 percent of the officers already in the class for which they are applying. The maximum age for FSIO appointment is age 54 and the maximum age for appointment as Foreign Service Reserve officer (FSIO candidate) is age 50.

(ii) The foregoing limitation regarding minimum age is not applicable to applicants of the Agency currently serving in the Foreign Service under an Upward Mobility Program or the Comprehensive Minority Recruitment and Training Program, for whom the minimum age is 21.

(4) *Certification of need.* The Office of Personnel and Training (IPT) must certify that there is a need for the applicant as an additional Foreign Service information officer in all cases. With the exception of employees who are serving in an established Agency affirmative action program, such a certification would only be made when there is a vacancy overseas for which no FSIO is available or the candidate has a special expertise (area knowledge, fluency in hard languages, etc.) which is needed in the FSIO corps.

(d) *Recruitment.* (1) It is the Agency's policy to encourage eligible personnel on its rolls to apply for lateral entry into the Foreign Service Information Officer Corps, including, in particular, the following categories:

(i) Foreign Service Reserve officers, who, in competition with Foreign Service information officers, are either recommended for promotion or ranked in the upper percentage groups of their class;

(ii) Foreign Service Staff officers who are recommended for consideration for lateral entry by a Selection Board, whose performance has been consistently of a high caliber, and whose background, experience, and general qualifications indi-

cate they can contribute to the Foreign Service Information Officer Corps and compete favorably with Foreign Service information officers.

(2) The Agency also considers highly qualified applicants from other agencies of the Government and from outside the Federal service who meet the statutory and other eligibility requirements and for whom there has been a certification of need as an additional Foreign Service information officer. Appointment from these sources for the limited vacancies available are made on a competitive basis to fill specific Service needs after assuring that the vacancies cannot be filled by Foreign Service information officers already in the Foreign Service Information Officer Corps.

(e) *Method of application.* Applicants for lateral entry must complete Standard Form 171, Personnel Qualifications Statement, and Form DSP-34, Supplement to Application for Federal Employment, and forward them to the Board of Examiners for the Foreign Service, Department of State. Applicants applying under the provisions of § 501.13 (b) (2) must, in addition, submit an autobiography not exceeding four typewritten pages in length. Application is made for a Foreign Service information officer appointment under Pub. L. 90-494 and the lateral entry provisions of section 517 of the Foreign Service Act but not for a class. The Board establishes a file for each applicant, placing therein all available documentation of value in evaluating the applicant's potential for appointment as a Foreign Service information officer. The file is reviewed initially to determine if the applicant meets the statutory and other eligibility requirements and to assess his/her skills relative to the needs of Service. The examination of candidates is based on the needs of the Service for specific skills and experience.

(f) *Examination for lateral entry.*— (1) *General.* The filing of an application with the Board of Examiners for the Foreign Service does not in itself entitle an applicant to examination. The decision whether to proceed with an oral examination, as well as with a detailed background investigation, is made by the Board of Examiners after determining eligibility for appointment, medical qualifications, and a thorough review of the applicant's qualifications. Each applicant's background, experience, performance, and other related documentation are carefully studied and evaluated. Careful consideration is given to the functional needs of the Service in making this assessment. An oral examination is granted only in those cases where the applicant is found to possess superior qualification, proven ability, and at the middle level, high potential for advancement.

(2) *Class of appointment.* In determining the class at which the candidates are considered for appointment, the initial presumption is that the candidate is eligible for examination for the Foreign Service information officer class which equates with salary level at the time of examination. In evaluating qualifications, and in conducting oral examinations, panels carefully assess candidates to determine whether their total qualifications compare favorably with officers at their current class level. However, the Board of Examiners, at its discretion, may certify a candidate for appointment as a Foreign Service information officer at a class other than that equating to his/her salary in those instances where the Board determines that the candidate's qualifications clearly warrant such action. A candidate's total qualifications, as evaluated by the examining panels and the Board, will have an important bearing on the decision to certify a candidate for appointment at a class other than that which equates to his/her current salary.

(3) *Application validity and termination.* (i) If IPT fails to certify that there is a need for the applicant as an additional FSIO, the candidate's application will be deferred for a period of 90 days and the candidate will be so notified. After 90 days the applicatjon will again be considered. The application will remain valid for one calendar year from date of submission. After that time a candidate who wishes to continue being considered for certification of need must reapply. A candidate may withdraw his/her application at any time.

(ii) If the applicant fails to be certified by the Board of Examiners for the Foreign Service as a successful candidate following an oral examination, the candidacy will be terminated. The candidate may, however, reapply after 12 months from the date of the oral examination by submitting a new application.

(4) *Purpose of examination.* The purpose of the examination is to determine an applicant's competence to perform the function or functions for which he/she is being considered and his/her fitness for a Foreign Service career.

(5) *Nature of examination.* (i) *Medical.* A medical examination is required for the applicant and his/her dependents who will reside with him/her on tours abroad. Each applicant and dependents will meet the physical requirements for full Foreign Service duty. Normally, failure to meet the medical requirements will preclude appointment as a Foreign Service information officer. In exceptional cases, the Board of Examiners may grant a waiver of the physical requirements in the interest of the Service upon the recommendation of the Assistant Director, or Deputy Assistant Director, USIA (Personnel and Training).

(ii) *Security.* Each applicant will have demonstrated his/her loyalty to the Government of the United States and his/her attachment to the principles of the Constitution. A background investigation will be conducted or appropriate security clearance by the Agency will be assured.

(iii) *Qualifications evaluation.* An evaluation is made of the education, training, experience, and work performance of the applicant based on his/her application forms, records or performance, interviews, background investigative reports, and other available information. A record of successful performance overseas is not a lateral entry prerequisite, but is considered an additional favorable factor in evaluating an applicant.

(iv) *Written examination.* A written examination will not normally be required of applicants for lateral entry appointments. However, if the volume of applications for a given class or classes, from applicants applying under the provisions of § 501.13(a) (3), is such as to make it infeasible to examine applicants orally within a reasonable time, such applicants may be required to take the Professional and Administrative Career Examination (PACE) or other appropriate examination. Only those who receive a grade on such an examination above a point determined by the Board of Examiners will be eligible to take an oral examination.

(v) *Written essay.* Applicants scheduled to take an oral examination may be asked to write an essay on the day of the examination on a topic to be specified to enable the Panel of Deputy Examiners to judge applicants' ability to express themselves effectively and appropriately in writing.

(vi) *Oral examination.* (A) Candidates recommended for further consideration after completion of the qualifications review and evaluation outlined in §§ 501.13(f) (1) and 501.13(5) (c) are given oral examinations by a panel of deputy examiners appointed by the Board of Examiners.

(B) The oral examination is normally given in Washington, but may, in exceptional circumstances, be given at Foreign Service posts selected by the Board of Examiners, but not at the candidate's post of assignment.

(g) *Findings of examining panels.* Determinations of duly constituted panels of examiners and deputy examiners are final, unless modified by specific action of the Board of Examiners for the Foreign Service.

(h) *Certification for appointment.* After completion of all aspects of the examination, the Board of Examiners certifies to the Agency successful candidates for appointment as Foreign Service information officers.

(i) *Interchange of Foreign Service Officers and Foreign Service Information Officers between the Department of State and the U.S. Information Agency.* As the result of an agreement between the Department of State and the U.S. Information Agency, Foreign Service officers desiring to become Foreign Service information officers and Foreign Service information officers desiring to become Foreign Service officers may apply for lateral entry under the following provisions:

(1) Direct applications for interchange appointments to the Board of Examiners for the Foreign Service, Department of State, Washington, D.C. 20520.

(2) When a Foreign Service officer wishes to convert to Foreign Service information officer status, a certification

of need is required from the Assistant Director, USIA (Personnel and Training), U.S. Information Agency, and approval is required by the Office of the Deputy Director General and Director of Personnel, Department of State, for the officer's release to the U.S. Information Agency.

(3) When a Foreign Service information officer wishes to convert to Foreign Service officer status, a certification of need is required from the Director General of the Foreign Service, or the Deputy Director General and Director of Personnel, and approval is required by the Office of the Assistant Director, USIA (Personnel and Training), U.S. Information Agency, for the officer's release to the Department of State.

(4) The oral examination requirement for lateral entry candidates from the Department of State to the U.S. Information Agency and vice versa is waived for candidates who otherwise satisfy the requirements established under this paragraph. A review by the Board of Examiners for the Foreign Service will certify the eligibility of candidates for appointments after the provisons under §§ 501.13(h)(2) and 501.13(h)(3), as appropriate, have been met.

(5) The change in appointment from Foreign Service officer to Foreign Service information officer and vice versa will not be final until the new appointment is made by the President, by and with the advice and consent of the Senate.

7. A new section, § 501.14, Reappointment of Foreign Service information officers, is added, as follows:

§ 501.14 Reappointment of Foreign Service information officers.

The President may, by and with the advice and consent of the Senate, reappoint to the Service a former Foreign Service information officer who is separated from the Service. The reappointment of any such person is governed by the following regulations:

(a) *Requirements for reappointment.* (1) On the date of application, each applicant must be a citizen of the United States and, if married, must be married to a citizen of the United States.

(2) No applicant will be considered who has previously been separated from the Foreign Service pursuant to Section 633, 635, or 637 of the Foreign Service Act of 1946, as amended; or who resigned or retired in lieu of selection-out or separation for cause.

NOTE.—This requirement will not apply where it has been determined by the Foreign Service Grievance Board under 3 FAM 660 or by the Assistant Director, USIA (Personnel and Training) that the separation or the resignation or retirement in lieu of selection-out or separation for cause was wrongful; where reappointment is determined by the Assistant Director or Deputy Assistant Director, USIA (Personnel and Training) as an appropriate means to settle a grievance or complaint of a former Foreign Service information officer on a mutually satisfactory basis; or where reappointment is the indicated redress in a proceeding under 3 FAM 130, "Equal Employment Opportunity."

(b) *Application.* Apply by letter addressed to the Assistant Director, USIA (Personnel and Training). Include the standard application forms, SF-171, Personnel Qualification Statement, and DSP-34, Supplement to Application for Federal Employment, and a brief resume of work and other experience since resignation from the Foreign Service. Whenever the Assistant Director, USIA (Personnel and Training) finds that the reappointment of one or more former Foreign Service information officers may be in the best interest of the Service, all application forms, along with the available personnel files, will be referred to the Board of Examiners for the Foreign Service which will conduct an advisory evaluation of the qualifications of each applicant.

(c) *Nature of advisory evaluation.* The advisory qualifications evaluation (a) will be based on a review of all pertinent information relating to the applicant's record of employment in the Foreign Service and to subsequent experience, as well, and (b) will take into consideration among other factors, the rank of the applicant's contemporaries in the Service in recommending the class in which the applicant will be reappointed under section 520 of the Foreign Service Act of 1946, as amended.

(d) *Physical examination.* Qualified applicants will be given a physical examination and no applicant will be reappointed who is found disqualified for duty overseas. See 3 FAM 684.7 for regulations concerning medical examination for employees and dependents.)

(e) *Selection for reappointment.* The Assistant Director, USIA (Personnel and Training), taking into consideration (1) the qualifications and experience of each candidate as outlined in the qualifications evaluation performed by the Board of Examiners for the Foreign Service, (2) future placement and growth potential, and (3) the needs of the Service for the candidate's skills, determines which candidate, or candidates, are qualified for reappointment and the appointment class that is considered to be appropriate. The Assistant Director, USIA (Personnel and Training) is responsible for initiating appointment action, but no such action will be taken with respect to any candidate prior to the completion of a satisfactory security investigation of the candidate, and a satisfactory medical examination of the candidate and dependents.

Effective date. These provisions and amendments were effective December 6, 1976, as published in the Agency's Manual of Operations and Administration.

EUGENE P. KOPP,
Acting Director.

[FR Doc.77-9086 Filed 3-25-77;8:45 am]

Title 24—Housing and Urban Development

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2600]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Notice of Changes Made in Determinations of the City of Lake Jackson, Texas, Base Flood Elevations

On February 14, 1977, at 42 FR 9118, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of Lake Jackson, Texas.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in Lake Jackson. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 485484C, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of the second publication of notice of these changes in the Brazoria News, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

The Honorable Vick Vickers, Mayor of Lake Jackson, 103 Parking Way, Lake Jackson, Texas 77566.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Lake Jackson Food Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Lake Jackson map.

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

Issued: March 9, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9060 Filed 3-25-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7424]

PART 141—TEMPORARY EXCISE TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Temporary Regulations Relating to the Election to pay an Excise Tax for Certain pre-1975 Prohibited Transactions; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction.

SUMMARY: This document contains a nonsubstantive correction to a Treasury decision. It adds a new part designation to the Code of Federal Regulations.

DATE: The correction is effective August 5, 1976.

FOR FURTHER INFORMATION CONTACT:

Thomas Rogan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3737).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 6, 1976, the FEDERAL REGISTER published a Treasury decision containing Temporary Excise Tax Regulations under the Employee Retirement Income Security Act of 1974 (26 CFR 141). The regulations relate to section 2003(c)(1)(B) of the Act, which provides an election to pay an excise tax under section 4975 of the Internal Revenue Code of 1954 for certain pre-1975 transactions.

NEED FOR CORRECTION

The adopting language in the preamble of the Treasury decision failed to establish explicitly Part 141 of the Code of Federal Regulations. Because the Treasury decision contained the first regulations under Part 141, such part had not previously been established.

DRAFTING INFORMATION

The principal author of this correction was Thomas Rogan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service.

CORRECTION OF TREASURY DECISION

Accordingly, the last paragraph in the preamble of FR Doc. 76-22840 (41 FR 32889) is amended to read as follows:

"Accordingly, TIR–1450 is hereby superseded; 26 CFR is amended by adding a new Part 141, entitled Temporary Excise Tax Regulations under the Employee Retirement Income Security Act of 1974; and a new § 141.4975–14 is added as follows:"

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

[FR Doc.77-9133 Filed 3-25-77;8:45 am]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

[Army Reg. 340–21]

PART 505—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

Privacy Act of 1974

AGENCY: Department of the Army.

ACTION: Final Rule.

SUMMARY: In FR Doc. 77-5004 published in the FEDERAL REGISTER issue of February 17, 1977 (42 FR 9685), the Department of the Army published a proposed exemption rule as a proposed amendment to 32 CFR § 505.9 for an Army system of records. No written comments, suggestions, or objections regarding the proposed rule were received. Accordingly, 32 CFR Part 505 as set forth in 42 FR 9685 is formally adopted.

ADDRESS: The Adjutant General, Department of the Army, Attn: DAAG–AMR–R, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT:

Mr. Cyrus Fraker (202–693–0973).

ROME D. SMYTH,
Lieutenant Colonel, GS, Director, Administrative Management.

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

MARCH 23, 1977.

The following exemption rule is added and should be inserted before exemption rule ID–A1012.01bDAPE, SYSNAME—USMAPS Admissions File (41 FR 34766).

§ 505.9 **Exemption rules for Army systems of records.**

* * * * *

EXEMPTED RECORD SYSTEMS

(SPECIFIC EXEMPTIONS)

ID–A0917.10aDAAG.

SYSNAME—Child Protection Case Management Files.

Exemption—All portions of this system which fall within 5 U.S.C. 552a(k)(2) and (5) are exempt from the following provisions of Title 5 U.S.C. section 552a: (d).

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

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 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.77-9079 Filed 3-25-77;8:45 am]

SUBCHAPTER J—REAL PROPERTY

[AR 420–74]

PART 642—FACILITIES ENGINEERING, NATURAL RESOURCES—LAND, FOREST AND WILDLIFE MANAGEMENT

On August 2, 1976, the Department of the Army, acting through the Chief of Engineers, published in the FEDERAL REGISTER (32 CFR Part 642) a Notice of Proposed Rules prescribing policies, responsibilities and procedures for the management of land, forest and wildlife on all Army installations.

Interested parties were given 45 days from the date of publication of the Notice of Proposed Rulemaking in which to submit written comments, suggestions, or objections thereto. Full and careful consideration was given to all comments, including those received after the comment period. Those responding to the regulation included Federal agencies; industrial organizations; natural resources agencies; congressional staff; and individuals professionally employed in the management of natural resources. Most comments were favorable or proposed minor changes. Two substantive comments addressed the recommendation that non-renewable natural resources (e.g. coal, lead and oil) be referenced. Accordingly, for clarification, § 642.49 was changed to include a cross reference to the appropriate Army regulation. One comment recommended a specific reference, or cross reference, to policy or regulation which covers the granting of rights-of-way across Department of Army lands. Section 642.53 was rewritten to include a cross reference to the Army regulation which prescribes policy for rights-of-way or easements for powerlines, pipelines and various purposes.

In consideration of the foregoing, a new Part 642 of Title 32 of the Code of Federal Regulations is hereby adopted.

Effective date. This amendment takes effect on 1 June 1977.

The Office of the Chief of Engineers 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: March 16, 1977.

LEWIS H. BLAKEY,
Deputy Director for Technology and Engineering, Directorate of Facilities Engineering.

32 CFR Part 642 is adopted to read as follows:

This regulation provides general Department of the Army policy and guidance in the management of renewable natural resources. Local limited supplementation of this regulation is permitted but not required. If supplements are issued, Army staff agencies and major Army commands will furnish one copy of each to HQDA (DAEN–FEB) WASH. DC 20314; other commands will furnish one copy of each to the next higher headquarters.

This regulation superseded AR 420–74, 27 June 1966, and AR 420–77, 31 July 1970, including all changes.

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AUTHORITY: 10 U.S.C. 3012.

Subpart A—General

§ 642.1 Purpose.

This regulation sets forth policy, procedure and responsibilities for the conservation, management and restoration of land and the renewable natural resources thereon consistent with the military mission and in consonance with national policies. Supporting guidance and details are delineated in Department of Army Pamphlet 420–7. The scope includes, to the extent that it is compatible with the mission, the conservation, management and utilization of the soils, water areas, croplands, grasslands, rangelands, forests, and fish and wildlife species.

§ 642.2 Applicability.

(a) This regulation applies to all commanders of major Army commands (MACOMs), field operating agencies, installations and activities under control of the Department of the Army by ownership, lease, or similar instrument, under the following conditions of use:

(1) Installations and activities in active use by the Army, those held in an inactive or standby condition for future active use by the Army, and those in an excess category (see AR 405–90, for further guidance with respect to excess properties).

(2) Federally operated installations and activities, or portions thereof, which are in full-time or intermittent use by the National Guard, or which are being held by the Department of the Army for use by the National Guard.

(3) Installations and activities, or portions thereof, which are in full-time or intermittent use by the Army Reserve or ROTC.

(b) This regulation does not apply to:

(1) Civil Works functions of the Corps of Engineers.

(2) Facilities occupied by Army activities as tenants when real property accountability and control is vested in another military department or Government agency, such as the General Services Administration (GSA).

(c) Nothing contained in this regulation or in Cooperative Plan Agreements negotiated with State and Federal authorities shall modify any rights granted by treaty or otherwise to an Indian tribe or to members thereof.

§ 642.3 Objectives.

Objectives are to:

(a) Develop, initiate, and maintain progressive programs for land management and utilization.

(b) Maintain, protect and improve the environmental qualities, esthetic values and ecological relationships by:

(1) Protection of real estate investment from depreciation.

(2) Compliance with environmental protection and enhancement policies and procedures as outlined in AR 200–1.

(3) Protection and improvement of the natural beauty of the landscape.

(4) Improvement of the appearance of installations and facilities by appropriate landscape development.

(5) Prevention of damage and destruction of valuable natural resources from fire, insects and disease.

(6) Protection of plants and animals and the habitat they depend upon, especially endangered and/or threatened species.

(7) Responding to the increasing need for food, fiber and timber products and outdoor recreational opportunities by managing lands capable of producing these resources as is consistent with the assigned military mission.

(8) Conducting training and field exercises in a manner which will least endanger the environment while still accomplishing training objectives.

(9) Protection of environmentally sensitive areas, such as: flood plains, wetlands, steep slopes, aquifer recharge zones and natural areas.

§ 642.4 Responsibilities.

Responsibilities for the Natural Resources Management Program are assigned as follows:

(a) The Chief of Engineers will:

(1) Provide staff supervision of the Department of the Army Natural Resources Program. Formulate HQDA policies, objectives, criteria, and standards for this program Army-wide.

(2) Conduct staff visits as prescribed in AR 420–10.

(3) Provide technical assistance to commands.

(b) MACOM and field operating agency commanders will:

(1) Provide command and technical supervision of the Natural Resources Management Program at installations under their command jurisdiction.

(2) Conduct staff visits as prescribed in AR 420–10.

(3) Staff with appropriate professional natural resources personnel who will:

(i) Review technical adequacy of installation natural resources plans, programs, projects, reports, environmental impact analyses and the equitable allocation of manpower, materials, equipment and funding requirements.

(ii) Maintain surveillance over land utilization and management.

(iii) Appraise and initiate training programs essential to maintain technical capability of personnel engaged in natural resources management activities.

(iv) Review proposals for use of restricted use and nonstandard chemicals and equipment in vegetative management and approve as appropriate.

(v) Recommend for certification, in accordance with AR 420–76, installation personnel who have been found competent by examination and on-the-job training to use herbicides, fungicides, growth regulators and other chemicals used in vegetative management.

(vi) Provide technical assistance to installations.

(vii) Maintain professional proficiency by attendance and participation at professional meetings and keep abreast of new developments.

(viii) Coordinate with other agencies engaged in natural resources management.

(4) Review and approve, as appropriate, timber available for harvest when not within the installation commander's authority.

(5) Review outdoor recreation plans which involve the use of natural resources to insure compatability with the Natural Resources Management Plans and programs and the Installation Master Plan.

(c) Installation Commanders will:

(1) Provide for the funding, staffing, and resources required to effectively manage the natural resources on his installation.

(2) Plan land utilization to avoid or minimize adverse effects on environmental quality.

(3) Where applicable, enter into a Cooperative Plan Agreement or Memorandum of Understanding with State and Federal conservation agencies for the conservation and development of fish and wildlife, soil, outdoor recreation and other resources.

(4) Appoint and assure the functioning of a Natural Resources Conservation and Beautification Committee where applicable.

(d) Facilities Engineer will:

(1) Manage all phases of the Natural Resources Program on the installation.

(2) Provide for training of personnel.

(3) Coordinate with local, State and Federal governmental and civilian conservation agencies relative to the installation natural resources program.

Subpart B—Explanation of Terms

§ 642.11 General.

For the purpose of this regulation, the following explanation of terms will apply.

§ 642.12 Natural resources.

The viable and/or renewable products of nature and their environments of soil, air and water. Included are the plants and animals occurring on grasslands, rangelands, croplands, forests, lakes, and streams.

§ 642.13 Conservation.

The protection, improvement and use of natural resources according to principles that will provide optimum public benefit and support of the military mission.

§ 642.14 Multiple use.

The integrated management of all natural resources, each with the other, to achieve the optimum use and enjoyment while maintaining the environmental qualities, ecological relationships and esthetic values in proper perspective.

§ 642.15 Land management.

The planning and execution of programs to improve, utilize and maintain all land and water areas for the greatest net public benefit while supporting the military mission. Included are subordinate land uses that are mutually compatible and consistent with maintaining environmental qualities.

§ 642.16 Forest management.

The science, the art and the practice of managing and using for human benefit the natural resources that occur on or in association with forest lands.

§ 642.17 Timber management.

The conduct of work necessary to produce and identify salable wood products on those forest areas that can be managed for profitable growing of sawtimber, pulpwood poles, ties, posts, piling and other timber products on a sustained yield basis.

§ 642.18 Wildlife management.

The practical application of scientific and technical principles to wildlife populations and habitats so as to maintain such populations essentially for ecological, recreational, and/or scientific purposes.

§ 642.19 Grounds.

All land and water acreage for which an installation commander has responsibility (including satellite areas). Grounds are grouped into the following three categories:

(a) Improved grounds. This category includes acreage on which intensive maintenance activities must be planned and performed annually as fixed requirements. Activities include mowing, irrigation, fertilization, cultivation, aerification, seeding, sodding, spraying, pruning, trimming, weed, dust and erosion control, drainage, planting for landscape effect, wind and sound abatement and other intensive practices.

(b) Semi-improved grounds. This category includes areas on which periodic recurring maintenance is performed but to a lesser degree than on improved grounds. Practices normally include such cyclic variables as soil sterilization, weed and brush control, drainage maintenance, and mowing for fire protection. Semi-improved grounds acreage may be combined with improved grounds acreage for reporting purposes when only two categories of grounds (improved and other than improved) are used.

(c) Unimproved grounds. All other acreage (including forest land, areas under buildings and surfaced areas), not classified as improved or semi-improved. Practices and intervals of attention are generally unpredictable such as might evolve from mission activities; soil, water and wildlife conservation, flood, fire, insects or disease epidemics.

§ 642.20 Commercial forest land.

Land which is capable of economically producing crops of industrial wood in excess of 20 cubic feet per acre per year under management and is not programmed for another use that would preclude future forest development. Acreage classification will also depend upon products produced and available markets. Normally, land areas of less than 100 acres total forest land for an installation will not be classified as commercial forest land.

§ 642.21 Environmental quality.

The development and maintenance of harmonious interaction between man and that part of the world in which living organisms can sustain their kind.

(a) Environmental Impact Assessment (EIA). An analysis of a proposed Army action which serves as the basis for determining whether there will be a significant impact on the environment. Maintained in the installation files and included with proposal/project submissions

if determined that no significant impact will occur.

(b) Environmental Impact Statement (EIS). A formal document that describes the environmental impacts and reasonable alternatives of a major Army action. A final EIS must be submitted by the proponent of the action through command channels to HQDA (DAEN-ZCE) Washington, DC 20310 for review and filing with CEQ prior to making a decision and the initiation of any action (Chapter 2, AR 200-1).

§ 642.22 Sustained yield.

The production of renewable resources a land or water area can maintain at a given intensity of management.

§ 642.23 Endangered and threatened species.

(a) *Endangered species.* Those plants and animals which are in danger of extinction throughout a significant portion of their ranges as listed by the U.S. Department of the Interior.

(b) *Threatened species.* Those plants and animals which are likely to become endangered within the foreseeable future throughout a significant portion of their ranges as listed by the U.S. Department of the Interior.

§ 642.24 Land use capability.

The classification of land according to its ability to support a designated use.

§ 642.25 Coastal Zone.

The coastal waters (including the lands therein and thereunder) strongly influenced by each other and in proximity to the shorelines of the several coastal states. Includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches (Pub. L. 92-583).

§ 642.26 Coastal State.

A state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. The term also includes Puerto Rico, the Virgin Islands, Guam, and American Samoa (PL 92-583).

§ 642.27 Greenhouse.

A building designed for producing or protecting plants and normally provided with a heating unit.

§ 642.28 Lathhouse.

A structure which is constructed for the most part of spaced wood or metal lath, tropical leaves or fibers, or similar materials, and is designed for producing or protecting plants.

§ 642.29 Nursery.

An outdoor area where trees, shrubs, turf grass, or flowers are produced or held for transplanting.

§ 642.30 Prescribed burning.

Skillful application of fire to natural fuels under conditions of weather, fuel moisture, soil moisture, etc., that will allow confinement of the fire to a predetermined area and at the same time will produce the intensity of heat and rate of spread required to accomplish certain planned benefits to one or more objectives of silviculture, wildlife management, grazing, hazard reduction, etc. Its objective is to employ fire scientifically to realize maximum net benefits at minimum damage and acceptable cost.

§ 642.31 Cooperative plan agreements.

(a) A plan for the management of fish and wildlife resources on an installation which has been mutually agreed upon by the Installation Commander, Regional Director, U.S. Fish and Wildlife Service, and the State Fish and Wildlife Agency (16 U.S.C. 670).

(b) A plan for the development, enhancement, operation, and maintenance of public outdoor recreation resources on an installation which has been mutually agreed upon by the Installation Commander, Regional Director, Bureau of Outdoor Recreation, and the appropriate State Agency (16 U.S.C. 670c).

§ 642.33 Special State permit.

Prepared and issued by the installation in accordance with 16 U.S.C. 670 and the cooperative plan agreement to individuals participating in hunting, fishing, or trapping activities. Valid only on the installation where issued. A fee is usually collected and used for fish and wildlife management activities in accordance with the Cooperative Plan Agreement (§ 642.31(a) above).

Subpart C—Land Management

§ 642.41 General.

Land management operations will be consistent with modern conservation and land use principles which are continuously applied in an orderly and timely manner. Carrying out national land use and conservation policies is required on all Federal lands to the extent practicable and without affecting the assigned mission. Commanders will actively cooperate with local, State and Federal organizations in the carrying out of national land use and conservation policies. All land management operations will be conducted as a facilities engineering activity in accordance with accepted scientific and professional practices.

§ 642.42 Staffing.

(a) Since the natural resources disciplines encompassed within this regulation are sciences, commanders will establish the optimum staffing of professionally trained personnel (e.g., agronomist, forester, wildlife manager, landscape architect, soil conservationist, agricultural engineer, horticulturist) to insure necessary technical guidance in the planning and execution of the Natural Resources Program. Commanders will also seek supplementary aid from appropriate natural resource agencies (Federal, State and local) for technical assistance.

(b) Each major command and installation having jurisdiction over substantial acreage will provide technically qualified and experienced natural resources management personnel to act as a focus for all natural resources management activities. Major commands with both land and forest management programs should staff with a minimum of one agronomist and one forester. Number and discipline of installation personnel will be dependent upon scope of programs. Installations having 1000 acres or more of improved grounds and 5000 acres or more of remaining acreage will be responsive to the above criteria. Smaller installations may be responsive based on intensity of requirements. Qualifying experience will include broad academic training in plant sciences, soil, water and vegetative management and work experience commensurate with the circumstances. Personnel will keep abreast of current developments through coordination with local agencies involved in natural resources management and attendance at professional meetings. See DA PAM 420-7 for additional guidance in resource requirements.

§ 642.43 Training.

(a) The facilities engineer will provide for periodic and comprehensive technical instruction and training of personnel.

(b) Personnel engaged in poisonous plant and weed control operations (including control of objectionable trees, brush, and aquatic plants) require special training in handling toxic herbicides and associated equipment. Training and certification procedures are given in AR 420-76.

(c) Persons engaged in the care and maintenance of lawns, trees, shrubs and other landscape plants should participate in training relating to land preparation, soil management, fertilization, pruning, spraying and other horticultural skills.

(d) Maximum utilization will be made of locally available training (e.g., extension service, university, professional and trade organizations, government, commercial) and that offered by the armed services.

§ 642.44 Contracting.

Frequently work by installation forces must be supplemented by contracts. Typical work which can be performed by contract when qualified contractors are available includes grass mowing, application of herbicides, lime and fertilizer, seeding and sodding, landscaping, and reforestation. Determinations made on methods of performance (in-house versus contract) must adhere to the requirements of AR 235-5. Contracts will be utilized when economically beneficial to the government or beyond the capability of in-house forces.

§ 642.45 Mission requirements for the land.

The installation commander will plan land utilization with an understanding of the potential environmental effects of proposed actions. Whenever possible, mission requirements for the land will avoid or minimize adverse effects and restore or enhance environmental quality.

§ 642.46 Memorandums of understanding.

Memorandums of understanding have been established between the Department of Defense and the Departments of Agriculture (27 March 1963) and Interior (11 July 1960). The memorandums authorize execution of cooperative agreements in attainment of mutual conservation objectives. The installation commander may develop cooperative agreements with:

(a) Department of Agriculture functioning through the Agriculture Research Service, the Soil Conservation Service, and the Forest Service for the development, protection and conservation of forest and other vegetative cover resources, for soil and water conservation, and for research relating thereto.

(b) The Department of the Interior functioning through the U.S. Fish and Wildlife Service for the conservation of fish and wildlife resources.

(c) Assistance may also be obtained from other government agencies not specifically included in the above memorandums of understanding (e.g., Agricultural Extension Service, Bureau of Outdoor Recreation, Bureau of Land Management, National Park Service).

§ 642.47 Installation Natural Resources Conservation and Beautification Committee.

Installation commanders having active programs or the potential for programs within the concept of this regulation will appoint a Natural Resources Conservation and Beautification Committee.

(a) The Committee functions are for the purpose of:

(1) Assuring continuous planning and balanced application of the natural resources program.

(2) Planning, promoting, and fostering natural beauty and environmental protection and enhancement programs both on base and in cooperation with local communities.

(b) The Committee will include, but not be limited to the commander, the facilities engineer, the natural resource management personnel (agronomist, wildlife manager, forester, landscape architect, soil conservationist), environmental coordinator, entomologist, provost marshal/security officer, operations, safety, legal, medical, recreation services; and veterinarian personnel; and a representative of the installation rod and gun club. When feasible, representatives of Federal and State natural resources agencies, and local civilian conservation groups, will be invited to attend committee meetings as guests.

§ 642.48 Access to military lands and waters.

(a) *By the public.* (1) Installation commanders will provide for controlled public access at Department of the Army installations and facilities containing land and water areas suitable for the recreational use and enjoyment of the public. Such access will be within manageable quotas, subject to safety requirements and military security, and at such times as such access can be granted without bona fide impairment of the military mission, as determined by the installation commander. Opportunities for recreational use by the public of military lands and waters must be equitably distributed by impartial selection devices, such as a system based on drawings or lots, or a system based on the principle of first come, first served.

(2) When all public access must be withheld, the reasons must be substantiated by a statement incorporated in the Cooperative Plan Agreement required between the installation commander, the State fish and wildlife authorities, and the U.S. Fish and Wildlife Service.

(b) By Federal and State conservation officials.

(1) Installation commanders will provide installation access, subject to safety requirements and military security, for:

(i) Designated State fish and wildlife or conservation officials at such times and under such conditions as mutually agreed between the installation commander and the governor of the state in which the installation is located.

(ii) Accredited conservation representatives of Federal agencies furnishing professional advice and technical assistance under this regulation, in accordance with appropriate arrrangements.

(2) Federal and State conservation officials provided installation access will be issued an Identification Card and Pass Permit (DD Form 1221) by the installation commander for use under terms specified in the Cooperative Plan Agreement. Preparation of photographs, lamination, accountability, loss, surrender, and disposition will be in accordance with the general procedure in AR 606-5. Provisions of the Privacy Act of 1974 (5 U.S.C. 552a) will be complied with (see Appendix A).

§ 642.49 Multiple use.

In applying the multiple use concept, special attention will be given to environmental factors, recreation, land use capability, and the incorporation of conservation measures in the development, design, construction, and maintenance of installations. Consideration will be given to all demands for use of the land and water resources with optimum use being made when consistent with the military mission and sound conservation and environmental concerns. Areas required to support the military mission can often concurrently be used for forest, fish and wildlife, agricultural outleases and recreational programs. Areas will not be set aside for an exclusive use (e.g., wildlife preserve, forest preserve, natural areas) without written approval by HQDA (DAEN-FEB). The exploitation and development of mineral resources is the responsibility of the U.S. Department of the Interior when the property is available for this purpose (AR 405-80).

§ 642.50 Inventory and classification.

The initial step to be taken in the development of a multiple use natural resources management program requires an inventory and classification of the resources present and their status. The inventory shall identify and evaluate the condition and potential of wetlands, marine and estuarine areas, fresh water, forest land, grasslands, scenic and natural areas, aesthetics and any other significant environmental element. Inventories will also identify endangered or threatened species of flora and fauna and archaeological and historical sites. When in-house capability is not adequate to accomplish this task, maximum use should be made of assistance from the MACOM and cooperating local agencies.

§ 642.51 Land use limitations.

Determination of the most environmentally acceptable land use is dependent upon such factors as soil, water, vegetation, indigenous fauna, climate, and topography. Each of these factors, alone or in combination, can limit the use of an area and must be considered during the assessment of operations, maintenance, development, and construction activities. Interpretation of soil capability and climatic data by experienced, professional personnel will provide information for determining land use limitations and capability for timber production, wildlife habitat, recreation, agricultural outleasing, military operations, and construction. Commanders may request the assistance of the local soil conservation district regarding soil information and surveys. Land uses which have a detrimental effect on natural resources, or the potential for such an effect, will be avoided. When operations require a land use which is not compatible with the environment, measures will be taken to protect adjacent land and water resources.

§ 642.52 Land productivity.

On lands controlled by or owned by the United States or any of its agencies, it is the declared national policy to:

(a) Reduce exploitation, wasteful and unscientific use of the natural resources.

(b) Preserve and improve soil productivity.

(c) Where feasible, to contribute to the social needs and a continuous and stable supply of food, fiber and timber products through economic use and conservation of the land.

§ 642.53 Leases, easements and other special land uses.

(a) Agricultural leases.

(1) Military land will be constantly examined, to determine what areas, if any, can be made available for outleases. In accordance with the concept of multiple land use, areas which are required to support the military mission may also be outleased for agricultural purposes. The installation commander will:

(i) Prepare reports of availability of land for outleasing in accordance with procedures given in AR 405-80.

(ii) Include with the report of availability appropriate portions from the natural resources management plan which pertain to the management of the area made available. Also include any

other technical provisions outlining conservation measures and practices to be performed by the lessee on the area to be leased which will assure the maintenance and/or improvement of soil productivity and the associated environment.

(iii) Insure that outleased areas are available to the maximum extent practicable for concurrent compatible uses.

(iv) Periodically inspect outleased lands to insure compliance with maintenance and conservation requirements and report noncompliance to the District Engineer for enforcement.

(v) Insure that consideration is given to exclude economically productive hardwood timber stands from livestock grazing.

(vi) Provide for the maintenance, protection, repair and restoration by the lessee of the area leased.

(2) The MACOM agronomist will review all technical provisions outlining land use and conservation practices to assure their compliance with good agricultural and environmental concepts.

(3) Changes and amendments to existing leases which affect the conservation and management practices, including maintenance activities performed, will be a thoroughly coordinated procedure involving the installation, the MACOM agronomist, and the District Engineer.

(4) Outgrant holders desiring to apply pesticides or conduct animal damage control on Army property, or to contract for such work, must first submit details of the proposed programs for review and approval, as appropriate, by the MACOM agronomist/entomologist. Excluded are outleases whose contract contains provisions for lessees to assume full responsibility for the application of pesticides and animal damage control on their leases in accordance with the provisions of applicable Federal laws and directives (see AR 420–76). Supplemental agreements to existing leases should be negotiated to amend them so as to comply with this provision. All pesticide uses will be reported by the responsible installation in accordance with AR 420–76.

(b) For rights-of-way or easements for powerlines, communication facilities, pipelines and various purposes, see AR 405–80.

§ 642.54 Dust and erosion control.

Installation sources of dust, runoff, silt, and erosion debris will be controlled to prevent damage to land and facilities including adjacent property. A protective cover (e.g., vegetation, gravel, mulch, pavement) will be maintained at all times unless bare ground is essential for mission requirements. When bare ground is necessary, other measures (check dams, diversions, etc.) will be used to control dust and erosion.

§ 642.55 Fire protection.

Installation land and facilities will be cleared of fire hazards and the vegetative growth controlled to the degree essential to the safety of the installation and its natural resources. Blading or soil sterilization of firebreaks to mineral soil will be avoided if excessive erosion results from such action. Control of vegetation by mowing, grazing and other means will be used as an alternate to mineral soil firebreaks and the use of herbicides where possible. Prescribed burning is an effective and efficient means to reduce or prevent the accumulation of hazardous fuels and will be used where it is recognized land management practice for natural resources management and fire protection. The decision to use prescribed burning will be based on the safety hazard involved, the hazard that will develop if burning is not accomplished, and applicable state and local regulations. Installation activities making use of the land (e.g., testing, training, maneuvers) will be constantly aware of fire hazards and adjust their programs, including suspension of activities, to avoid high hazard areas and/or periods. (See DA PAM 420–7).

§ 642.56 Weed control.

(a) Objectional plant growth will be controlled by mowing, use of EPA registered and approved herbicides, cultivation, or other means. Special precautions will be taken in the application of toxic pesticides to safeguard personnel from contact and prevent indirect contact and/or windswept contamination of livestock browse areas, agricultural crops, or ornamental plants. For safety precautions see TMs 5–629 and 5–630 and AR 385–10. Herbicides will only be applied by or under the direct supervision of a trained and certified competent applicator.

(b) The MACOM agronomist/forester is responsible for the technical supervision and monitoring of the weed control program. The procedures for handling, recording and reporting pesticides, contained in AR 420–76, apply also to herbicides. Herbicide use activities will comply with AR 200–1.

(c) Technical provisions of all proposed contracts for pesticide applications used in vegetative management will be reviewed and approved, as appropriate, in writing by the MACOM agronomist/forester. Supervision and technical monitoring of contracts will be by certified personnel.

§ 642.57 Management records.

Installation records of land management activities will be developed and maintained on an annual (fiscal year) basis (e.g., pesticides, plantings, lime and fertilizer, timber harvest, etc.).

§ 642.58 Inspections and technical assistance.

MACOM and field operating agency commanders will make scheduled and special visits to installations to insure compliance with this program and provide technical assistance relative to natural resources (AR 420–10).

§ 642.59 Program evaluation.

Appropriate Headquarters, Department of the Army natural resource management personnel will make scheduled visits to MACOM, field operating agency commands and appropriate installations to ascertain degree of conformity with technical policies, standards, and procedures, and to provide on-site technical consultant service in resolving technical problems relative to natural resources.

Subpart D—Grounds Maintenance

§ 642.71 General.

Grounds will be maintained at the levels and intensities necessary to meet the designated use criteria, protect and enhance the natural resources, and insure a pleasing appearance in harmony with the natural landscape. Designated turf areas will be seeded, renovated, fertilized, and irrigated to the degree required to maintain a permanent vegetative cover of desirable plants necessary to support the intended use. Guidance available from local agricultural agencies and universities will be used in determining the most adapted species of vegetation and the maintenance practices necessary to meet the designated use. Improved grounds will be maintained at a level comparable with similar public facilities in the area.

§ 642.72 Ground maintenance responsibilities.

(a) Government-owned facilities. Except as specified in (1) and (2) below, grounds maintenance services are facilities engineering responsibilities:

(1) Family Housing. See Chapter 3, AR 210–50 for command and occupant responsibility for Government-owned family quarters.

(2) Bachelor Housing.

(i) Separate Lawns. For Government-owned quarters having separate lawns (e.g., separate dwellings or side-by-side duplexes), occupants will mow lawns with power or hand-pushed mowers, irrigate lawns and shrubs, cultivate shrubs, edge adjacent to paved surfaces and flower or shrub beds, and remove leaves, paper, bottles, stones and other litter. Boundaries should be established which clearly delineate the extent of grounds assigned to each occupant for use and maintenance. Boundaries shall correspond to the limits of the logical yard of each dwelling but will normally be not more than 50 feet from the dwelling. Grounds maintenance outside these boundaries may be performed by the installation. (For "Self-Help Program" criteria, see AR 420–22.)

(ii) Communal lawns. For other Government-owned housing having lawns common to more than one occupant (e.g., barracks, BOQ's and apartments), occupants will perform grounds maintenance services as in (i) above; if impracticable, these services will be performed as a facilities engineering activity.

(b) Leased Facilities. Except as specified in (1) and (2) below, grounds maintenance services are lessor responsibilities.

(1) Family housing leases. See Chapter 15, AR 210–50 for command and occupant responsibility for leased quarters.

(2) Other leases.

(i) In the United States.

(A) Separate lawns. For Government-leased housing and quarters having

separate lawns (e.g., separate dwellings or side-by-side duplexes), occupants will preform grounds maintenance services as set forth in § 642.72(a)(2)(i), using tools furnished by the Government.

(B) Communal lawns. For other Government-leased housing having lawns common to more than one occupant (e.g., BOQ's and apartments), lease instruments will delineate lessor and Government responsibilities.

(ii) In oversea areas. Responsibilities for grounds maintenance of Government-leased housing facilities will be predicated upon the customs and practices of the country; lease instruments will specifically delineate lessor and U.S. Government responsibilities.

§ 642.73 Cemeteries.

The installation commander has jurisdiction over post, private, and prisoner-of-war cemeteries located on Army installations, and is responsible for maintenance and operation as follows:

(a) At active installations.

(1) Post cemeteries. (See AR 210–190).

(i) Standard of maintenance will be equal to those authorized for other intensively maintained grounds. Areas will be protected as required by fencing, and will be kept orderly. Care will be taken to prevent damage to monuments, markers, and headstones. These will be kept clean and will be reset and realined when necessary.

(ii) As required, graves will be opened and closed, temporary headboards provided and placed, and permanent headstones set.

(2) Private cemeteries. It is Department of the Army policy to aquire title to all private cemeteries within boundaries of installations owned in fee by the United States. For the purpose of this regulation, a private cemetery is any cemetery or burial plot on the installation which, regardless of present ownership, was initially owned by a person or agency other than the United States.

(i) When the deed of conveyance is silent with respect to maintenance or access to a private cemetery, or separate agreements with private parties have not been made, the installation commander will be responsible for maintenance, as follows: excessive shrubs and trees will be removed; fencing for protection when required; headstones destroyed or seriously damaged by military activity will be replaced; and grounds will be kept clean and orderly. Public access will be allowed when consistent with safety and military security.

(ii) When the deed of conveyance or separate agreement with private parties requires the United States to provide maintenance or access, standards of maintenance in (2)(i) above apply.

(3) Prisoner-of-war cemeteries. Standards of maintenance in (2)(i) above apply.

(b) At inactive installations. For the three types above minimum standards of maintenance apply. Included is a periodic mowing, removal of brush, repair of fences, and resetting of headstones and markers, as required to maintain a neat appearance. These standards will also apply to cemeteries that remain after real estate disposal action has been completed for the remainder of the installation.

(c) Pet cemeteries. Maintenance of pet cemeteries is not a facilities engineering responsibility.

§ 642.74 Gardens.

Preparation (plowing, harrowing and discing) of a community type garden in excess of one-quarter acre in size may be performed as a facilities engineering function. Preparation of smaller garden plots and the cultivation, maintenance, harvesting, and clean-up of vegetable gardens will not be accomplished as a facilities engineering responsibility.

§ 642.75 Greenhouses and lathhouses.

(a) The maintenance of greenhouses and lathhouses designated by The Surgeon General for therapeutic purposes, and by The Provost Marshal General for vocational training purposes at United States disciplinary barracks, is a facilities engineering activity (including the provision of utilities necessary for operation). Furnishing of operating (including supervisory) personnel is the responsibility of the using service.

(b) Appropriated funds will be used for maintenance and operational support of only those greenhouses and lathhouses designated as set forth in (a) above.

§ 642.76 Irrigation.

(a) Irrigation will be accomplished where supplemental water is essential to establish and support lawns and other improved types of vegetation.

(b) Irrigation water will be limited to that necessary to provide minimum requirements to support vegetation planting in an acceptable condition. State university recommendations will be utilized in determining the amount of water necessary to meet these standards.

(c) Underground irrigation systems will comply with guidance in TM 5–813–1.

§ 642.77 Nurseries.

Expenditure of appropriated funds is not authorized for the operation of nurseries. Trees and shrubs will be obtained from commercial nurseries and Federal and State agencies when available. If economical, plants from natural wooded areas may be used providing they can be dug with sufficient roots and soil to meet commercial nursery standards (TM 5–630).

§ 642.78 Landscape plantings.

(a) All planting, pruning, cultivation, and other maintenance by whomsoever done, will conform to criteria in TM 5–630.

(b) Trees and shrubs will be removed if they have become crowded, or, if they are not: essential for shade, windbreaks, screening of unsightly objects, or erosion control; complementary to architectural features of the building area; adapted to the locale.

(c) Existing and new foundation plantings will be limited to the minimum needed to complement the building design. Normally not more than one-fourth of an individual foundation perimeter will be planted with shrubs or trees.

(d) The expenditure of appropriated funds for shearing hedges and ornamental plants into formal or decorative designs is not authorized except as specifically prescribed in the approved planting plan.

(e) Climbing vines, shrubs, and trees which block or damage windows, eaves, gutters or other construction components will be eliminated.

(f) Plantings which reduce sight distances or otherwise constitute a traffic hazard near street intersections, walks, and drives will not be permitted.

(g) Non-essential plantings which result in excessive lawn maintenance will be removed. Painting or whitewashing of tree trunks is not authorized.

(h) Planting and maintenance of flowerbeds, rose gardens, and nut or fruit trees for their edible products, except for wildlife food purposes, are not facilities engineering responsibilities.

Subpart E—Forest Management

§ 642.91 General.

Effective forest management provides for the sustained production of timber and related natural resources values such as natural beauty, recreation, wildlife, watershed protection, and the yield of high quality water. The optimum yield of each of these forest values on the same area is possible provided appropriate compromises are made in the various parts of the Natural Resources Management Plan. Forest Management activities will, when pertinent, include:

(a) Cultural treatment designed to improve timber quality and quantity which are within the realm of economic feasibility.

(b) Use of harvesting or treatment specifications designed to attain multiple use and sustained yield and to improve troop training areas, watersheds, wildlife habitat and to compliment natural beauty values along scenic corridors.

§ 642.92 National forest land.

On those installations which contain National Forest land, nonmilitary utilization of that land will comply with U.S. Department of Agriculture policy (36 CFR 261).

§ 642.93 Funding.

(a) Forest management financial support is derived primarily from funded reimbursement from proceeds of sales and direct appropriated funds. Reimbursable expenses that are directly related to economic production of timber products and its harvest include: timber management, reforestation, timber stand improvement, inventories, fire protection, construction and maintenance of timber area access roads, purchase of forestry equipment and supplies, erosion control, disease and insect control, planning, timber marking, inspections, sales preparation and training of personnel in lumber and timber operations and sales.

Each effort must make a contribution to the forest management operations that will produce an eventual return commensurate with the effort. Such expenses will be distributed to AR 37-100-XX account code 728012.23000 "Maintenance of Forest Areas." Command budget documents pertaining to this account will be coordinated with appropriate natural resources personnel.

(b) Costs related to purposes other than timber production and disposal do not qualify for reimbursement; e.g., costs of roads and trails for traffic or recreation, training area improvement, beautification projects, screens or buffer zones, drainage, fire protection on non-commercial forest land and other costs that would normally be incurred even if there were no timber production and harvest activities.

(c) Expenses eligible for reimbursement on non-commercial forest land are limited to that directly related to timber sales; e.g., marking, preparation of declaration of availability, and sales inspection.

(d) Request for the use of reimbursable funds (728012.23000) for minor construction projects and equipment purchases must be submitted to DOD for review and approval. All minor construction projects, as defined in AR 415-35, will be prepared in accordance with the format given in AR 415-35 and submitted to HQDA (DAEN-FEB) as they are developed. Programs for the purchase of items of equipment costing in excess of $500 each will be forwarded annually to HQDA (DAEN-FEB) for review and forwarding to DOD. Programs will show individual items of equipment, cost, and justification for purchase.

(e) Guidance relating to management plans, declaration of timber availability, staffing, and additional information and guidance on budgeting and financing, including the annual work plan, is contained in DA Pam 420-7.

§ 642.94 Forest inventories.

(a) Volume Inventories will be made and kept current for all installation forest lands managed for timber production. This will be accomplished by technically qualified forestry personnel.

(b) Inventory systems will be submitted to the MACOM for approval prior to implementation.

§ 642.95 Harvesting timber.

(a) Approval authority. (1) The MACOM will review and approve, as appropriate, timber available for harvest in any amount not within the installation commander's authority.

(2) Installation commanders are authorized to:

(i) Sell small volumes of standing timber that are in conformity with AR 405-90 and the installation Forest Management Plan.

(ii) Sell small volumes of forest products remaining after harvest and/or forest management operations (e.g., tops, fuelwood, greens) and from dead, dying, damaged or fallen trees resulting from fires, insects, disease or storms.

(iii) Sell pulpwood, sawlogs or other wood products from trees removed from new construction sites (e.g., utility lines, rights-of-way, building construction areas or training areas) when time does not permit or volume does not justify disposal by formal declarations of availability. Coordination must be accomplished with the construction contract to assure timeliness and to avoid conflict with contract specifications.

(b) Disposal Action.

(1) Installation commanders will submit to the MACOM reports of availability for all timber planned to be harvested. See DA Pam 420-7 for preparation of reports of availability.

(2) The MACOM will take appropriate action within authority in preceding paragraph (a)(1) and submit approved reports of availability to the appropriate division engineer for disposal action (AR 405-90).

(3) Small volumes of timber may be sold by the Defense Property Disposal Office or by the District Engineer where available at the installation. Proceeds from these sales will be deposited to Deposit Fund Account 97F 3860-5192. Additional guidance on sales by installation commanders is contained in DA PAM 420-7.

(4) Disposal of merchantable timber by destruction (e.g., burning, burying, natural decay, etc.) may be accomplished only after it has been determined that sale is not feasible.

(5) Timber or forest products may not be exchanged as reimbursement for services.

§ 642.96 Installation sawmills.

Installation sawmills and the logging operations incident thereto are not authorized except:

(a) To the degree required to train troops in specialized construction activities.

(b) When necessary to prevent the compromise of security information.

Subpart F—Fish and Wildlife Management

§ 642.111 General.

(a) The Fish and Wildlife Management program will manage the habitat consistent with accepted scientific principles and the total natural resources program. Emphasis will be placed on the maintenance and restoration of habitat favorable to the production of indigenous fish and wildlife.

(b) Installation commanders with potential for a fish and wildlife program will:

(1) Program for funds to conduct an effective program pursuant to the Cooperative Agreement.

(2) Require the optimum use and staffing of professionally trained personnel (e.g., wildlife manager) at installation having program potential.

(3) Authorize and control fishing, hunting, and trapping in conformance with Federal and State laws, local regulations and approved management plans.

(4) Establish a Fish and Wildlife Law Enforcement Program under the supervision of the installation/activity provost marshal/security officer and provide for enforcement in accordance with applicable directives and insure:

(i) Enforcement of all hunting, fishing, and trapping laws, regulations and directives.

(ii) Against unauthorized entry of individuals into restricted areas,

(iii) Control of predators as requested by the facilities engineer.

(iv) Personnel and equipment resources are available to the provost marshal/security officer for conduct of the enforcement program.

(c) Additional program guidance to installation commanders is contained in DA Pam 420-7.

§ 642.112 Authority to hunt, fish, and trap.

(a) All hunting, fishing or trapping on a military installation or facility under the control of the Department of the Army shall be in accordance with Federal laws and the fish and game laws of the State, commonwealth, or territory in which it is located (10 U.S.C. 2671).

(b) Any individual who desires to hunt, fish or trap on a military reservation must obtain:

(1) A license from the state in which the installation is located except as provided for in paragraph 642.113(a)(3) below.

(2) A special state permit (16 U.S.C. 670a) from the commander of said installation, or his designee, when such permits are required.

(c) Whoever violates a requirement prescribed under subsections (a) or (b) above is guilty of an offense under 10 U.S.C. 2671(c).

(d) The commander of the installation, or person designated by him, will collect fees, where applicable, for permits they issue and will enforce such permits.

§ 642.113 Installation permits and fees.

(a) Special State Hunting, Fishing and Trapping Permits.

(1) Installation commanders will issue special State permits to individuals only when such are in possession of a valid State, territorial, or county hunting, fishing, or trapping license, as applicable except as set forth in § 642.113(a)(3) below.

(2) These special State permits do not apply to National Forest Lands under control of the Department of Agriculture and will so state.

(3) An exception to the license requirement can be made when State laws do not grant equality of treatment to military personnel by not waivering residency requirements as specified in 10 USC 2671. Commander will make written application to HQDA (DAEN-FEB) WASH DC 20314, through appropriate channels, for authorization to issue permits to military personnel to hunt, fish or trap on the installation without securing an appropriate State, territorial, or county license.

(b) Fees.

(1) The annual demand for operation and maintenance funds frequently has a negative effect on installation efforts to fulfill obligations to foster sound fish and wildlife management programs. As a consequence other fund sources must be considered.

(2) Pursuant to 16 USC 670 a–f, installation commanders:

(i) Should discuss funding aspects with the State agencies formally cooperating with the installation with a view toward amending the cooperative agreement to:

(A) Establish fees for hunting, fishing, or trapping, or

(B) Raise existing fees to levels commensurate with fees charged for comparable activities within the civilian community.

(ii) May, if agreeable to the cooperative plan agreement, issue special State permits to individuals for fishing, hunting, or trapping on that installation or facility, and require the payment of a fee therefore. (These special permits are in addition to the State license and Federal stamps as required.)

(A) Such fees are to be used on the installation from which collected for the protection, conservation, and management of fish and wildlife, including habitat improvement and related activities, as may be stipulated in the cooperative plan, but for no other purpose.

(B) Collections and disbursements of these fees will be accounted for and reported in accordance with AR 37–100 and AR 37–108.

(iii) Will issue special State permits subject to the following criteria:

(A) Persons holding hunting, fishing or trapping permits will stand at par with each other for use privileges, except that participation of the general public will be within manageable quotas.

(B) A sliding scale of fees may be established for enlisted personnel to encourage participation.

(C) Fee charges should be commensurate with those charged for comparable activities within the civilian community.

(D) Will ascertain that the cooperative plan specifically provides, as required by 16 U.S.C. 670b, that the possession of a special permit for hunting migratory game birds will not relieve the permittees of the requirements of the Migratory Bird Hunting Stamp Act, as amended, nor of the requirements pertaining to State Law as set forth in 10 U.S.C. 2671.

§ 642.114 Cooperative plan agreement.

Cooperative Plan Agreements for Conservation and Development of Fish and Wildlife Resources will be prepared and implemented for all Category I installations (those having land and water areas suitable for the conservation and management of fish and wildlife). The Cooperative Plan Agreement will be prepared and amended as appropriate in coordination with appropriate State and Federal fish and wildlife conservation agencies and will be in agreement with the approved Natural Resources Management Plan. Guidelines for the Plan Agreement are contained in DA Pam 420–7. A copy of each Cooperative Plan Agreement, revision or amendment will be forwarded through command channels to HQDA (DAEN–FEB–N) WASH DC 20314. These plans are exempt from reports control under paragraph 7–2a, AR 335–15.

§ 642.115 Introduction of new species.

Species of fish and wildlife which are foreign to the United States will not be introduced on Army land unless approved by the US Fish and Wildlife Service, the State, and HQDA (DAEN–FEB). Introduction of species native to the United tSates or reintroduction of formerly indigenous species will be accomplished only upon the approval of the US Fish and Wildlife Service, the State, and the MACOM and will be made a part of the Cooperative Plan Agreement. All introduction or reintroduction of wildlife species will be thoroughly assessed to determine the impact on existing flora and fauna and the installation mission before accomplished.

§ 642.116 Population control.

The objective of population control will be to maintain the wildlife population within the carrying capacity of the land and prevent health and safety hazards. Wildlife populations will be continually monitored to detect overpopulations and the potential for such. Coordination with Federal and States natural resources agencies will be accomplished regarding wildlife overpopulation determinations and control measures. Such control measures will be in accordance with applicable Federal, State and local laws. When species overpopulations cannot be reduced adequately by normal harvest measures, management practices will be changed or initiated to bring the population of that species into balance.

§ 642.117 Habitat management.

All habitat improvements will be accomplished in a manner to preserve or enhance the esthetic values and quality of the environment. Activities will be directed towards the development of native habitats and perennial plantings. Planting of annual food plots will be avoided as a major activity. First consideration will be given to the management of habitat utilized by threatened and/or endangered species and those species which are indigenous to the installation.

Subpart G—Environmental Management

§ 642.131 General.

(a) Special consideration will be given to soil and vegetation characteristics, surface and subsurface water, unique archeological and geological sites, and wildlife in the development, design, construction and maintenance of an installation and the performance of its mission. All possible efforts will be made to protect the land and water resources so that none will be lost, degraded or destroyed. Measures will be taken to control sources of pollutants harmful to the land and its resources.

(b) Personnel will comply with the environment quality policies and procedures specified in AR 200–1 and those standards established by applicable Federal, State, interstate, or local authority.

(c) The Natural Resources Management Program will be a specific element of the assessment of continuing and planned programs as required by AR 200–1.

§ 642.132 Endangered species.

The Endangered Species Act of 1973, Public Law 93–205, requires all Federal departments and agencies to carry out programs for the conservation of endangered and threatened species. Installation commanders will assure that actions authorized, funded, or carried on do not jeopardize the continued existence of such endangered and threatened species. Coordination will be accomplished with appropriate staff elements for the development of programs for avoiding interference by military activities with both "on base" and "off installations" threatened or endangered species and their habitat. Cooperative agreements for the conservation and development of fish and wildlife and other natural resources will be expanded to include assistance in the development of endangered species programs. Where applicable, an inventory of endangered or threatened flora or fauna and their habitat which are indigenous to or dependent upon the installation will be developed. Consideration will be given to species protected by both Federal and State laws. Introduction or reintroduction of threatened or endangered species will be accomplished only after a thorough assessment of its impact on the military mission and operation of the installation, and concurrence by appropriate Federal and State agencies.

§ 642.133 Predators.

Concurrence by appropriate State or Federal natural resources officials must be obtained prior to performance of predator control measure. Control of predators or other animals considered to be of sanitary or health significance will be coordinated with the installation medical officer. Applicable Federal and State laws (e.g. National Environmental Policy Act, E.O. 11870, Federal Insecticide, Fungicide and Rodenticide Act) will be complied with and an environmental assessment prepared in accordance with AR 200–1 for all predator control operations.

§ 642.134 Poisonous and noxious plants.

Poisonous plants will be controlled only where they present a health hazard to personnel. Many plants contain poisonous parts or are poisonous during certain stages of growth. Destruction or eradication of these plants would not be practicable or in compliance with good conservation principles. Education of personnel to become aware of potential hazards should be accomplished in place of widespread destruction programs.

Control of plants designated as noxious by Federal or State agencies will be in accordance with environmental policies and in harmony with local community programs and adjacent property owners.

§ 642.135 Pesticides.

Use of chemical pesticides for the protection and control of vegetation is permitted when other methods of control are not feasible. Pesticide application and handling will be in accordance with applicable guidance given in AR's 200–1, 420–76, TM's 5–629, 5–630, 5–632 and § 642.56 of this regulation. Aerial applications will also conform to guidance in AR 40–574. All uses of pesticides will be in strict compliance with a currently approved Environmental Protection Agency label, unless approved otherwise by the EPA or applicable Federal regulations. Only pesticides registered by EPA will be used. They will also be limited to standard items, those listed in the DOD section of Federal Supply Catalogs, unless approved in writing by the MACOM (See AR 420–76). Technical provisions of all proposed contracts for pesticide applications used in vegetative and wildlife management will be reviewed and approved, as appropriate, in writing by the MACOM agronomist/forester.

§ 642.136 Coastal Zone management.

Public Law 92–583, Coastal Zone Management Act, as amended, provides National policy and a program whereby coastal states can develop and establish a Coastal Zone Management Plan. All Federal lands are excluded by the Federal land exclusion provision in the Act and that exclusion encompasses all lands used by the United States without regard to the ownership or the jurisdictional status of the land. However, Federal actions in or affecting a coastal zone must, to the maximum extent practicable, be consistent with the coastal states approved plan. Activities will ensure that a State's Coastal Zone Management Plan recognizes the existence and impact of all military installations, facilities and lands, and excludes provisions for mandatory application over same. Commanders shall cooperate and coordinate with the Coastal States during all phases of Costal Zone Management Plan formulation and implementation. Coordination will be accomplished through the Army Coastal State representative and will be limited to necessary unclassified and releasable information such as inventory and mission data, master plans, and the like.

§ 642.137 Base attractiveness and scenic values.

The "Base Attractiveness Program" gives increased attention to the enhancement of the attractiveness of military installations. The emphasis of this program is to make service life more attractive, while at the same time increase the overall value of the Army physical establishment. New construction projects will include provisions essential to base attractiveness with adequate design and funding considerations. This will include landscaping, buffer zones, screening, parks, and recreational areas as appropriate. Commanders will include the resources essential to support base attractiveness in budget estimates, projects estimates and other resource justifications. Both day-to-day type operations and maintenance and project type work will be performed in a way to contribute to base attractiveness and environmental improvement. Consideration should be given to the protection of areas which have scenic, archaeological, geological, or historical significance.

§ 642.138 Beach protection.

Protection of beaches on Army land is required to prevent water from flooding shore developments, military installations, inland cities, and other improved lands during storms in coastal areas. Natural and/or constructed barriers will be considered as requirements dictate. Plans for barrier construction and for any proposed alterations will be carefully studied by specially qualified experts. Consideration will be given to requirements of State Coastal Zone Management Plans.

Subpart H—Outdoor Recreation

§ 642.151 General.

Objectives and guidance relative to the Outdoor Recreation Program are provided in AR 28–1. The facilities engineer is responsible for the maintenance of recreation facilities and will be actively involved in developing the Cooperative Plan Agreement for Outdoor Recreation and the General Recreation Plan for the installation. Guidance in the planning and design of recreational facilities is found in TM's –5803–10, 5–803–11, and 5–803–12.

§ 642.152 Land use designation.

Recreation facilities will be based upon formal design in accordance with the Installation Master Plan. Development of the General Recreation Plan portion of the Installation Master Plan (AR210–20) will give attention to land use capability and limitations when determining recreation activities to be conducted.

§ 642.153 Maintenance of recreational facilities.

(a) General. Maintenance responsibilities of the facilities engineer on recreational facilities (golf, courses; badminton, tennis, and volleyball courts; baseball diamonds; football fields; playgrounds; and similar outdoor facilities) will include protection and replacement of playing surfaces, backstops, posts, fences, fixed playground equipment and other fixed items, and the measuring and original permanent marking of diamonds, fields, courts, and similar playing areas. Maintenance of remote facilities may be performed by recreation services when more economical and agreed to by the facilities engineer and recreation services. Provision and maintenance of nets and other removable items, rolling, temporary marking and detailed treatment of playing areas, and similar services will not be accomplished as a facilities engineering responsiiblity.

(b) Golf courses. Golf courses will be maintained at a standard equivalent to other improved grounds, subject to the provisions of (1) and (2) below. The MACOM may authorize the use of water for irrigation to the extent that existing facilities permit without interference to the normal domestic requirements of the installation. The extent of maintenance to be performed will be as follows:

(1) Unrestricted courses. Maintenance of golf courses for use of all military personnel may be performed by the facilities engineer on the roughs, fairways, and other areas and facilities not requiring specialized equipment or skills. Maintenance of greens, bunkers, traps, tee boxes, and the payment of salary for a professional greenkeeper or general superintendent is not a facilities engineering responsibility.

(2) Restricted courses.

(i) Golf courses at memorially named Army hospitals restricted entirely to the training, rehabilitation, and recreation of patients may be maintained in their entirety as a facilities engineering responsibility. If the golf courses are not restricted to patients, a proportionate share of the costs, based upon the use made by patients, may be financed from appropriated funds available for maintenance of facilities.

(ii) Other golf courses restricted to club members or officers, operated as nonappropriated fund activities and for which a use fee is charged, will be maintained as a facilities engineering activity only to the extent that other improved grounds are maintained. Cost of water used for irrigation will be charged in accordance with AR 420–41.

§ 642.154 Off-road vehicles.

Use of off-road vehicles on Army lands will be in accordance with AR's 210–9 and 28–1. Soil capability and affected land and water resources will be of prime concern when areas are evaluated for use by off-road vehicles. Land and water areas designated for off-road vehicle use will be included in the installation Natural Resources Management Plan and the Installation Master Plan. The facilities engineer is responsible for determining suitability of trails and areas and monitoring for damage, over-use, and the need for corrective action. The recreational aspects of off-road vehicle use is the responsibility of recreation services.

Subpart I—Plans

§ 642.161 General.

(a) An installation Natural Resources Management Plan will be prepared and implemented for all active and inactive installations in CONUS, Alaska, and Hawaii, meeting the criteria set forth below. The Plan will include, as appropriate, four separate parts: I Land Management; II Landscape Plantings; III Forest Management; and IV Fish and Wildlife Management. The annual work plans will be developed and maintained as the installation record of planning and approved activities and should not

require additional detailed cost collection effort during the year.

(b) Cooperative Plan Agreements for Conservation and Development of Fish and Wildlife Resources will be prepared and implemented for all Category I installation (those having land and water area suitable for the conservation and management of fish, wildlife and other natural resources as determined by consultation with appropriate Federal and State fish and wildlife agencies).

§ 642.162 Criteria for the Installation Natural Resources Management Plan.

(a) Part I will be prepared by installation having 500 or more acres of improved, semi-improved and unimproved grounds combined, or 50 or more acres of improved grounds.

(b) Part II will be prepared for all installations listed in Appendix A of AR 210-20 which require preparation of complete master plans. Other installation performing landscaping will prepare detailed plans to cover the work intended when other than replacement planting of like species is involved.

(c) Part III will be prepared by installations having 100 or more acres of commercial forest land.

(d) Part IV will be prepared by installations having land and water areas suitable for the management of fish and wildlife resources. Suitability will be based upon consultation with appropriate Federal and State fish and wildlife conservation agencies. Determinations of unsuitability will be submitted to the MACOM for waiver of requirement to prepare this part. This plan will complement the Cooperative Plan Agreement.

§ 642.163 Preparation.

(a) Guidelines to be used in the preparation of plans are contained in DA Pam 420-7.

(b) The Installation Natural Resources Management Plan will be prepared and kept current by qualified specialist personnel.

(c) The Cooperative Plan Agreement for Conservation and Development of Fish and Wildlife Resources will be prepared and amended as appropriate in coordination with appropriate State and Federal fish and wildlife conservation agencies.

§ 642.164 Revisions.

The Installation Natural Resources Management Plan will be reviewed annually and revised as necessary, utilizing binders which facilitate page changes. Major revisions of Parts I, III, and IV will be accomplished at least every 5 years. Landscape Planting Plans (Part II) will be revised as needed. Information such as that relating to soils, natural vegetation and environmental data, not requiring revision, should be retained in the Plan.

§ 642.165 Approval.

Each Installation Natural Resources Management Plan and major revision thereof will be forwarded to the MACOM for approval. The approved plans, together with TM's 5-630 and 5-631 will be the technical basis for installation implementation. Review, approval, and distribution of annual revisions (e.g., work plans) will be in accordance with provisions established by the MACOM.

§ 642.166 Distribution.

(a) A copy of Parts I, III, and IV of each approved Natural Resource Management Plan and a copy of each Cooperative Plan Agreement will be forwarded through command channels to HQDA (DAEN-FEB-N) WASH DC 20314.

(b) A copy of each approved major revision to Parts I, III and IV of the Natural Resources Management Plan and copy of each amendment to the Cooperative Plan Agreement will be forwarded, as above, when revisions are made.

§ 642.167 Reports control exemption.

These plans are exempt under paragraph 7-2a, AR 335-15.

Subpart J—Conservation Awards

§ 642.171 The Secretary of Defense Conservation Award.

(a) The Secretary of Defense will annually present an award to the installation of the Army, Navy, or Air Force that conducted the most outstanding conservation program in their installation category during the three preceding calendar years. Plaques will be presented annually to the two runner-up installations. Special recognition awards, or citations, may as appropriate be presented to additional installations for conducting meritorious natural resources conservation programs.

(b) The award will be given on alternate years to a small installation (Designated Category A) and the next year to an installation in the large category (Designated Category B). Category A installations are those with 5,000 acres or less on the main installation. Category B installations are those of 5,001 acres or greater. Category A installations will compete for the even numbered award year (e.g., 1976 award given in CY 1977) and Category B installations will compete for the odd numbered award year (e.g., 1977 award given in CY 1978).

(c) A single award may be presented each year to the individual, military or civilian who has made an outstanding contribution to the Defense Natural Resources Program during the preceding calendar year.

§ 642.172 Chief of Staff Conservation Award.

The Chief of Staff, U.S. Army, will annually present a silver plaque to the installation that conducted the most outstanding natural resources conservation program during the three preceding calendar years.

§ 642.173 Preparation.

Details regarding entry requirements, submission instructions, nomination procedure, and description of the awards, are contained in DA PAM 420-7. All applicable installations are encouraged to submit nominations through command channels.

§ 642.174 Submission of nominations.

Nominations for the installation and individual awards will be submitted to HQDA (DAEN-FEB) Washington, DC 20314 by 15 March of each year for the award period ending the previous 31 December.

(a) Headquarters, FORSCOM, TRADOC and DARCOM may each make four nominations for each award from installations in the United States, Puerto Rico, and the Virgin Islands.

(b) Other MACOMS in the United States may submit a maximum of two nominations each for each award.

Subpart K—Installation Natural Resources Report (Reports Control Symbol DD-I&L (A)670)

§ 642.181 Purpose and scope.

(a) The report is designed to provide HQDA (DAEN-FEB-N) with data relative to the execution of integrated natural resources programs involving:

(1) Management of grounds, fish and wildlife, and forest areas.

(2) Development and conservation of natural beauty values and outdoor recreation potentials.

(3) Enhancement of environmental quality.

(b) The report is basis for:

(1) Performance evaluation and management analysis.

(2) Technical studies.

(3) Development of policies, standards and programs.

(4) Providing higher authority with information pertinent to implementation of integrated natural resources programs.

(c) The report consists of three parts with each part on a separate sheet, as follows:

Part I—Land Use and Conservation, DA Form 2785-R (App. B-1). Part II—Forest Management, DA Form 2785-1-R (App. B-2). Part III—Fish and Wildlife Management, DA Form 2785-2-R (App. B-3). These forms will be prepared locally on 8 x 10½ inch paper.

(d) Installations are encouraged to supplement the report with short narrative information as may be desired to more adequately depict the natural resources program.

§ 642.182 Frequency, routing and due date.

The report will be prepared at the end of each fiscal year and dispatched through command channels, in triplicate, to reach HQDA (DAEN-FEB) WASH DC 20314, within 45 days after the close of the fiscal year.

§ 642.183 Instructions for Parts I and II.

(a) Part I will be prepared by each Army installation in the U.S., Puerto Rico, and Panama, required to prepare the Land Management part of the Installation Natural Resources Management Plan.

(b) Part II will be prepared by each Army installation in the U.S., Puerto Rico and Panama required to prepare the Forest Management part of the Installation Natural Resources Management Plan.

§ 642.184 Instructions for Part III.

(a) Criteria. The criteria for submission of Part III will be established after consultation with appropriate Regional Director of the U.S. Fish and Wildlife Service and the State official(s) designated by the governor of the state concerned. Based upon this consultation, instaliations will be classified under one of the four following categories. (Note: All installations are currently classified. Category classification will be changed when installation program potential is determined (by consultation as above) to warrant such changes):

(1) Category I. Installations having land and water areas suitable for the conservation and mangement of fish, wildlife, and other natural resources.

(2) Category II. Installations for which a decision is pending as to program suitability within the meaning of (1) above.

(3) Category III. Installations which are classified, due to lack of adequate land or water areas, as unsuitable for a program of conservation and management of fish and wildlife and other natural resources, such classification being determined after the consultation prescribed in (a) above.

(4) Category IV. Installations which obviously do not have land or water areas (e.g., recruiting centers, armories, cemeteries, hospitals, city office building headquarters, and the like) which would provide the program potential for the conservation and management of fish and wildlife and other natural resources within the meaning of this regulation.

(b) Reporting.

(1) Category I installations will complete Part III of the report annually.

(2) Category II installations will complete applicable portions of Part III of the report annually.

(3) Installations classified in Category III or IV are excused from reporting unless or until the acquisition of additional land and water areas provides a program potential within the meaning of this regulation. Newly established installations classified in Category III or IV will be excused from further reporting after submission of their initial report which will consist of a signed statement attesting to their category designation.

[FR Doc.77-9070 Filed 3-25-77;8:45 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 601—PROCUREMENT OF PROPERTY AND SERVICES

Miscellaneous Amendments to Postal Contracting Manual

The Postal Contracting Manual, which has been incorporated by reference in the FEDERAL REGISTER (see 39 CFR 601.100), has been amended by the issuance of Transmittal Letter 22, dated March 8, 1977.

In accordance with 39 CFR 601.105 notice of these changes is hereby published in the FEDERAL REGISTER as an amendment to that section and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the basic Manual will receive these amendments from the Government Printing Office. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

Description of these amendments to the Postal Contracting Manual follows:

SECTION 1—GENERAL PROVISIONS

1. Paragraph 1-324 has been added to prescribe policies and procedures for protecting the privacy of individuals.

2. Paragraph 1-325 has been added to prescribe procedures for use of the clean air and water certification and clause.

3. Paragraph 1-404.1(a) has been revised to update the list of personnel who, by virtue of their positions, are delegated authority and assigned responsibility to act as contracting officers.

4. Paragraphs 1-407.2 and 1-407.3 have been revised to update provisions concerning procurement responsibility and authority of regional and field contracting officers.

5. Paragraph 1-407.4 has been revised to prescribe the new forms to be used when submitting proposed procurement awards to higher authority for approval.

6. Part 19 of section 1 has been added to establish policies and procedures for use of the value engineering incentive clause.

SECTION 2—PURCHASE BY FORMAL ADVERTISING

7. Paragraph 2-201(a)(22) has been deleted as it is no longer required that the notice contained therein regarding nonsegregated facilities be added to invitations for bid.

8. Paragraph 2-407.8 has been revised to (i) identify who may file a protest against Postal Service contracting procedures or awards, (ii) clarify the items to be included in the contracting officer's report on a protest transmitted to the General Counsel, and (iii) add a section concerning reconsideration of a decision of the General Counsel on a protest.

SECTION 6—INFORMAL PURCHASES

9. Paragraphs 6-111.2(c), (d) and (e) have been revised to update the fiscal data entry procedures and the distribution instructions for Form 7334, Order-Invoice-Voucher.

SECTION 7—CONTRACT CLAUSES

10. Paragraph 7-104.44 has been added which sets forth the new value engineering incentive clause.

SECTION 11—TAXES

11. Paragraph 11-203 has been revised to reflect the fact that the Postal Service is no longer exempt from the Federal excise tax on transportation furnished upon a Postal Service transportation request.

SECTION 20—ADMINISTRATIVE MATTERS

12. Part 2 of section 20 has been revised to update the uniform numbering procedures for procurement documents.

13. Part 4 of section 20 has been added to provide policy and procedures regarding the use of Form 7379-A, Destination Schedule—Fiscal Data Sheet (Supplies and Services) and Form 7379-B, Destination Schedule—Fiscal Data Sheet (Capital Equipment).

SECTION 22—SERVICE CONTRACTS

14. Paragraphs 22-702.4 and 22-703.1 (b) have been revised to clarify the fact that the minimum wage of $2.30 per hour required under the Fair Labor Standards Act beginning January 1, 1977 shall continue to apply until such act is amended to provide otherwise.

15. Paragraph 22-705.2(vi) has been revised to make it consistent with the provisions of 22-705.1 concerning the wage rate that may be paid incumbent contractors on renewals of cleaning service contracts.

16. Appendix A has been revised to update the rules of practice before the Postal Service Board on Contract Appeals.

17. The following new or revised forms have been included in section 16 and shall be used immediately, where applicable:

(a) Form 7319-B, May 1975—Representations and Certifications.

(b) Form 7321, August 1972—Cost and Price Proposal.

(c) Form 7329, November 1974—Negotiated Contract.

(d) Form 7330, August 1975—Amendment-Modification.

(e) Form 7333, May 1975—Solicitation, Offer and Award.

(f) Form 7334, August 1975—Order-Invoice-Voucher.

(g) Form 7334-A, December 1975—Order-Invoice-Voucher (continuation sheet).

(h) Form 7339, February 1975—Shipping Instructions for Material in Storage.

(i) Form 7340, January 1975—Shipping Instructions for Excess Property.

(j) Form 7340-A, June 1974—Shipping Instructions for Excess Property—Vehicle.

(k) Form 7361, April 1976—Solicitation, Offer and Award—Vehicle Hire (Area Wide).

(l) Form 7373, May 1976—Equipment Requisition.

(m) Form 7374, April 1975—Solicitation, Offer and Award—Vehicle Hire—(Not to Exceed $5,000 Annually).

(n) Form 7374-B, February 1976—Solicitation, Offer and Award—Vehicle Hire (Over $5,000 Annually).

(o) Form 7379-A, September 1975—Destination Schedule—Fiscal Data Sheet (Supplies and Services).

(p) Form 7379-B, September 1975—Destination Schedule—Fiscal Data Sheet (Capital Equipment).

(q) Form 7382, August 1975—Additional General Provisions for Service Contracts.

(r) Form 7396, April 1976—Contract memorandum of Transmittal and Check List.

(s) Form 7396-A, April 1976—Contract Modification Memorandum of Transmittal.

(t) Form 7396-B, April 1976—Official Contract Filing System.

(u) Form 7429, March 1975—Bidder's Mailing List Application.

(v) Form 7429-A, June 1976—Bidder's Mailing List Application, Commodity and Geographic Location Check-Off.

18. The following obsolete forms have been deleted from section 16:

(a) Form 7304, July 1971—Documentation Check List for Negotiated Procurements.

(b) Form 7355, July 1971—Consignee's Certificate of Partial Delivery Covering Bill of Lading No. —, Route Order No. —.

(c) Form 7374-A, July 1971—Solicitation, Offer, and Award-Christmas and Temporary Vehicle Hire (Short Form)—Not to Exceed $5,000/60 Days.

The remainder of the changes are minor, editorial or technical in nature.

In consideration of the foregoing, 39 CFR 601.105 is amended by adding the following to § 601.105, effective immediately:

§ 601.105 Amendments to the Postal Contracting Manual.

* * * * *

Amendments to postal contracting manual

Transmittal letter	Dated	Federal Register Publication
*	*	*
	22 Mar. 8, 1977	42 FR

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411, 2008).

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77-9088 Filed 3-25-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL-694-8]

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

Miscellaneous Amendments

The need for a number of technical amendments and corrections has been identified. These amendments are set forth in this publication and are described in the table below. These amendments republish certain technical amendments of July 16, 1976, 41 FR 29389, which were inadvertently omitted when the evaporative emission regulations were published, August 23, 1976, 41 FR 35625. In addition, a number of typographical errors are being corrected, and several minor amendments are being made.

Frequent users of the motor vehicle certification regulations (Parts 85 and 86) are alerted that EPA intends in the near future to publish in the FEDERAL REGISTER complete, updated 1977 and 1978 model year regulations which incorporate these and previous technical amendments and regulation changes. This updating of the motor vehicle certification regulations will serve to reduce any confusion which has resulted from the numerous revisions which have been made to the regulations over the past several months.

The Agency finds that good cause exists for omitting as unnecessary a notice of proposed rulemaking, public rulemaking procedure, and postponement of the effective date in the issuance of these amendments in that (1) the amendments primarily clarify the regulations, (2) they make nonsubstantive corrections, and (3) they impose no additional burden on the regulated industry in complying with the regulations.

Parts 85 and 86, Chapter I, Title 40 of the Code of Federal Regulations as applicable beginning with the 1977 model year are amended as follows, effective on March 28, 1977. These amendments are issued under the authority of Sections 202, 206, 208 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857f-1, 1857f-5, 1857f-6 and 1857g(a)).

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

Dated: March 18, 1977.

DOUGLAS M. COSTLE,
Administrator.

Explanation of technical amendment changes

Section	Change	Reason
1. App. II, pt. 85	References changed	Previous references did not apply to later model years.
2. App. III, pt. 85	Title added	Inadvertently deleted by the June 28, 1973, technical amendments.
	References changed. Equation corrected	Previous references did not apply to later model years. Correction.
3. Sec. 86.077-23	Paragraph (a) is changed to allow the Administrator, on application by a manufacturer, to waive the zero-mile (or zero-hour) test requirements, and to waive any testing by the manufacturer at a test point where testing will be performed by EPA.	Provides, at the request of the manufacturer, and upon approval by EPA, for elimination of testing in those instances where EPA agrees that testing by the manufacturer is unnecessary, or that testing by the manufacturer in addition to testing by EPA would cause hardship or undue delay in the manufacturer's certification program.
	The new paragraph (d) is changed to delete the requirement for submission of data generated in compliance with sec. 86.077-5(b), but retains a requirement that such data remain available to the Administrator on request.	Annual submission of such data is no longer considered necessary.
	The new paragraph (e) clarifies the required statement of compliance with regulations, and makes more specific the provisions to be followed in the event the required statement cannot be made by the manufacturer.	Clarification.
4. Sec. 86.077-24	In paragraph (b)(1)(vi) the reference to sec. 86.077-23 is changed to conform to the new paragraph ranking in that section.	Conforming change.
5. Sec. 86.077-25	In paragraph (a)(8)(ii) the reference to sec. 86.077-23 is changed to conform to the new paragraph ranking in that section.	Do.
6. Sec 86.077-26	In paragraphs (a)(3), (a)(3)(i)(C), (a)(3)(ii)(C), (a)(4), (a)(7), (b)(3), (b)(4), (b)(7), (c)(3)(i), (c)(3)(ii), and (c)(5)(iii) changes are made to conform to the changes made to sec. 86.077-23(a).	Do.
	In paragraph (a)(6)(ii), the reference to 1977 model year standards has been changed to applicable emission standards.	Allows section to apply to future model years.
7. Sec. 86.077-28	In paragraph (a)(2), the reference to 1977 model year standards has been changed to applicable emission standards.	Do.
8. Sec. 86.077-35	In paragraphs (a) and (c)(1) the references to 1977 model year standards have been changed to applicable emission standards.	Do.
	In paragraphs (a)(1)(i), (a)(2)(i) and (a)(3)(i), the specific requirement that the label be metal or plastic has been deleted.	Other materials may be used if they satisfy the "permanent" requirement of this section.
9. Sec. 86.078-2	Definition for "Malfunction" is modified	Clarification.
10. Sec. 86.078-2	Definition for "Zero (0) Miles" is corrected	Correction.
11. Sec. 86.078-8	The 1978 model year light-duty vehicle exhaust emission standards are corrected.	Corrects an error which was inadvertently introduced by the Aug. 23, 1976, publication in the FEDERAL REGISTER (41 FR 35629).
12. Sec. 86.078-22	Section title is corrected	Correction.
13. Sec. 86.078-23	Section is reprinted to include changes made to the prior model year section, sec. 86.077-23.	Clarification.
14. Sec. 86.078-24	Section is reprinted to include changes made to the prior model year section, sec. 86.077-24.	Do.
	In paragraph (a)(6), the evaporative emission family parameters are more clearly specified.	Do.
15. Sec. 86.078-25	Section is reprinted to include technical amendments published July 16, 1976 (41 FR 29389) which were inadvertently changed by the Aug. 23, 1976, publication (41 FR 35629).	Correction.
16. Sec. 86.078-26	Section is reprinted to include changes made to the prior model year section, sec. 86.077-26.	Clarification.
	More detail has been included to explain the requirements for testing evaporative emission-data vehicles.	Do.
17. Sec. 86.078-28	In paragraph (a)(4)(i)(A)(*2*), the reference to sec. 86.078-25 is corrected.	Correction.
	In paragraph (a)(4)(iv) the requirements regarding which standards each test vehicle must comply with are clarified.	Clarification.
	Paragraph (a)(4)(v) is no longer required due to the clarification made to paragraph (a)(4)(iv).	Do.
18. Sec. 86.078-30	Provisions included to cover all classes of vehicles and engines.	As published on Aug. 23, 1976 (41 FR 35629), the section inadvertently deleted existing provisions for classes of vehicles not covered by evaporative emission standards.
	Reference corrected in paragraph (b)(1)(i)(D)	Correction.

Section	Change	Reason
19. Secs. 86.101-78 through 86.103-78.	Suffix to section number deleted	Sections apply to 1977 model ye a also.
20. Sec. 86.101	Reference changed	Incorrect reference with these technical amendments.
21. Sec. 86.105-78	Word deleted	Typographical error.
22. Sec. 86.107-78	Stability and repeatability specifications revised to delete requirements at C_{cal}.	C_{cal} does not exist on ranges which have a full-scale concentration of less than C_{cal}. Therefore, the requirements are specified at zero and the span point.
23. Sec. 86.107-78	Spelling corrected	Typographical error.
24. Sec. 86.107-78	do	Do.
	Tolerance broadened	Inadvertently omitted in original publication.
25. Sec. 86.114-78	Tolerance included	Do.
26. Sec. 86.116-78	Word inserted	Typographical error.
27. Sec. 86.117-78	Paragraph (b)(2) rewritten	Improves clarity.
28. Sec. 86.119-78	Formula corrected	Typographical error.
29. Sec. 86.119-78	Spelling corrected	Do.
30. Sec. 86.119-78	Abbreviation corrected	Do.
31. Sec. 86.119-78	Word deleted	Redundant.
32. Sec. 86.128-78	Revised	As originally published, the section did not conform to the technical amendments published July 16, 1976.
33. Sec. 86.133-78	Abbreviation corrected	Typographical error.
34. Sec. 86.136-78	All references to manufacturer's instructions are tied to the owner's manual.	Inadvertently omitted in original publication.
35. Sec. 86.137-78	Punctuation inserted	Do.
36. Sec. 86.137-78	Spelling corrected	Do.
37. Sec. 86.143-78	Provision for calculating total evaporative emissions is included.	Unintentionally omitted from previous publication.
38. Sec. 86.144-78	Punctuation deleted	Do.
	Spelling corrected	Do.
39. Sec. 86.144-78	Punctuation inserted	Do.
40. Sec. 86.177-4	Previously deleted section is republished with reference changed and word inserted.	Necessary to explain numbering system for 1977 test procedure. Changes promote clarity.
41. Sec. 86.177-8	Lower temperature limit for vehicle soak reduced from 76° F to 68° F for 1977 model-year testing.	This change is compatible with the previously published evaporative emission test procedure and will facilitate testing under both procedures.

Parts 85 and 86 of Title 40 of the Code of Federal Regulations are amended as follows:

1. Appendix II of Part 85, paragraph 13 is revised to read as follows:

APPENDIX II

PROCEDURE FOR DYNAMOMETER ROAD HORSEPOWER CALIBRATION

* * * * *

13. The road load horsepower report in § 86.177-11 is obtained by entering the plot at the indicated road load horsepower determined in § 86.177-11(e)(1).

* * * * *

2. In Appendix III of Part 85, a title is added, two references to § 85.074-26 are changed to 86.177-22, and the equation for X_s is corrected:

APPENDIX III

CONSTANT VOLUME SAMPLER FLOW CALIBRATION

* * * * *

Data Analysis:

* * * * *

3. The correlation function at each test point is then calculated from the calibration data, as follows:

$$X_s = \frac{1}{n}\sqrt{\frac{\Delta P_p}{P_s}}$$

ΔP_p = The pressure differential from pump inlet to pump outlet in ("Hg).

$$\Delta P_p = P_c - P_p$$

P_s = Absolute pump outlet pressure, in ("Hg).

$$P_c = P_B + PPO \text{ (Sp. Gr./13.57)}$$

See § 86.177-22 for other definitions.

* * * * *

CVS System Verification:

* * * * *

4. * * * The calculations of § 86.177-22 are performed in a normal way except, in the case of propane, the density of propane (17.30 grams/cu./ft./carbon atom) is used in place of the density of exhaust hydrocarbons. In the case of carbon monoxide, the density of 32.97 grams/cu. ft. is used.

* * * * *

3. Section 86.077-23 is amended as follows:

§ 86.077-23 Required data.

(a) The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information: *Provided, however*, That: (1) If requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicles (or engines) for which emission data are available, or will be made available, under the provisions of § 86.077-29, or

(2) If requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicles (or engines) at zero kilometers (or zero hours) of operation.

(b) Durability data on such vehicles (or engines) tested in accordance with the applicable test procedures and in such numbers as specified, which will show the performance of the systems installed on or incorporated in the vehicle (or engine) for extended mileage (or extended operation), as well as a record of all pertinent maintenance (all maintenance and servicing for Diesel heavy-duty engines) performed on the test vehicles (or test engines).

(c) *Emission data.* (1) *Certification vehicles.* (i) Emission data on such vehicles tested in accordance with applicable test procedures and in such numbers as specified, which will show their emissions after zero kilometers (zero miles) and 6436 kilometers (4000 miles) of operation.

(ii) Emission data on those vehicles selected under § 86.077-24(b)(1)(v) and tested in accordance with the applicable test procedures of this part and in such numbers as therein specified, which shall be tested at zero kilometers (zero miles) at any altitude, and under high-altitude conditions after 6436 kilometers (4000 miles) of operation at any altitude.

(2) *Certification engines.* Emission data on such engines tested in accordance with applicable emission test procedures and in such numbers as specified, which will show their emissions after zero hours and 125 hours of operation.

(d) A statement that the vehicles (or engines) for which certification is requested conform to the requirements in § 86.077-5(b) and that the descriptions of tests performed to ascertain compliance with the general standards in § 86.077-5(b) and the data derived from such tests are available to the Administrator upon request.

(e) A statement that the test vehicles (or test engines) with respect to which data are submitted to demonstrate compliance with §§ 86.077-8, 86.077-9, 86.077-10, or § 86.077-11, as applicable, are in all material respects as described in the manufacturer's application for certification, have been tested in accordance with the applicable test procedures utilizing the fuels and equipment described in the application for certification, and that on the basis of such tests the vehicles (or engines) conform to the requirements of the regulations in this part. If such statements cannot be made with respect to any vehicle (or engine) tested, the vehicle (or engine) shall be identified, and all pertinent data relating thereto shall be supplied to the Administrator. If, on the basis of the data supplied and any additional data as required by the Administrator, the Administrator determines that the test vehicle (or test engine) was not as described in the application for certification or was not tested in accordance with applicable test procedures utilizing the fuels and equipment as described in the application for certification, the Administrator may make the determination that the vehicle (or engine) does not meet the applicable standards. The provisions of § 86.077-30(b) shall then be followed.

4. In § 86.077-24, paragraph (b)(1)(vi) is amended as follows:

§ 86.077-24 Test vehicles and engines.

* * * * *

(b) * * *

(1) * * *

(vi) The Administrator may combine testing requirements for any vehicle selected under paragraph (b)(1)(v) of this section with the testing requirements for any similar vehicle in the same engine-system combination se-

lected under paragraphs (b)(1) (ii), (iii), or (iv) of this section by requiring a vehicle selected for testing under paragraphs (b)(1) (ii), (iii), or (iv) of this section to be modified (if necessary) after mileage accumulation and emission testing for the purpose of demonstrating compliance in accordance with § 86.077–23(c)(1)(ii).

* * * * *

5. In § 86.077–25, paragraph (a)(8)(ii) is amended as follows:

§ 86.077–25 Maintenance.

(a) * * *

(8) * * *

(ii) Maintenance on emission data vehicles selected under § 86.077–24(b)(1)(v) and permitted to be tested for purposes of § 86.077–23(c)(1)(ii) under the provisions of § 86.077–24(b)(1)(vi) may be performed in conjunction with emission control system modification at the 6436 kilometer (4000 mile) test point, and shall be performed in accordance with the maintenance instructions to be provided to the ultimate purchaser required under § 86.077–38.

* * * * *

6. Section 86.077–26 is amended as follows:

§ 86.077–26 Mileage and service accumulation; emission measurements.

(a) * * *

(3) Emission-data vehicles: Unless as otherwise provided for in § 86.077–23(a), emission-data vehicles shall be operated and tested as follows:

(i) * * *

(C) The emission-data vehicle(s) selected for testing under § 86.077–24(b)(1)(v) and permitted to be tested for purposes of § 86.077–23(c)(1)(ii) under the provisions of § 86.077–24(b)(1)(vi) shall be driven 6436 kilometers (4000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6436 kilometers (4000 miles) under both low- and high-altitude conditions. For the purposes of this subparagraph, "low altitude" means any elevation less than 549 meters (1800 feet).

(ii) * * *

(C) The emission-data vehicle(s) selected for testing under § 86.077–24(b)(1)(v) and permitted to be tested for purposes of § 86.077–23(c)(1)(ii) under the provisions of § 86.077–24(b)(1)(vi) shall be driven 6436 kilometers (4000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6436 kilometers (4000 miles) under both low- and high-altitude conditions. For the purpose of this subparagraph "low altitude" means any elevation less than 549 meters (1800 feet).

* * * * *

(4) Durability-data vehicles: Unless as otherwise provided for in § 86.077–23(a), durability-data vehicles shall be operated and tested as follows:

* * * * *

(6) * * *

(ii) The results of all emission tests shall be rounded, using the "Rounding Off Method" specified in ASTM E 29–67, to the number of places to the right of the decimal point indicated by expressing the applicable emission standards of this subpart to three significant figures.

(7) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero-mile test data to the Administrator (except for those vehicles for which the zero-mile test requirement has been waived under § 86.077–23(a)(2)) and make the vehicle available for such testing under § 86.077–29 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

* * * * *

(b) * * *

(3) Emission-data engines: Unless as otherwise provided for in § 86.077–23(a), emission-data engines shall be operated and tested as follows: Each emission-data engine shall be operated for 125 hours with all emission control systems installed and operating. Emission tests shall be conducted at zero and 125 hours. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(4) Durability-data engines: Unless as otherwise provided for in § 86.077–23(a), durability-data engines shall be operated and tested as follows: Each durability-data engine shall be operated, with all emission control systems installed and operating, for 1,500 hours. Emission tests shall be conducted at zero hours and at each 125-hour interval. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

* * * * *

(7) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero-hour test data to the Administrator (except for those engines for which the zero-hour test requirement has been waived under § 86.077–23(a)(2)) and make the engine available for such testing under § 86.077–29 as the Administrator may require before beginning to accumulate hours on the engine. Failure to comply with this requirement will invalidate all test data later submitted for this engine.

* * * * *

(c) * * *

(3)(i) Emission-data engines: Unless as otherwise provided for in § 86.077–23(a), emission-data engines shall be operated and tested as follows: Each emission-data engine shall be operated for 125 hours with all emission control systems installed and operating. Emission tests shall be conducted at zero and 125 hours.

(ii) Durability-data engines: Unless as otherwise provided for in § 86.077–23(a), durability-data engines shall be operated and tested as follows: Each durability-data engine shall be operated, with all emission control systems installed and operating, for 1,000 hours. Emission tests shall be conducted at zero hours and at each 125-hour interval.

* * * * *

(5) * * *

(iii) The zero-hour test data shall be provided to the Administrator (except for those engines for which the zero-hour test requirement has been waived under § 86.077–23(a)(2)) and the engine shall be made available for such testing under § 86.077–29 as the Administrator may require.

* * * * *

7. In § 86.077–28, paragraph (a)(2) is amended to read as follows:

§ 86.077–28 Compliance with emission standards.

(a) * * *

(2) The applicable exhaust and fuel evaporative emission standards of this subpart apply to the emissions of vehicles for their useful life.

* * * * *

8. Section 86.077–35 is revised by deleting reference to specific standards in paragraphs (a) and (c)(1). In paragraphs (a)(1)(i), (a)(2)(i) and (a)(3)(i), the requirement for a metal or plastic label is deleted.

§ 86.077–35 Labeling.

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards of this subpart, shall at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles (or engines) available for sale to the public and covered by a certificate of conformity under § 86.077–30(a).

(1) * * *

(i) A legible, permanent label shall be affixed in a readily visible position in the engine compartment.

* * * * *

(2) * * *

(i) A legible, permanent label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

* * * * *

(3) * * *

(i) A legible, permanent label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

* * * * *

(c)(1) The manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards of this subpart shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49

CFR 567.4, set forth on the DOT label or on an additional label located in proximity to the DOT label and affixed as described in 49 CFR 567.4(b) the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an inch high, of a color that contrasts with the background of the label:

* * * * *

9. In § 86.078–2, the definition for "Malfunction" is clarified.

§ 86.078–2 Definitions.

* * * * *

"Malfunction" means not operating according to specifications (e.g., those specifications listed in the application for certification).

* * * * *

10. In § 86.078–2, the definition for "Zero (0) Miles" is corrected by inserting the word "and" between the words "operations" and "adjustments".

11. In § 86.078–8, the previously published exhaust emission standards are included.

§ 86.078–8 Emission standards for 1978 light-duty vehicles.

(a)(1) Exhaust emissions from 1978 and later model year light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 0.41 grams per vehicle mile.

(ii) *Carbon monoxide.* 3.4 grams per vehicle mile.

(iii) *Oxides of nitrogen.* 0.4 grams per vehicle mile.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures.

(b)(1) Fuel evaporative emissions from 1978 and later model year gasoline-fueled light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 6.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1978 and later model year gasoline-fueled light-duty vehicle.

§ 86.078–22 [Amended]

12. In § 86.078–22, the title is corrected by inserting a semicolon ";" between the words "certification" and "test".

13. Section 86.078–23 is amended as follows:

§ 86.078–23 Required data.

(a) The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information: *Provided, however,* That:

(1) If requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicles (or engines) for which emission data are available, or will be made available, under the provisions of § 86.078–29, or

(2) If requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicles (or engines) at zero kilometers (or zero hours) of operation.

(b)(1) Exhaust emission durability data on such vehicles (or engines) tested in accordance with applicable test procedures and in such numbers as specified, which will show the performance of the systems installed on or incorporated in the vehicle (or engine) for extended mileage (or extended operation), as well as a record of all pertinent maintenance (all maintenance and servicing for Diesel heavy-duty engines) performed on the test vehicles (or test engines).

(2) Evaporative emission deterioration factors for each evaporative emission family—evaporative emission control system combination and all test data that are derived from testing described under § 86.078–21(b)(4)(ii) designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.078–30 will meet the evaporative emission standards in § 86.078–8 for the useful life of the vehicle.

(c) Emission data.

(1) *Certification vehicles.* (i) Emission data on such vehicles tested in accordance with applicable test procedures and in such numbers as specified, which will show their emissions after zero kilometers (zero miles) and 6436 kilometers (4000 miles) of operation.

(ii) Emission data on those vehicles selected under §§ 86.078–24(b)(1)(v) and 86.078–24(b)(1)(vii) (D) and tested in accordance with the applicable test procedures of this subpart and in such numbers as therein specified, which shall be tested at zero kilometers (zero miles) at any altitude, and under high-altitude conditions after 6436 kilometers (4000 miles) of operation at any altitude.

(2) *Certification engines.* Emission data on such engines tested in accordance with applicable emission test procedures and in such numbers as specified, which will show their emissions after zero hours and 125 hours of operation.

(d) A statement that the vehicles (or engines) for which certification is requested conform to the requirements in § 86.077–5(b) and that the descriptions of tests performed to ascertain compliance with the general standards in § 86.077–5(b) and the data derived from such tests are available to the Administrator upon request.

(e)(1) A statement that the test vehicles (or test engines) with respect to which data are submitted to demonstrate compliance with §§ 86.078–8, 86.078–9, 86.077–10, or § 86.077–11, as applicable, are in all material respects as described in the manufacturer's application for certification, have been tested in accordance with the applicable test procedures utilizing the fuels and equipment described in the application for certification and that on the basis of such tests the vehicles (or engines) conform to the requirements of the regulations in this part. If such statements cannot be made with respect to any vehicle (or engine) tested, the vehicle (or engine) shall be identified, and all pertinent data relating thereto shall be supplied to the Administrator. If, on the basis of the data supplied and any additional data as required by the Administrator, the Administrator determines that the test vehicle (or test engine) was not as described in the application for certification or was not tested in accordance with the applicable test procedures utilizing the fuels and equipment as described in the application for certification, the Administrator may make the determination that the vehicle (or engine) does not meet the applicable standards. The provisions of § 86.078–30(b) shall then be followed.

(2) For evaporative emission durability, the statement of compliance with paragraph (b)(2) of this section.

14. Section 86.078–24 is amended as follows:

§ 86.078–24 Test vehicles and engines.

(a)(1) The vehicles or engines covered by an application for certification will be divided into groupings of engines which are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center-to-center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air cooled or water cooled; L–6, 90° V–8, etc.).

(v) The location of intake and exhaust valves and the valve sizes (within a ⅛-inch range on the valve head diameter).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(viii) Catalytic converter characteristics; gasoline-fueled vehicles and engines only.

(ix) Thermal reactor characteristics; gasoline-fueled vehicles and engines only.

(3) Engines identical in all the respects listed in paragraph (a)(2) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The bore and stroke.

(ii) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition or injection timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (a) (2) and (3) of this section, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(5) The gasoline-fueled vehicles covered by an application for certification will be divided into groupings which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) To be classed in the same evaporative emission family, vehicles must be similar with respect to:

(i) Type of vapor storage device (e.g., canister, air cleaner, crankcase).

(ii) Canister design characteristics.

(iii) Fuel system characteristics.

(7) Where vehicles are of a type which cannot be divided into evaporative emission families based on the criteria listed above, the Administrator will establish families for those vehicles based upon the features most related to their evaporative emission characteristics.

(b) Emission data.

(1) *Emission-data vehicles.* Paragraph (b)(1) of this section applies to light-duty vehicle and light-duty truck emission-data vehicles.

(i) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Vehicles for each engine family will be divided into engine displacement-exhaust emission control system combinations as applicable. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination may be selected. The vehicle selected for each combination will be specified by the Administrator as to such features as engine code, transmission type, fuel system, and inertia weight class.

(iii) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, transmission options, and axle ratio.

(iv) If the vehicles selected in accordance with paragraphs (b)(1) (ii) and (iii) of this section do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to transmission type, fuel system, and inertia weight class.

(v) The Administrator will also select one vehicle for each engine-system combination within an engine family for which vehicles are to be sold to ultimate purchasers at high altitude.

(vi) The Administrator may combine testing requirements for any vehicle selected under paragraph (b)(1)(v) or (b)(1)(vii)(D) of this section with the testing requirements for any similar vehicle in the same engine-system combination selected under paragraph (b)(1) (ii), (iii), or (iv) of this section or any similar vehicle in the same engine-system, evaporative emission family, evaporative emission control system combination selected under paragraph (b)(1)(vii) (A) or (B) of this section. The testing requirements may be combined by the Administrator by requiring a vehicle selected for testing under paragraphs (b)(1) (ii), (iii), (iv), (vii)(A), or (vii)(B) of this section to be modified (if necessary) after mileage accumulation and emission testing for the purpose of demonstrating compliance with § 86.078-23(c)(1)(ii).

(vii)(A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems. One vehicle of each evaporative emission control system within the evaporative emission family will be selected.

(B) The Administrator may select a maximum of four additional vehicles within each evaporative emission family based upon features indicating that they may have the highest evaporative emission levels of vehicles in that family.

(C) The Administrator may determine that the vehicles selected under paragraphs (b)(1) (ii) through (iv) of this section may be used to satisfy the requirements of paragraphs (b)(1)(vii) (A) and (B) of this section.

(D) The Administrator will also select one vehicle for each evaporative emission control system within each evaporative family for which vehicles are to be sold at high altitude.

(E) Vehicles selected under (b)(1)(v) may be used to satisfy the requirements of (b)(1)(vii)(D).

(2) *Gasoline-fueled heavy-duty emission-data engines.* Paragraph (b)(2) of this section applies to gasoline-fueled heavy-duty engines.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume will be established for each combination for the applicable model year. One engine of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of engines of that family is represented, or until a maximum of four engines is selected. The engines selected for each combination will be specified by the Administrator as to fuel system.

(iii) The Administrator may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Administrator will consider such features as the exhaust emission control system, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, and compression ratio.

(iv) If the engines selected in accordance with paragraphs (b)(2) (ii) and (iii) of this section do not represent each engine displacement-exhaust emission control system combination, then one engine of each engine displacement-exhaust emission control system combination not represented shall be selected by the Administrator.

(3) *Diesel heavy-duty emission-data engines.* Paragraph (b)(3) of this section applies to Diesel heavy-duty emission-data engines.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into groups based upon exhaust emission control system. One engine of each engine-system combination shall be run for smoke emission data and gaseous emission data as prescribed in § 86.078-26(c)(3). Either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine-system combination then one military engine shall also be selected. The engine with the highest fuel feed per stroke will usually be selected.

(iii) The Administrator may select a maximum of one additional engine within each engine system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system, fuel system, compression

ratio, rated speed, rated horsepower, peak torque speed, and peak torque.

(c) Durability data.

(1) *Durability-data vehicles.* Paragraph (c)(1) of this section applies to light-duty vehicle and light-duty truck durability-data vehicles.

(i) A durability-data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, and inertia weight class.

(ii) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system, and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c)(1)(i) of this section. Notice of an intent to operate and test additional vehicles shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(2) *Gasoline-fueled heavy-duty durability-data engines.* Paragraph (c)(2) of this section applies to gasoline-fueled heavy-duty durability-data engines.

(i) A durability-data engine will be selected by the Administrator to represent each engine-system combination. The engine selected shall be of the displacement with the largest projected sales volume of engines with that exhaust emission control system in that engine family and will be designated by the Administrator as to fuel system.

(ii) [Reserved.]

(iii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same engine displacement and fuel system as the engine selected for that combination in accordance with the provisions of paragraph (c)(2)(i) of this section. Notice of an intent to run additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine-system combination.

(3) *Diesel heavy-duty durability-data engines.* Paragraph (c)(3) of this section applies to Diesel heavy-duty durability-data engines.

(i) One engine from each engine-system combination shall be tested as prescribed in § 86.078-26(c)(3)(ii). At each test point, either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will usually be selected for durability testing. In the case where more than one engine in an engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will usually be selected for durability testing. If an engine-system combination includes both military and nonmilitary engines, then the nonmilitary engine with the highest maximum rated horsepower will usually be selected for durability testing.

(ii) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of paragraph (c)(3)(i) of this section. Notice of an intent to test additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection. Deterioration factors calculated for each engine-system combination shall be applied separately to military and nonmilitary engines within the same engine-system combination.

(d) For purposes of testing under § 86.078-26 (a)(9), (b)(9) or (c)(11), the Administrator may require additional emission-data vehicles (or emission-data engines) and durability-data vehicles (or durability-data engines) identical in all material respects to vehicles (or engines) selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles selected shall not increase the size of either the emission-data fleet or the durability-data fleet by more than 20 percent or one vehicle, whichever is greater.

(e) Any manufacturer whose projected sales for the model year in which certification is sought is less than

(1) 2000 gasoline-fueled light-duty vehicles, or

(2) 2000 Diesel light-duty vehicles, or

(3) 2000 gasoline-fueled light-duty trucks, or

(4) 2000 Diesel light-duty trucks, or

(5) 700 gasoline-fueled heavy-duty engines, or

(6) 200 Diesel heavy-duty engines,

may request a reduction in the number of test vehicles (or engines) determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) In lieu of testing an emission-data or durability-data vehicle (or engine) selected under paragraph (b) or (c) of this section, and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data and/or fuel evaporative emission data, as applicable on a similar vehicle (or engine) for which certification has previously been obtained.

(g)(1) This paragraph applies to light-duty vehicles and light-duty trucks.

(2) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with an optional item, the full estimated weight of that item shall be included, if required by the Administrator, in the curb weight computation for each vehicle available with that option in the engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with an item of optional equipment that can reasonably be expected to influence emissions, then such items of optional equipment shall actually be installed, unless specifically excluded by the Administrator, on all emission-data and durability-data vehicles in the engine family on which the option is intended to be offered in production. Optional equipment that can reasonably be expected to influence emissions are the air conditioner, power steering, power brakes and other items determined by the Administrator.

(4) Optional equipment that can reasonably be expected to influence emissions which is utilized on 33 percent or less of the vehicles in the engine family shall not be installed on any vehicle in that engine family unless specifically required under this section.

15. Section 86.078-25 is amended as follows:

§ 86.078-25 Maintenance.

(a) *Light-duty vehicles and light-duty trucks.* Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(1) Scheduled maintenance on the engine, emission control system, and fuel system of durability-data vehicles, selected by the Administrator or elected by the manufacturer under § 86.078-24 (c)(1), shall be scheduled for performance during durability testing at the same mileage intervals that will be specified in the manufacturer's maintenance instructions furnished to the ultimate purchaser of the motor vehicle. Such maintenance shall be performed, except as provided in paragraph (a)(5)(iii) of this section, only under the following provisions:

(i) Scheduled major engine tuneups to manufacturer's specifications may be performed no more frequently than every 12,500 miles of scheduled driving, provided that no tuneup may be performed after 45,000 miles of scheduled driving. A scheduled major engine tuneup shall be restricted to paragraph (a)(1)(i) (A) or (B) of this section, as applicable, and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by customer service personnel.

(A) *For gasoline-fueled vehicles,* the following items may be inspected, re-

placed, cleaned, adjusted, and/or serviced as required:

(1) Ignition system.

(2) Cold starting enrichment systems (includes fast idle speed setting).

(3) Curb idle speed and air/fuel mixture.

(4) Drive belt tension on engine accessories.

(5) Valve lash.

(6) Inlet air and exhaust gas control valves.

(7) Engine bolt torque.

(8) Spark plugs.

(9) Fuel filter and air filter.

(10) Crankcase emission control system.

(11) Fuel evaporative emission control system.

(B) *For Diesel vehicles*, a major engine tuneup shall be restricted to the following:

(1) Adjust low idle speed.

(2) Adjust valve lash if required.

(3) Adjust injector timing.

(4) Adjust governor.

(5) Clean and service injector tips.

(6) Adjust drive belt tension on engine accessories.

(7) Check engine bolt torque and tighten as required.

(ii) Change of engine and transmission oil, and change or service of oil filter will be allowed at the same mileage intervals that will be specified in the manufacturer's maintenance instructions.

(iii) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to adjustment during scheduled major engine tuneups, once during the first 5,000 miles of vehicle operation.

(2)(i) *For gasoline-fuel vehicles*, unscheduled maintenance on the engine, emission control system and fuel system of durability-data vehicles may be performed, except as provided in paragraph (a)(5)(i) of this section, only under the following provisions:

(A) Any persistently misfiring spark plug may be replaced in addition to replacement at scheduled major engine tuneup points.

(B) Readjustment of the engine cold starting enrichment system may be performed if there is a problem of stalling or if there is visable black smoke.

(C) Readjustment of the engine idle speed (curb idle and fast idle) may be performed in addition to that performed as scheduled maintenance under paragraph (a)(1) of this section if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(D) The idle mixture may be reset other than during scheduled major engine tuneups, only with the advance approval of the Administrator.

(ii) For Diesel vehicles, unscheduled maintenance on the engine, emission control system and fuel system of durability-data vehicles may be performed, except as provided in paragraph (a)(5)(i) of this section, only under the following provisions:

(A) Injectors may be changed if a persistent misfire is detected.

(B) Readjustment of the engine idle speed (curb idle and fast idle) may be performed in addition to that performed as scheduled maintenance under paragraph (a)(1) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(3) An exhaust gas recirculation (EGR) system may be serviced during durability testing only under one of the following provisions:

(i) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneups if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for EGR system maintenance at each of those mileage points. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(ii) Manufacturers may service the EGR system as unscheduled maintenance a maximum of three times during the 50,000 miles if failure of the EGR system activates an audible and/or visual signal approved by the Administrator which alerts the vehicle operator to the need for EGR system maintenance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(iii) Manufacturers may service the EGR system a maximum of three times during the 50,000 miles either at a scheduled major engine tune-up point or as unscheduled maintenance, if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for EGR system maintenance. The signal may be activated either by EGR system failure (unscheduled maintenance) or need for scheduled periodic maintenance. If maintenance is performed, the signal for scheduled periodic maintenance shall be reset. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of the vehicles in use.

(iv) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneup(s) if failure to perform EGR system maintenance is not likely, as determined by the Administrator, to result in an improvement in vehicle performance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(4) The catalytic converter may be serviced once during 50,000 miles if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for maintenance. The signal may be activated either by component failure or need for maintenance at a scheduled point.

(5) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability-data vehicles shall be performed only with the advance approval of the Administrator.

(i) In the case of unscheduled maintenance, such approval will be given if the Administrator:

(A) Has made preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction, does not render the vehicle unrepresentative of vehicles in use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement (as applicable); and

(B) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, vehicle stalling, overheating, fluid leakage, loss of oil pressure, or charge indicator warning. For the evaporative emission control system, this overt indication may be indicated by such items as fuel odor or fluid leakage.

(ii) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (a)(5)(i)(A) of this section.

(iii) Requests for authorization of scheduled maintenance of emission control-related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of durability testing. The Administrator will approve the performance of such maintenance of the manufacturer makes a satisfactory showing that the maintenance will be performed on vehicles in use.

(6) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the vehicle unrepresentative of vehicles in use, the vehicle shall not be used as a durability-data vehicle.

(7) Where the Administrator agrees under § 86.078-26 to a mileage accumulation of less than 50,000 miles for durability testing, he may modify the requirements of this paragraph.

(8)(i) Adjustment of engine idle speed on emission-data vehicles may be performed once before the 6436-kilometer (4000-mile) test point. Any other engine, emission control system or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on emission-data vehicles shall be performed only with the advance approval of the Administrator.

(ii) Maintenance on emission-data vehicles selected under § 86.078-24 (b)(1)(v) or (b)(1)(vii)(D) and permitted to be tested for purposes of § 86.078-23(c)(1)(ii) under the provisions of § 86.078-24(b)(1)(vi) may be performed in conjunction with emission control system modifications at the 6436-kilometer (4000-mile) test point, and shall be performed in accordance with the maintenance instructions to be provided to the

ultimate purchaser required under § 86.-078–38.

(iii) Maintenance on those emission-data vehicles selected under § 86.078–24 (b)(1)(v) which are not capable of being modified in the field for the purpose of complying with emission standards at an altitude other than intended by the original design may be performed in conjunction with the emission control system modifications at the 6436-kilometer (4000-mile) test point and shall be approved in advance by the Administrator.

(9) Repairs to vehicle components of the durability-data or emission-data vehicle other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(10) Complete emission tests (see §§ 86.106 through 86.145) are required, unless waived by the Administrator, before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be air posted to the Administrator within 24 hours (or delivered within 3 working days) after the test along with a complete record of all pertinent maintenance including a preliminary engineering report of any malfunction diagnosis and corrective action taken. A complete engineering report shall be delivered or air posted to the Administrator within 10 working days after the tests. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 86.-078–23.

(11) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or vehicle malfunction (e.g., misfiring, stalling, and/or black smoke), or an activation of an audible and/or visual signal, prior to the performance of any maintenance to which such overt indication or signal is relevant under the provisions of this section.

(12) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets, and:

(i) Are used in conjunction with scheduled maintenance on such components.

(ii) Are used subsequent to the identification of a vehicle or engine malfunction, as provided in paragraph (a)(5)(i) of this section for durability-data vehicles or paragraph (a)(8)(i) of this section for emission-data vehicles, or

(iii) Unless specifically authorized by the Administrator.

(b) [Reserved]

(c)(1) *Gasoline-fueled heavy-duty engines.* Paragraph (c) of this section applies to gasoline-fueled heavy-duty engines.

(2)(i) Scheduled maintenance may be performed on durability-data engines only under the following provisions:

(A) Major engine tuneups to manufacturer's specifications may be performed no more frequently than every 375 hours of scheduled dynamometer operation: *Provided,* No tuneups are performed after 1375 hours of scheduled dynamometer operation. The maintenance to be performed on the durability-data engines shall be requested in the application for certification and shall be specified at the same intervals in the maintenance instructions which will be furnished to the ultimate purchaser of the vehicle in which the engine, which is represented by the test engine, is installed. (For equivalent dynamometer hours, engine hours, and mileage intervals, see § 86.087–2. A scheduled major engine tuneup shall be restricted to paragraphs (c)(2)(i)(A) (*1*) through (*12*) of this section and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by the customer service personnel. The following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(*1*) Ignition system.

(*2*) Cold starting enrichment system (includes fast idle speed setting).

(*3*) Curb idle speed and air/fuel mixture.

(*4*) Drive belt tension on engine accessories.

(*5*) Valve lash.

(*6*) Inlet air and exhaust gas control valves.

(*7*) Engine bolt torque.

(*8*) Spark plugs.

(*9*) Fuel filter and air filter.

(*10*) Crankcase emission control system.

(*11*) Fuel evaporative emission control system.

(*12*) Exhaust gas recirculation system.

(B) Change of engine oil, and change or service of oil filter will be allowed at the equivalent intervals that will be specified in the manufacturer's maintenance instructions.

(C) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to during scheduled major engine tuneups, once during the first 125 hours of engine operation.

(ii) Unscheduled maintenance may be performed on durability-data engines, except as provided in paragraph (c)(v)(A) of this section, only under the following provisions:

(A) Any persistently misfiring spark plug may be replaced in addition to replacement at scheduled major engine tuneup points.

(B) Readjustment of the engine cold starting enrichment system may be performed if there is a problem of stalling or if there is visible black smoke.

(C) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to that performed as scheduled maintenance under paragraph (c)(2)(i) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(D) The idle mixture may be reset, other than during scheduled major engine tuneups, only with the advance approval of the Administrator.

(iii)–(iv) [Reserved]

(v) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability-data engines shall be performed only with the advance approval of the Administrator.

(A) In the case of unscheduled maintenance such approval will be given if the Administrator:

(*1*) Has made a preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction, does not render the engine unrepresentative of engines in use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement; and

(*2*) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, engine stalling, overheating, fluid leakage, loss of oil pressure, excessive fuel consumption or excessive power loss.

(B) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (c)(2)(v)(A)(*1*) of this section.

(C) Requests for authorization of scheduled maintenance of emission control-related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of durability testing. The Administrator will approve the performance of such maintenance if the manufacturer makes a satisfactory showing that the maintenance will be performed on engines in use.

(vi) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the engine unrepresentative of engines in use, the engine shall not be used as a durability-data engine.

(3)(i) Scheduled maintenance on emission-data engines is limited to the adjustment of idle speed once before the 125-hour test point: *Provided,* The idle speed is outside the manufacturer's specifications to be shown on the engine label (see § 86.078–35(f)(2)(iii)).

(ii) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement shall be performed only with the advance approval of the Administrator.

(4) [Reserved]

(5)(i) Complete emission tests (see § 86.777–5 through 86.777–(15) are required unless waived by the Administrator, before and after:

(A) Scheduled maintenance approved for durability-data engines.

(B) Unscheduled maintenance which may reasonably be expected to affect emissions.

(ii) The tests before and after scheduled maintenance, which are performed on durability-data engines prior to 117 hours, are waived. The test before sched-

uled maintenance, which is performed on durability-data engines after 117 hours and prior to 133 hours, is waived. The after-maintenance test must be run and the results used in the deterioration factor calculation in accordance with § 86.078–28(b)(4)(i)(A)(2).

(iii) The idle speed reset and any scheduled maintenance on the emission-data engine shall be performed prior to the 125-hour test. The before-maintenance and after-maintenance tests associated with idle speed reset and scheduled maintenance on the emission-data engine are waived.

(iv) Test data required by this paragraph shall be air posted to the Administrator within 72 hours (or delivered within 5 working days), along with a complete record of all pertinent maintenance.

(v) When unscheduled maintenance is approved, a preliminary engineering report, unless waived by the Administrator, shall be air posted within 72 hours (or delivered within 5 working days). A final engineering report shall be delivered or air posted within 10 working days after the completion of the emission tests. The Administrator may approve an extension of the time requirements for the final engineering report.

(vi) All test data, maintenance reports, and required engineering reports shall be compiled and provided to the Administrator in accordance with § 86.078–23.

(6) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or engine malfunction (e.g., misfiring, stalling).

(7) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets, and

(i) Are used in conjunction with scheduled maintenance on such components;

(ii) Are used subsequent to the identification of an engine failure or malfunction, as provided in paragraph (c)(2)(v)(A) of this section for durability-data engines or paragraph (c)(3) of this section for emission-data engines; or

(iii) Unless specifically authorized by the Administrator.

(d)(1) *Diesel heavy-duty engines.* Paragraph (d) of this section applies to Diesel heavy-duty engines.

(2)(i) Scheduled maintenance may be performed on durability-data engines only under the following provisions:

(A) One major engine servicing to manufacturer's specifications may be performed prior to 875 hours (±8 hours) of scheduled dynamometer operation provided such maintenance is requested in the application for certification and is specified in the maintenance instructions which will be furnished to the ultimate purchaser of the motor vehicle in which the engine, which is represented by the test engine, is installed. (For equivalent dynamometer hours, engine hours, and mileage intervals, see § 86.078–2.) A scheduled major servicing shall be restricted to paragraphs (d)(2)(i)(A)(*1*) through (*7*) of this section and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by customer service personnel. The following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(*1*) Low idle speed.
(*2*) Drive belt tension.
(*3*) Engine bolt torque.
(*4*) Valve lash.
(*5*) Injection timing.
(*6*) Injector assemblies.
(*7*) Governor settings.

(B) Normal engine servicing such as engine oil change, and oil filter, fuel filter, and air filter cleaning or replacement will be allowed at the manufacturer's recommended intervals. If approved in advance by the Administrator, the maintenance for these items may differ from that specified in the manufacturer's maintenance instructions.

(C) Readjustment of the engine low idle speed may be performed once during the first 125 hours of engine operation.

(ii) Unscheduled maintenance may be performed on durability-data engines, except as provided in paragraph (d)(2)(v)(A) of this section, only under the following provisions:

(A) Injectors may be changed if a persistent misfire is detected.

(B) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to that performed as scheduled maintenance under paragraph (d)(2)(i) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 r.p.m. or more, or if there is a problem of stalling.

(iii)–(iv) [Reserved.]

(v) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability-data engines shall be performed only with the advance approval of the Administrator.

(A) In the case of unscheduled maintenance such approval will be given if the Administrator:

(*1*) Has made a preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction does not render the engine unrepresentative of engines in use, and does not require direct access to the combustion chamber, except for fuel injection component, or removable prechamber removal or replacement; and

(*2*) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, engine overheating, fluid leakage, loss of oil pressure, excessive fuel consumption, or excessive power loss.

(B) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (d)(2)(v)(A)(*1*) of this section.

(C) Requests for authorization of scheduled maintenance of emission-control-related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of durability testing. The Administrator will approve the performance of such maintenance if the manufacturer makes a satisfactory showing that the maintenance will be performed on engines in use.

(vi) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the engine unrepresentative of engines in use, the engine shall not be used as a durability-data engine.

(3)(i) Scheduled maintenance on emission-data engines is limited to the adjustment of idle speed once before the 125-hour test point, provided the idle speed is outside the manufacturer's specifications shown on the engine label (see § 86.078–35(a)(iii)).

(ii) Any other engine, emission-control system, or fuel system adjustment, repair, removal, disassembly, cleaning, servicing, or replacement shall be performed only with the advance approval of the Administrator.

(4) [Reserved]

(5)(i) Complete emission tests (see §§ 86.877–5 through 86.877–14 and §§ 86.977–5 through 86.977–15) are required, unless waived by the Administrator, before and after:

(A) Scheduled maintenance approved for durability-data engines.

(B) Unscheduled maintenance which may reasonably be expected to affect emissions.

(ii) The tests before and after scheduled maintenance, which are performed on durability-data engines prior to 117 hours are waived. The test before scheduled maintenance, which is performed on durability-data engines after 117 hours and prior to 133 hours, is waived. The after-maintenance test must be run and the results used in the deterioration factor calculation in accordance with § 86.078–28(c)(4)(i)(B) or (C).

(iii) The idle speed reset and any scheduled maintenance on the emission-data engine shall be performed prior to the 125-hour test. The before-maintenance and after-maintenance test associated with idle speed reset and scheduled maintenance on the emission-data engine are waived.

(iv) Test data required by this paragraph shall be air posted to the Administrator within 72 hours of the test completion (or delivered within 5 working days), along with a complete record of all pertinent maintenance.

(v) When unscheduled maintenance is approved, a preliminary engineering report, unless waived by the Administrator, shall be air posted within 72 hours (or delivered within 5 working days). A final engineering report shall be delivered or air posted within 10 working days after the completion of the emission tests. The Administrator may approve an extension of the time requirements for the final engineering report.

(vi) All test data, maintenance reports and required engineering reports shall be compiled and provided to the Administrator in accordance with § 86.078–23.

(6) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or engine malfunction (e.g., misfiring, stalling).

(7) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets and

(i) Are used in conjunction with scheduled maintenance on such components;

(ii) Are used subsequent to the identification of an engine failure or malfunction, as provided in paragraph (d)(2)(v)(A) of this section for durability-data engines or paragraph (d)(3) of this section for emission-data engines; or

(iii) Unless specifically authorized by the Administrator.

16. Section 86.078–26 is amended as follows:

§ 86.078–26 Mileage and service accumulation; emission measurements.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix IV of this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.129, the manufacturer may elect to conduct the respective emission tests at the inertia weight corresponding to the higher loaded vehicle weight.

(3) *Emission-data vehicles.* Unless as otherwise provided for in § 86.078–23(a), emission-data vehicles shall be operated and tested as follows:

(i) *Gasoline-fueled.* (A) Each gasoline-fueled emission-data vehicle shall be driven 4000 miles with all emission control systems installed and operating. Complete exhaust emission tests shall be conducted at zero and 4000 miles on those vehicles selected under § 86.078–24(b)(1)(ii) through (b)(1)(v). Complete exhaust and evaporative emission tests shall be conducted at zero miles and 4000 miles on those vehicles selected under § 86.078–24(b)(1)(vii). The manufacturer may at his option test the vehicles selected under § 86.078–24(b)(1)(vii) up to three times at the 4000-mile test point as long as the ±250-mile test tolerance is adhered to. The Administrator may determine under § 86.078–24(f) that no testing is required.

(B) The emission-data vehicle(s) selected for testing under § 86.078–24(b)(1)(v) or (b)(1)(vii)(D) shall be driven 6436 kilometers (4000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6436 kilometers (4000 miles) under high-altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.078–24(b)(1)(v) or (b)(1)(vii)(D) and permitted to be tested for purposes of § 86.078–23(c)(1)(ii) under the provisions of § 86.078–24(b)(1)(vi) shall be driven 6436 kilometers (4000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6436 kilometers (4000 miles) under both low- and high-altitude conditions. For the purposes of this subparagraph, "low altitude" means any elevation less than 549 meters (1800 feet).

(ii) *Diesel.* (A) Each Diesel emission-data vehicle shall be driven 6436 kilometers (4000 miles) with all emission control systems installed and operating. Emission tests shall be conducted at zero kilometers (zero miles) and 6436 kilometers (4000 miles).

(B) The emission-data vehicle(s) selected for testing under § 86.078–24(b)(1)(v) shall be driven 6436 kilometers (4000 miles) at any altitude. Emission tests shall be conducted at zero kilometers (zero miles) at any altitude and 6436 kilometers (4000 miles) under high-altitude conditions.

(C) The emission-data vehicle(s) selected for testing under § 86.078–24(b)(1)(v) and permitted to be tested for purposes of § 86.078–23(c)(1)(ii) under the provisions of § 86.078–24(b)(1)(vi) shall be driven 6436 kilometers (4000 miles) at low altitude. Emission tests shall be conducted at zero kilometers (zero miles) at low altitude and 6436 kilometers (4000 miles) under both low- and high-altitude conditions. For the purpose of this subparagraph "low altitude" means any elevation less than 549 meters (1800 feet).

(4) *Durability-data vehicles.* Unless as otherwise provided for in § 86.078–23(a), durability-data vehicles shall be operated and tested as follows:

(i) *Gasoline-fueled.* Each gasoline-fueled durability-data vehicle selected by the Administrator or elected by the manufacturer under § 86.078–24(c)(1) shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objective of this procedure. Complete exhaust emission tests shall be made on all durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.078–24(c) at the following mileage points: 0; 5,000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; 50,000. The Administrator may determine under § 86.078–24(f) that no testing is required.

(ii) *Diesel.* Each Diesel durability-data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of the procedure. Complete emission tests (see §§ 86.106 through 86.145) shall be made at the following mileage points: 0; 5,000; 10,000; 15,000; 20,000; 25,000; 30,000; 35,000; 40,000; 45,000; 50,000.

(5) All tests required by this subpart to be conducted after every 5,000 miles of driving for durability-data vehicles and 4,000 miles for emission-data vehicles must be conducted at any accumulated mileage within 250 miles of each of those test points.

(6)(i) The results of each emission test shall be supplied to the Administrator immediately after the test. The manufacturer shall furnish to the Administrator explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 24 hours (or delivered within 3 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.078–23. Where the Administrator conducts a test on a durability-data vehicle at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be rounded, using the "Rounding Off Method" specified in ASTM E29–67, to the number of places to the right of the decimal point indicated by expressing the applicable emission standards of this subpart to three significant figures.

(7) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero-mile test data to the Administrator (except for those vehicles for which the zero-mile test requirement has been waived under § 86.078–23(a)(2)) and make the vehicle available for such testing under § 86.078–29 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(8) Once a manufacturer begins to operate an emission-data or durability-data vehicle, as indicated by compliance with paragraph (a)(7) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 86.078–28. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(9)(i) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all

information necessary to conduct this testing.

(ii) The test procedures in §§ 86.106 through 86.145 will be followed by the Administrator. The Administrator will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(10) Emission testing of any type with respect to any certification vehicle other than that specified in this part is not allowed except as such testing may be specifically authorized by the Administrator.

(11) This section does not apply to testing conducted to meet the requirements of § 86.078–23(b)(2).

(b)(1) Paragraph (b) of this section applies to gasoline-fueled heavy-duty engines.

(2) The engine dynamometer service accumulation schedule will consist of several operating conditions which give the same percentage of time at various manifold vacuums and modes as specified in the emission test cycle. The average speed shall be between 1,650 and 1,700 r.p.m. Subject to the requirements as to average speed, there must be operation at speeds in excess of 3,200 r.p.m. (but not in excess of governed speed for governed engines or rated speed for nongoverned engines) for a cumulative maximum of 0.5 percent of the actual cycle time, excluding time in transient conditions. Maximum cycle time shall be 15 minutes. A cycle approved in advance by the Administrator shall be used.

(3) *Emission-data engines.* Unless as otherwise provided for in § 86.078–23(a), emission-data engines shall be operated and tested as follows: Each emission-data engine shall be operated for 125 hours with all emission control systems installed and operating. Emission tests shall be conducted at zero and 125 hours. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(4) *Durability-data engines.* Unless as otherwise provided for in § 86.078–23(a), durability-data engines shall be operated and tested as follows: Each durability-data engine shall be operated with all emission control systems installed and operating, for 1,500 hours. Emission tests shall be conducted at zero hours and at each 125-hour interval. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system.

(5) All tests required by this subpart to be conducted after 125 hours of operation or at any multiple of 125 hours may be conducted at any accumulated number of hours within 8 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(6)(i) The results of each emission test shall be supplied to the Administrator within 72 hours (or delivered within 5 working days). The manufacturer shall furnish to the Administrator an explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 72 hours (or delivered within 5 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.078–23. Where the Administrator conducts a test on a durability-data engine at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be recorded and reported to the Administrator using two places to the right of the decimal point. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E29–67.

(7) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero-hour test data to the Administrator (except for those engines for which the zero-hour test requirement has been waived under § 86.078–23(a)(2)) and make the engine available for such testing under § 86.078–29 as the Administrator may require, before beginning to accumulate hours on the engine. Failure to comply with this requirement will invalidate all test data later submitted for this engine.

(8) Once a manufacturer begins to operate an emission-data or durability-data engine, as indicated by compliance with paragraph (b)(7) of this section, he shall continue to run the engine to 125 hours or 1,500 hours, respectively, and the data from the engine will be used in the calculations under § 86.078–28. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(9)(i) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(ii) The test procedures (§§ 86.777–5 through 86.777–15) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(10) Emission testing of any type with respect to any certification engine other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

(c)(1) Paragraph (c) of this section applies to Diesel heavy-duty engines.

(2) The procedures set forth in this section describe the service accumulation that shall be accomplished on each test engine and when tests are to be conducted.

(3)(i) *Emission-date engines.* Unless as otherwise provided for in § 86.078–23(a), emission-data engines shall be operated and tested as follows: Each emission-data engine shall be operated for 125 hours with all emission control systems installed and operating. Emission tests shall be conducted at zero and 125 hours.

(ii) *Durability-data engines.* Unless as otherwise provided for in § 86.078–23(a), durability-data engines shall be operated and tested as follows: Each durability-data engine shall be operated, with all emission control systems installed and operating, for 1,000 hours. Emission tests shall be conducted at zero hours and at each 125-hour interval.

(4) A break-in procedure, not to exceed 20 hours, may be run if approved in writing in advance by the Administrator. This procedure would be run after the zero-hour test, and the hours accumulated would not be counted as part of the service accumulation.

(5) Before service accumulation can begin, the following criteria must be met. Failure to comply with these requirements shall invalidate all test data submitted for an engine.

(i) Each engine shall produce at least 95 percent of the maximum horsepower, corrected to rating conditions, at 95 to 100 percent of the rated speed.

(ii) The fuel rate at maximum horsepower shall be within manufacturer's specifications.

(iii) The zero-hour test data shall be provided to the Administrator (except for those engines for which the zero-hour test requirement has been waived under § 86.078–23(a)(22)) and the engine shall be made available for such testing under

§ 86.078–29 as the Administrator may require.

(6) During service accumulation, hours can be credited toward the required service accumulation hours when the following criteria are met. If these criteria cannot be met, engine operation shall be discontinued and the Administrator shall be notified immediately. (Adjustments to the fuel rate can be approved under the provisions of § 86.078–25).

(i) Each engine shall produce at least 95 percent of the maximum horsepower, at 95 to 100 percent of the rated speed, observed during zero-hour testing. Horsepower values shall be corrected to the rating conditions.

(ii) The engine shall be operated at 75 percent of the inlet and exhaust restrictions specified in § 86.877–8 except that the tolerance will be ±3 inches of water and ±0.5 inches of Hg, respectively.

(7) During each emission test the inlet and exhaust restrictions shall be as specified § 86.877–8.

(8) Tests, other than zero-hour tests, may be conducted within 8 hours of the nominal test point.

(9)(i) The results of each emission test shall be air posted to the Administrator within 72 hours of test completion (or delivered within 5 working days). The manufacturer shall furnish to the Administrator an explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided tests. If a manufacturer conducts multiple tests (not to exceed three valid tests) at any test point, the number of tests must be the same at each point. The data obtained from all valid tests shall be used in the calculation of the deterioration factor. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 72 hours (or delivered within 5 working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.078–23. Where the Administrator conducts a test on a durability-data engine at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be recorded and reported to the Administrator using two places to the right of the decimal point. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E29–67.

(10) Once a manufacturer begins to operate an emission-data or durability-data engine, as indicated by compliance with paragraph (c) of this section, he shall continue to run the engine to 125 hours or 1,000 hours respectively, and the data from the engine shall be used in the calculations under § 86.078–28. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

(11)(i) The Administrator may elect to operate and test any test engine during all or any part of the service accumulation and testing procedure. In such cases, the manufacturer shall provide the engine(s) to the Administrator with all information necessary to conduct the testing.

(ii) The test procedures (§§ 86.877–5 through 86.877–14 and §§ 86.977–5 through 86.977–15) will be followed by the Administrator. The Administrator will test the engines at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other engines of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(12) Emission testing of any type with respect to any certification engine other than that specified in this part is not allowed except as such testing may be specifically authorized by the Administrator.

17. In § 86.078–28, paragraphs (a)(4)(i)(A)(2) and (a)(4)(iv) are amended as follows and paragraph (a)(4)(v) is deleted:

§ 86.078–28 Compliance with emission standards.

(a) * * *

(4) * * *

(i) * * *

(A) * * *

(2) All exhaust emission data from the tests conducted before and after the scheduled maintenance provided in § 86.078–25.

* * * * *

(iv) Every test vehicle of an engine family-evaporative emission family combination must comply with all exhaust and evaporative emission standards for which it was tested, as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that engine family-evaporative emission family combination may be certified.

(v) [delete]

* * * * *

18. Section 86.078–30 is corrected to apply to all classes of motor vehicles, and the reference in paragraph (b)(1)(i)(D) is corrected.

§ 86.078–30 Certification.

(a) * * *

(3) One such certificate will be issued for each engine family and will certify compliance with no more than one set of applicable standards except that for gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination and will certify compliance with no more than one set of applicable standards.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(D) The emission data vehicle(s) selected under § 86.078–24(b)(1)(v) shall represent all vehicles of the same engine-system combination to be sold at high altitude.

* * * * *

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family or engine family-evaporative emission family combination (as applicable), all of which comply with all applicable standards.

* * * * *

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at his option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards for which it was tested:

(i) Request a hearing under § 86.077–6; or

(ii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed, from his application;

(A) If the failed vehicle was tested for compliance with exhaust emission standards only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle to be tested for exhaust emission compliance only.

(B) If the failed vehicle was tested for compliance with both exhaust and evaporative emission standards: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle which will be tested for compliance with both exhaust and evaporative emission standards. If one vehicle cannot be selected in accordance with the selection criteria employed in selecting the failed vehicle, then two vehicles may be selected (i.e., one vehicle to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicle selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from his application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously

listed. The Administrator may require, if applicable, that the failed vehicle be modified to the new engine code (or evaporative emission code, as applicable) and demonstrate by testing that it meets applicable standards for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given in § 86.078-24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards for which it was originally tested. The Administrator may require a new emission-data vehicle, of identical vehicle configuration (or evaporative vehicle configuration as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards for which the failed vehicle was originally tested.

(5) For heavy-duty engines the manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 86.077-6; or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under § 86.077-32.) The Administrator will then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed; or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine which is in all material respects the same as the first engine, as modified, shall then be operated and tested in accordance with applicable test procedures.

(6) If the manufacturer does not request a hearing or present the required data under paragraphs (b)(4) or (b)(5) (as applicable) of this section, the Administrator will deny certification.

* * * * *

§§ 86.101-78, 86.102-78 and 86.103-78 [Amended]

19. The section numbers to §§ 86.101-78, 86.102-78 and 86.103-78 are changed by removing the "-78" suffix.

§ 86.101 [Amended]

20. In § 86.101, the reference in paragraph (a)(1) is changed from "86.101-78" to "86.102" and, the reference in paragraph (a)(2) is changed from "86.177-1" to "86.177-4".

§ 86.105-78 [Amended]

21. In paragraph (a) of § 86.105-78, the first word "This" is deleted from the second sentence.

22. In § 86.107-78, paragraph (a)(2)(i) and (ii) are revised to read as follows:

§ 86.107-78 Sampling and analytical system; evaporative emissions.

(a) * * *

(2) * * *

(i) Stability of the analyzer shall be better than 0.01 C_{-14} ppm at zero and span over a 15-minute period on all ranges used.

(ii) Repeatability of the analyzer, expressed as one standard deviation, shall be better than 0.005 C_{-14} ppm on all ranges used.

* * * * *

23. In paragraph (a)(3) of § 86.107-78, the spelling of "chracteristics" in the third sentence is corrected to "characteristics".

24. In paragraph (a)(5) of § 86.107-78, the word "revolving" in the third sentence is changed to "resolving". The tolerance "±2° F (1.1° C)" in the fourth sentence is changed to "±3° F (1.7° C)".

25. In § 86.114-78, paragraph (a)(4) is revised to read as follows:

§ 86.114-78 Analytical gases.

(a) * * *

(4) Fuel for the evaporative emission enclosure FID shall be a blend of 40 ±2 percent hydrogen with the balance being helium. The mixture shall contain less than 1 ppm equivalent carbon response. 98 to 100 percent hydrogen fuel may be used with advance approval by the Administrator.

* * * * *

§ 86.116-78 [Amended]

26. In paragraph (c)(1) of § 86.116-78, the word "and" is inserted between the words "analyzer" and "oxides".

27. Paragraph (b)(2) of § 86.117-78 is rewritten to promote clarity.

§ 86.117-78 Evaporative emission enclosure calibration.

(a) * * *

(b) * * *

(2) Perform an enclosure calibration check according to subparagraphs (1) through (7) of paragraph (c) of this section.

* * * * *

§ 86.119-78 [Amended]

28. In paragraph (b)(1) of § 86.119-78, the formula is corrected by changing the term "K_{VP}" to "K_VP".

29. In paragraph (b)(7)(iii) of § 86.119-78, the word "unchocked" in the third sentence is corrected to "unchoked".

30. In paragraph (b)(7)(v) of § 86.119-78, "Kv" is changed to "K_v".

31. In paragraph (c)(6) of § 86.119-78, the symbol "%" is deleted.

32. Section 86.128-78 is revised to correspond with previous technical amendments.

§ 86.128-78 Transmissions.

(a) All test conditions, except as noted, shall be run according to the manufacturer's recommendation to the ultimate purchaser.

(b) Vehicles equipped with free wheeling or overdrive shall be tested with these features operated according to the manufacturer's recommendations to the ultimate purchaser.

(c) Idle modes shall be run with automatic transmission in "Drive" and the wheels braked; manual transmissions shall be in gear with the clutch disengaged, except first idle (see §§ 86.136 and 86.137).

(d) The vehicle shall be driven with minimum accelerator pedal movement to maintain the desired speed.

(e) Accelerations shall be driven smoothly according to the manufacturer's recommendation to the ultimate purchaser. For manual transmissions, the operator shall release the accelerator pedal during each shift and accomplish the shift with minimum time. If the vehicle cannot accelerate at the specified rate, the vehicle shall be operated with the accelerator pedal fully depressed until the vehicle speed reaches the value prescribed for that time in the driving schedule.

(f) The deceleration modes shall be run in gear using brakes or accelerator pedal as necessary to maintain the desired speed. Manual transmission vehicles shall have the clutch engaged and shall not change gears from the previous mode. For those modes which decelerate to zero, manual transmission clutches shall be depressed when the speed drops below 15 mph (24.14 km/h), when engine roughness is evident, or when engine stalling is imminent.

(g) Downshifting is allowed at the beginning of or during a power mode in accordance with the manufacturer's recommendation to the ultimate purchaser.

§ 86.133-78 [Amended]

33. In paragraph (m) of § 86.133-78, the formula "HCf" is changed to "C_{HCF}".

34. Section 86.136-78 is revised to read as follows:

§ 86.136-78 Engine starting and restarting.

(a) *Gasoline-fueled vehicles.* This paragraph (a) applies to gasoline-fueled vehicles.

(1) The engine shall be started according to the manufacturer's recommended starting procedures in the owner's manual. The initial 20-second idle period shall begin when the engine starts.

(2) Choke operation: (i) Vehicles equipped with automatic chokes shall be operated according to the manufacturer's operating instructions in the owner's manual, including choke setting and "kick-down" from cold fast idle.

(ii) Vehicles equipped with manual chokes shall be operated according to the manufacturer's operating instructions in the owner's manual.

(3) The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(4) The operator may use the choke, accelerator pedal, etc. where necessary to keep the engine running.

(5) If the manufacturer's operating instructions in the owner's manual do not specify a warm engine starting procedure, the engine (automatic- and manual-choke engines) shall be started by depressing the accelerator pedal about half way and cranking the engine until it starts.

(b) *Diesel vehicles.* The engine shall be started according to the manufacturer's recommended starting procedures in the owner's manual. The initial 20-second idle period shall begin when the engine starts. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.,

* * * * *

§ 86.137–78 [Amended]

35. In paragraph (b)(7) of § 86.137–78, the missing quotation mark (") is inserted before the word 'transient'.

36. In paragraph (b)(12) of § 86.137–78, the word "declaration" is changed to "deceleration".

37. A paragraph is added to the end of § 86.143–78; it reads as follows:

§ 86.143–78 Calculations; evaporative emissions.

* * * The final reported results shall be computed by summing the individual evaporative emission results determined for the diurnal breathing-loss test, running-loss test, and the hot-soak test.

§ 86.144–78 [Amended]

38. In paragraph (c)(3) of § 86.144–78, two changes are made: In the definitino for "CO_{conc}", the dash in front of the word "Carbon" is deleted. In the definition for "R", the words "per cent" are merged to "percent".

39. In paragraph (c)(5) of § 86.144–78, a right hand parenthesis ")" is added after "K" in the second formula (in SI units) for "Vmix".

40. A § 86.177–4 is added and reads as follows:

§ 86.177–4 Section numbering; construction.

(a) The section numbering procedure specified in § 86.077–4(a) applies to this subpart.

(b) Unless indicated otherwise, all provisions in this subpart apply to both gasoline-fueled and Diesel vehicles.

§ 86.177–8 [Amended]

41. In paragraphs (a)(4) and (b)(3) of § 86.177–8, the temperature limits are changed from "76° F and 86° F" to "68° F and 86° F".

[FR Doc.77–8897 Filed 3–25–77;8:45 am]

Title 45—Public Welfare

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

PART 166—STATE ADULT EDUCATION PROGRAMS

Allotment for Special Projects and Teacher Training

Pursuant to the authority contained in section 309 of the Adult Education Act, as amended by section 329, Title III of the Education Amendments of 1976, Pub. L. 94–482, 20 U.S.C. 1208, the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, hereby amends § 166.22 of the regulations for State Adult Education Programs (45 CFR Part 166) to reflect the statutory change made in section 309 of the Adult Education Act to lower the percentage requirement of funds to be expended by a State for special projects and teacher training from at least 15 percent to at least 10 percent. The new provision was effective on October 12, 1976, the date of enactment of the statutory change. It will not be necessary for a State to amend its current annual program plan in order to implement the new provision.

1. As amended, the opening paragraph of § 166.22 shall read as follows:

§ 166.22 Eligible projects.

The State educational agency shall establish and set forth, in its annual program plan, the policies and procedures under which it will use not less than 10 percent of the funds allotted to it for any given fiscal year under section 305 of the Act for special projects and teacher training, as prescribed by section 309 of the Act. The State educational agency shall use not less than 10 percent of each annual Federal allotment which is reserved for the purposes of section 309 of the Act to provide support for both special projects and teacher training programs. The distribution of these funds among special projects and teacher training shall be determined by the State educational agency in light of the overall objectives of its annual program plan.

* * * * *

2. Assurance (3) of the State-Federal Agreement set forth in Appendix A of this Part is amended to read as follows:

* * * * *

(3) The State agency assures that not less than 10 percent of the annual allotment shall be used for the purposes of section 309 of the Act to provide support for both special projects and teacher training programs;

(20 U.S.C. 1206(b))

* * * * *

It is the policy of the Department in accordance with section 553(a) of the Administrative Procedure Act (5 U.S.C. 551) to publish a proposed rule and afford interested parties an opportunity to comment. However, this amendment to the regulation merely reflects a technical amendment to the law.

Thus, it has been found, in accordance with section 553(a)(3) of the Administrative Procedures Act (5 U.S.C. 551), that notice and public procedure on this rule is unnecessary to the public interest, and the rule is hereby issued in final form.

For further information, contact Paul V. Delker, Division of Adult Education, U.S. Office of Education, 7th and D Streets, S.W., Room 5056, Washington, D.C. 20202 (202–245–2278).

Effective date. Pursuant to section 431 (d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning congressional action and adjournment.

The Office of Education 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 No. 13.400, Adult Education—Grants to States)

Dated: January 27, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

Approved: March 18, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

[FR Doc.77–9073 Filed 3–25–77;8:45 am]

CHAPTER XIX—NATIONAL COMMISSION ON THE OBSERVANCE OF INTERNATIONAL WOMEN'S YEAR

ESTABLISHMENT OF GRANT PROCEDURES, COORDINATING COMMITTEES AND RULES OF PROCEDURE FOR STATE MEETINGS

Issuance of Provisions

On November 19, 1976, a document was published in the FEDERAL REGISTER (41 FR 51050) proposing the establishment of Chapter XIX, National Commission on the Observance of International Women's Year, Parts 1901 and 1902 State Meetings, Financial Assistance.

Part 1901 defined several terms used in Chapter XIX. Part 1902 set forth the manner in which appropriated funds would be allocated to Coordinating Committees in each State for organizing and conducting State Meetings according to Pub. L. 94–167. Part 1902 also establishes the eligibility and fiscal requirements applicable to the Coordinating Committee.

On December 7, 1976, a proposal was published in the FEDERAL REGISTER (41 FR 53495) setting forth in Part 1903 of this Chapter the manner in which Coordinating Committees are designated and the functions and responsibilities

of the Coordinating Committee in each State.

As a result of comments received and in an effort to clarify the proposed regulations, the following changes in the proposed regulations are made:

1. A new § 1901.2 has been added to clarify the use of words importing gender.

2. A new paragraph (c) is added to § 1902.7 to give notice to persons doing business with the Coordinating Committee that only the specified signatories are authorized to incur obligations on behalf of the Coordinating Committee. This addition is made to clarify for the Coordinating Committee and those doing business with them the nature and extent of obligations incurred.

3. In § 1902.8, several paragraphs are re-worded, re-ordered and re-numbered to clarify the scope of allowed expenditures.

4. In § 1902.9, paragraphs (e) and (r) are re-worded for clarity; paragraphs (d) and (l) are made consistent with each other and with § 1902.8.

5. Paragraph (k) of § 1902.9 in the proposal document was unclear and did not appropriately reflect existing law on the matter. It has therefore been determined that this paragraph should read in exact conformity with Public Law 94-167.

6. Paragraph (b) of § 1902.10 is changed to reflect the sense of prior instructions issued by the Commission. The amount of change in the budget which is regarded as substantial is $2,000 or 25 percent of the total amount in any line item category, whichever is less.

7. Paragraph (d) of § 1903.1 is changed to reflect the Commission's determination that each Commissioner shall have an ex officio voting membership on the Coordinating Committee in the state in which she resides.

8. Paragraph (d) of § 1903.2 is reworded to reflect the fact that many areas of discussion, oriented primarily toward other topics, may touch upon considerations of religion or religious institutions. The paragraph is intended to prevent the State Meeting from using federal funds to propose recommendations to the President or to the Congress which may infringe upon the constitutional separation of church and state. This paragraph also reflects the Commission's judgment that such recommendations may be more divisive of women than potentially helpful to overcoming barriers which impede the full participation of women in all aspects of the nation's life.

9. § 1903.6 is revised to require the Coordinating Committee to record and submit to the Commission information regarding contributions from sources other than the Commission.

10. In addition, minor editorial changes have been made to §§ 1902.5(c), 1902.7(b), 1902.10(a), 1902.11, 1902.13(a), 1902.14, 1902.15, and 1903.1(c)(7).

Certain other specific comments and recommendations have been received and carefully considered but have not been adopted. The following suggestions were not adopted for the reasons assigned:

1. A number of comments were received suggesting additional agenda topics to be listed in § 1903.2(b). The topics listed there are only intended to be general areas of discussion which encompass the many specific recommendations which the Commission has made in its earlier report, "To Form a More Perfect Union. * * *" The Commission has not attempted to list the more specific areas which could be used as workshop topics. All of the additional topics suggested would appear to fall within one or more of the areas listed in § 1903.2(b).

The Commission believes that some topics which could be selected for discussion may be too specific if they focus narrowly on sensitive and potentially divisive matters that are not likely to be discussed and resolved effectively. Other topics may be too general and lead to discussions which do not concentrate on the particular concerns of women or which do not focus effectively on any concrete issue at all.

In any event, the State Meetings are not precluded from scheduling workshops and discussions in any area which they consider to be relevant to women's concerns, except for the limitation in § 1903.2(d) which prohibits the scheduling of discussions on topics primarily concerned with religion or religious institutions.

Accordingly it is unnecessary and impractical to list in § 1903.2(b) all the additional specific topics which might be scheduled for discussion at the State Meeting.

2. A comment was received proposing that § 1903.3(b) be amended to provide for public disclosure of the report by the Coordinating Committee on the activities at the State Meeting. Since federal law requires that such reports shall be made available to the public, it has been determined that the proposed amendment is unnecessary.

3. Several persons proposed that § 1903.5 be amended to require the Coordinating Committees to provide financial assistance to all persons to attend meetings of the Coordinating Committee, the State Meetings, and the National Conference.

The Commission has adopted the policy that all elected delegates to the National Conference may be offered financial assistance by the Coordinating Committee to participate in the Conference, except that those who wish to decline such assistance may do so. Since the funds appropriated for the Commission's activities are quite limited, it would be inadvisable to require delegates to the National Conference to accept financial assistance.

Funds are available under § 1902.8(f) to Coordinating Committee members to attend planning meetings outside their home city. The extent to which such funds will be budgeted for this purpose is a matter left to each Coordinating Committee to determine for itself.

Since the number of persons attending some of the State Meetings may be quite large, it is impractical in many instances to cover the transportation costs for all participants, but the Coordinating Committee is obliged to provide some financial assistance to those who are unable to pay their own expenses in order to participate. For these reasons § 1903.5 is left unchanged.

4. Comments were received proposing that § 1903.7 should be amended to provide for specific rules of procedure for the conduct of meetings of the Coordinating Committee and for the State Meeting. The adoption by the Commission on February 25, 1977, of Part 1904, State Meetings, Rules of Procedure eliminates the need for such an amendment.

Interested persons may submit additional written comments, suggestions, data, or arguments relating to these regulations to Judge Elizabeth Athanasakos, Presiding Officer, National Commission on the Observance of International Women's Year, D/IWY, Department of State, Washington, D.C. 20520, attention: General Counsel. Material thus submitted will be evaluated and considered for possible revisions or amendments to these rules.

Until such time as further changes are made, however, 45 CFR 1901.1 through 1903.7 are hereby established as set forth below.

Effective date: These rules shall be effective as of March 25, 1977.

Signed on March 18, 1977.

JUDGE ELIZABETH ATHANASAKOS,
Presiding Officer, National Commission on the Observance of International Women's Year.

PART 1901—GENERAL

Sec.
1901.1 Definitions.
1901.2 Words importing gender.

AUTHORITY: E.O. 11832, 3 CFR 106, 40 FR 2415, January 13, 1975, Pub. L. 94-167, 89 Stat. 1003, December 23, 1975.

§ 1901.1 Definitions of terms used in this chapter.

(a) "Commission" means the National Commission on the Observance of International Women's Year, 1975, established by Executive Order 11832, 3 CFR 106, 40 FR 2415, January 13, 1975, Pub. L. 94-167, 89 Stat. 1003, December 23, 1975.

(b) "Conference" means the National Women's Conference to be organized and convened by the Commission in accordance with Pub. L. 94-167.

(c) "Coordinating Committee" means the Coordinating Committee in each State designated by the Commission to organize and conduct a meeting in the State in preparation for the National Women's Conference.

(d) "State" includes the fifty States and the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands, unless otherwise specified.

(e) "State Meeting" means the meetings organized and conducted in each State by the Coordinating Committee in preparation for the National Women's Conference.

§ 1901.2 Words importing gender.

As used in this chapter, unless the context requires a different meaning, words importing the feminine gender include both genders.

PART 1902—STATE MEETINGS, FINANCIAL ASSISTANCE

Subpart A—Allocation of Grant Funds

Sec.

1902.1 Purpose of grants.
1902.2 Formula for allocating funds.
1902.3 Funds available to Coordinating Committees.

Subpart B—Awarding of Grants

1902.4 Eligible grantees.
1902.5 Determination of eligibility.
1902.6 Advances on the grant.

Subpart C—Fiscal Requirements

1902.7 Fiscal officers and signatories.
1902.8 Scope of expenditures.
1902.9 Limitations on expenditures.
1902.10 Grant revisions.
1902.11 Period of incurring expenditures.
1902.12 Recordkeeping requirements.
1902.13 Reporting requirements.
1902.14 Unexpended funds.
1902.15 Overruns.
1902.16 Disallowance of expenditures.

AUTHORITY: E.O. 11832, 3 CFR 106, 40 FR 2415, January 13, 1975, Pub. L. 94-167, 89 Stat. 1003, December 23, 1975.

Subpart A—Allocation of Grant Funds

§ 1902.1 Purpose of grants.

Funds shall be made available by the Commission to the eligible Coordinating Committee in each State for all necessary and lawful expenses in connection with the State Meeting and participation in the Conference.

§ 1902.2 Formula for allocating funds.

The amount of funds available to each Coordinating Committee shall be computed as follows:

(a) The Coordinating Committee in each State shall be entitled to a grant in an amount bearing the same ratio to $2,600,000 as the product in paragraph (b) of this section bears to the sum of the corresponding products for all the States.

(b) The allocation factor for each State is the product of (1) 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States and (2) the population of the State.

(c) The per capita income data used in paragraph (b) is the average per capita income for the calendar years 1971, 1972, and 1973 as published by the Bureau of Economic Analysis, Department of Commerce, Survey of Current Business, dated August 1973, Vol. 52, No. 8. Population data used in paragraph (b) is the population as of July 1, 1974, as published by the Bureau of Census Series P-25-533, dated October 1974.

(d) However, if the amount computed in paragraph (a) of this section is less than $25,000, the available funds shall be increased to $25,000; and if the amount computed is more than $100,000, the available funds shall be decreased to $100,000.

§ 1902.3 Funds available to Coordinating Committees.

Computing the amounts in § 1902.2 results in the following allocation of available funds to the respective Coordinating Committees of each State:

GRANTS TO STATES

State:	*Available funds*
Alabama	$53,030
Alaska	25,000
American Samoa	25,000
Arizona	27,431
Arkansas	30,866
California	100,000
Colorado	29,815
Connecticut	29,943
Delaware	25,000
District of Columbia	25,000
Florida	99,529
Georgia	66,252
Guam	25,000
Hawaii	25,000
Idaho	25,000
Illinois	100,000
Indiana	65,671
Iowa	35,042
Kansas	26,915
Kentucky	48,385
Louisiana	54,909
Maine	25,000
Maryland	44,365
Massachusetts	65,304
Michigan	99,327
Minnesota	47,924
Mississippi	36,364
Missouri	59,854
Montana	25,000
Nebraska	25,000
Nevada	25,000
New Hampshire	25,000
New Jersey	72,434
New Mexico	25,000
New York	100,000
North Carolina	74,383
North Dakota	25,000
Ohio	100,000
Oklahoma	37,314
Oregon	28,410
Pennsylvania	100,000
Puerto Rico	50,867
Rhode Island	25,000
South Carolina	41,172
South Dakota	25,000
Tennessee	58,866
Texas	100,000
Trust Territory	25,000
Utah	25,000
Vermont	25,000
Virgin Islands	25,000
Virginia	61,061
Washington	41,078
West Virginia	25,973
Wisconsin	57,806
Wyoming	25,000
Total	2,595,295

Subpart B—Awarding of Grants

§ 1902.4 Eligible grantees.

Grants will be made only to the Coordinating Committee.

§ 1902.5 Determination of eligibility.

To receive a grant a Coordinating Committee must:

(a) Provide assurances satisfactory to the Commission that the Coordinating Committee will hold a State Meeting prior to the National Conference, such Meeting to be organized and conducted in accordance with (1) the goals of the Conference as set forth in section 3(b) of Pub. L. 94-167, and (2) the Commission's regulations, and (3) such fiscal and technical requirements as the Commission may order.

(b) Submit to and obtain approval by the Commission of a comprehensive budget proposal.

(c) Certify that it will have, before any expenditures of grant funds, the two bonded signatories specified in § 1902.7.

§ 1902.6 Advances on the grant.

When the Commission, in its sole discretion, determines that the Coordinating Committee is eligible for the grant, the Commission will transmit to the Coordinating Committee an initial advance on the grant. The Coordinating Committee may from time to time request additional advances on the grant, such requests to be accompanied by a report of its expenditures and its justification for the additional sums requested.

Subpart C—Fiscal Requirements

§ 1902.7 Fiscal officers and signatories.

(a) Each Coordinating Committee shall designate a competent fiscal officer or agent who shall be responsible for administering, maintaining records of, and reporting on grant funds and expenditures according to the regulations and requirements of the Commission.

(b) The fiscal officer or agent designated under paragraph (a) of this section, and the Chair of the Coordinating Committee, shall each be bonded and shall be signatories to all transactions funded by Commission grants.

(c) All persons doing business with the Coordinating Committee shall be given notice that only the signatories designated in this section are authorized to incur obligations on behalf of the Coordinating Committee.

§ 1902.8 Scope of expenditures.

Generally, grant funds awarded to a Coordinating Committee may be used, subject to the limitations set forth in these regulations, for the following:

(a) Accounting, audit and legal services;

(b) Bonding fees;

(c) Development; acquisition or printing of educational materials;

(d) Equipment rental as necessary;

(e) Expenses incident to travel by, and honoraria to, speakers and resource persons invited by the Coordinating Committee, as necessary;

(f) Expenses incident to travel by Coordinating Committee members to attend planning meetings outside their home city;

(g) Expenses incident to travel by participants approved by the Coordinating Committee in connection with the State Meeting or the National Conference;

(h) Hiring of part-time or full time staff, including consultants;

(i) Office supplies and materials including photocopying, layout, and design costs;

(j) Telephone, telegraph, postage and mailing house services;

(k) Transportation and space rentals and contractual services necessary for holding the State Meetings;

(l) Other related activities.

§ 1902.9 Limitations on expenditures of grant funds.

Funds from Commission grants shall not be used by a Coordinating Committee for any of the following:

(a) Advertising, except for recruitment of personnel or participants required to carry out the State Meeting;

(b) Alcoholic beverages;

(c) Contingency funds or reserves;

(d) Entertainment, other than as an educational portion of a Meeting, but unallowable are costs of amusement, social activities, luncheon meetings, except business meetings, and coffee breaks including entertainment and incidental costs related thereto;

(e) Equipment purchase, unless the net cost of purchase and resale would be less than rental costs and the purchase has been justified in the budget proposal and duly approved in advance of the purchase;

(f) Excess baggage, unless it consists of approved Meeting or Conference materials;

(g) Fines, penalties, or bad debt costs;

(h) Foreign travel, except that travel between the fifty States and American Samoa, Guam, the Trust Territories, Puerto Rico and the Virgin Islands shall not be considered foreign travel for this purpose;

(i) Gifts and gratuities, except that generally accepted service gratuities at standard rates are allowed;

(j) Insurance and indemnifications, except as authorized by the Commission;

(k) Lobbying activities;

(l) Meals, unless as part of approved subsistence in connection with travel or as part of a business meeting or Conference package;

(m) Membership charges or dues in other organizations;

(n) Payments to or on behalf of Federal employees acting in connection with their official duties;

(o) Subgrants, unless approved in advance by the Commission;

(p) Supplies other than those needed in support of the Meeting;

(q) Tobacco;

(r) Travel on non-American carriers or from any further point than traveller's place of residence; or detour or layover expenses beyond twelve hours unless emergency circumstances so require and are explained; or travel which is not by the most direct route or not economy fare unless emergency circumstances so require and are explained; or which is not in accord with other instructions issued by the Commission;

(s) Any other expenditures prohibited by applicable Federal laws or regulations.

§ 1902.10 Grant revisions.

(a) If the Coordinating Committee finds it necessary to make a substantial change in its grant budget after the Commission has approved the award of grant funds, the Coordinating Committee shall request permission to do so in writing and must secure the Commission's approval before making such change.

(b) For the purposes of this section, a substantial change in the grant budget of a Coordinating Committee shall be (1) any change in the overall grant amount, (2) elimination or addition of any line item, or (3) any change of more than $2,000 or 25 percent of the total amount, whichever is less, in any line item category of the budget.

§ 1902.11 Period of incurring expenditures.

The grant agreement between the Commission and the Coordinating Committee shall specify starting and ending dates. Budget expenses approved by the Commission and incurred by the Coordinating Committee prior to the receipt of the grant may be reimbursed from grant funds, subject to the limitations of Commission regulations. Payments may be made after the grant has expired if the expenses were incurred within the authorized period before the expiration date of the grant. All grants will expire on or before November 30, 1977.

§ 1902.12 Recordkeeping requirements.

(a) Complete financial records of grant funds including legible, itemized receipts to support all payments must be maintained by the fiscal officer or agent of the Coordinating Committee. Receipts for all expenditures made by the Coordinating Committee shall be maintained on file and certification of the existence of these receipts shall be submitted with the reports required in § 1902.13(a). Actual receipts shall be submited with the final report required in § 1902.13(b).

(b) Records and receipts maintained under paragraph (a) of this section shall be available for public inspection at reasonable times and places.

(c) Records and receipts maintained under paragraph (a) of this section shall be available for government audit at any time. Consent to such audit must be indicated at the time the Coordinating Committee submits its budget proposal for Commission approval.

§ 1902.13 Financial reporting requirements.

(a) Complete reports of all expenditures made from grant funds shall be submitted by the Coordinating Committee when requesting advances on the grant and quarterly on February 28, May 31, and August 31, 1977.

(b) A final summary and report of expenditures from grant funds shall be made to the Commission on November 30, 1977.

(c) If any report required in paragraphs (a) or (b) cannot be submitted when due, the Coordinating Committee shall seek approval from the Commission, prior to the due date of the report, of a specific later date for submission of the report.

§ 1902.14 Unexpended funds.

Any grant funds advanced to a Coordinating Committee which remain unobligated at the time its final report is due shall be returned to the Commission.

§ 1902.15 Overruns.

The Commission shall not be liable for any costs incurred by the Coordinating Committee and will not advance funds beyond the total amount of the grant.

§ 1902.16 Disallowance of expenditures.

Any expenditures made by the Coordinating Committee from funds granted by the Commission which do not comply with Commission regulations may be disallowed by the Commission. The Coordinating Committee, and not the Commission, shall be solely responsible for the provision of funds to cover any disallowed expenditures.

PART 1903—STATE MEETINGS, COORDINATING COMMITTEE

Sec.

1903.1 Designation of Coordinating Committee.
1903.2 Responsibility for agenda for State Meeting.
1903.3 Submission of agenda and reports to Commission.
1903.4 Employees of Coordinating Committee.
1903.5 Financial responsibilities of Coordinating Committee.
1903.6 Contributions from sources other than the Commission.
1903.7 Conduct of meetings.

AUTHORITY: E.O. 11832, 3 CFR 106, 40 FR 2415, January 13, 1975, Pub. L. 94-167, 89 Stat. 1003, December 23, 1975.

§ 1903.1 Designation of Coordinating Committee.

(a) The Commission shall designate persons to serve as members of the Coordinating Committee in each State, in such number as the Commission deems necessary, and with full recognition of the statutory requirements that the Coordinating Committee will effectively organize and conduct the State Meeting and that the State Meeting will select representatives to the conference in accordance with Sections 3 and 6 of Pub. L. 94-167.

(b) Section 3(a) of Pub. L. 94-167 requires that the Conference be composed of:

(1) Representatives of local, State, regional and national institutions, agencies, organizations, unions, associations, publications and other groups which work to advance the rights of women; and

(2) Members of the general public, with special emphasis on the representation of low-income women, members of diverse racial, ethnic, and religious groups and women of all ages.

(c) Section 3(b) of Pub. L. 94-167 sets forth the goals of the Conference to:

(1) Recognize the contributions of women to the development of our country;

(2) Assess the progress that has been made to date by both the private and public sectors in promoting equality between men and women in all aspects of life in the United States;

(3) Assess the role of women in economic, social, cultural, and political development;

(4) Assess the participation of women in efforts aimed at the development of friendly relations and cooperation among nations and to the strengthening of world peace;

(5) Identify the barriers that prevent women from participating fully and equally in national life, and develop recommendations for means by which such barriers can be removed;

(6) Establish a timetable for the achievement of the objectives set forth in such recommendations.

(7) Establish a committee of the Conference which will take steps to provide for the convening of a second National Women's Conference. The second Conference will assess the progress made in achieving the objectives set forth in paragraphs (c) (5) and (6) of this section, and will evaluate the steps taken to improve the status of American women.

The Commission will therefore designate members of the Coordinating Committee who in the judgment of the Commission will be able to organize and conduct the State Meetings to achieve these goals.

(d) The Coordinating Committee in each State shall include as ex officio members all members of the Commission who are residents of the State.

§ 1903.2 Responsibility for agenda for State meeting.

(a) The Coordinating Committee shall organize and conduct the State Meeting to achieve the purposes set forth in section 3(b)(1)–(6) of Pub. L. 94–167 as set forth in § 1903.1(c)(1)–(6).

(b) Subject to the provisions of subsection (d) of this section, the State Meeting shall consider, and report on, as many of the recommendations of the Commission as is feasible. The recommendations of the Commission relate to the following topics which may be used as workshop topics:

(1) Legal Status of Homemakers.
(2) Women and Employment.
(3) Women and Education.
(4) Equal Rights Amendment.
(5) Women and the Media.
(6) Child Care.
(7) Teenage Pregnancy.
(8) Women in Elective and Appointive Office.
(9) Women and Credit.
(10) Physical and Mental Health of Women.
(11) Rape.
(12) Female Offenders.
(13) Women in the Arts and Humanities.
(14) Racial and Ethnic Minority Women.
(15) Older Women.
(16) Strategies for Change in the Status of Women.
(17) International Interdependence.

(c) In addition to the topics in paragraph (b) of this section, the State Meeting may consider additional topics relevant to identifying the barriers that prevent women from participating fully and equally in all aspects of national life. However, the recommendations and report of the State Meeting must focus on the particular concerns of women within such additional topics.

(d) Neither the Coordinating Committee nor the State Meeting shall include as a topic selected for the Meeting subjects dealing primarily with religion, or religious institutions, organizations or activities, or women's roles in any of them.

§ 1903.3 Submission of agenda and reports to Commission.

(a) The Coordinating Committee shall submit its proposed program agenda for the approval of the Commission before any distribution or publication of the agenda.

(b) Within 30 days after the completion of the State Meetings, the Coordinating Committee shall submit to the Commission a complete report of all activities at the State Meeting, including detailed minutes of all plenary or general sessions, and a complete listing of all representatives selected and certified to participate in the Conference in accordance with Commission instructions.

§ 1903.4 Employees of Coordinating Committee.

(a) Members of the Coordinating Committee, their employees and volunteers who provide services to the Coordinating Committee will not be deemed employees of the Federal Government for purposes of laws relating to retirement, insurance, health benefits, veteran's preference, or any other law under which benefits are made available only to compensated employees of the Federal Government, in accordance with the provisions of Title V of the United States Code, except as otherwise provided in paragraphs (b) and (c) of this section.

(b) Members of the Coordinating Committee, their employees, and volunteers who provide services to such Committee are eligible to receive workmen's compensation benefits for work-related injuries pursuant to Chapter 81 of Title V of the United States Code, provided such injuries are incurred in the conduct of business for the Coordinating Committee in fulfilling its functions pursuant to Pub. L. 94–167.

(c) Members of the Coordinating Committee, their employees and volunteers who provide services to such Committee are covered by the Federal Tort Claims Act, 28 U.S.C. 1346, 2671 et seq., for tortious injury caused by them to third parties, provided that such injury occurs while the members, employees, or volunteers are performing official business on behalf of the Coordinating Committee in fulfilling its functions pursuant to Pub. L. 94–167.

§ 1903.5 Financial responsibilities of Coordinating Committee.

The Coordinating Committee shall undertake all financial responsibilities in relation to the State Meeting which are required by Commission regulations. Such responsibilities include financial assistance to persons who are unable to pay their own expenses for the purpose of participating in the meetings of the Coordinating Committee, the State Meeting, or the Conference.

§ 1903.6 Contributions from sources other than the Commission.

The Coordinating Committee may, subject to Commission regulations, accept, use, and dispose of, in connection with the organization and conduct of the State Meeting, any contributions of money, services, facilities or property made from private persons or firms or by local, State, or Federal Government agencies. The Coordinating Committee shall keep records for informational purposes of the general nature of the sources, kinds, and amounts of such contributions and the nature of expenditures made from contributed funds. A summary report of such records shall be submitted by the Coordinating Committee to the Commission on November 30, 1977, in accordance with Commission instructions.

§ 1903.7 Conduct of meetings.

The Coordinating Committee shall conduct its own meetings and the State Meeting according to rules of procedure issued by the Commission, including the rules for the election and certification of representatives from the State Meeting to the Conference.

Dated: March 23, 1977.

[FR Doc.77-9131 Filed 3-25-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1261]

PART 1033—CAR SERVICE

Illinois Central Gulf Railroad Company Authorized to Operate Certain Unit-Grain Trains Comprising Total of One Hundred Forty Cars

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23rd day of March, 1977.

It appearing, That because of tariff requirements the Illinois Central Gulf Railroad Company (ICG) is operating unit-grain trains each transporting shipments of 9800-tons of 2000 lbs. in not more than 100 covered hopper cars; that compliance with such tariff provisions requires that each car be loaded with approximately 98-tons of grain; that a shipper served by the ICG at Cropsey, Illinois, has made four such consecutive 100-car shipments and is required by the applicable tariff to make one additional 100-car shipment of 9800-tons; that because of deterioration of its track, the ICG has been required to reduce the weight limits on its line passing through Cropsey to permit a maximum loading of 70-tons per car; that such reduced weight limitation prevents compliance by the shipper with the minimum weight and car limit requirements of the tariff; that

the ICG can furnish one hundred forty (140) cars of 70-ton capacity in lieu of 100 cars of 100-ton capacity to such shipper; that use of these 140 smaller cars will enable the shipper to comply with the tariff requirements for five consecutive trips of 9800-tons each; that the shipper has consented to accept and load 140 smaller cars in lieu of 100 high capacity cars; that the shipper is willing and able to fulfill his commitment to complete five consecutive shipments of 9800-tons of grain loaded into not more than 100-cars but is prevented from doing so because of the present inability of the ICG to comply fully with its tariff provision; that appropriate tariff revisions are being made by the ICG to prevent future tariff obligations with respect to weight and car requirements applicable to massive multiple-car grain shipments which the ICG is unable to fulfill; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exist for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1261 **Illinois Central Gulf Railroad Company authorized to operate certain unit-grain trains comprising total of one hundred forty cars.**

(a) The Illinois Central Gulf Railroad Company (ICG), be, and it is hereby authorized to operate one unit-grain train of one hundred forty (140) covered hopper cars of 70-tons capacity, transporting a minimum weight of 9800-tons of grain, in lieu of a unit-grain train of one hundred (100) cars of 100-tons capacity from a shipper at Cropsey, Illinois, to a station on the Gulf of Mexico, for export, to enable such shipper to complete his obligation to ship five consecutive shipments of 9800-tons of grain as required by item 350 of ICG Grain Tariff 19611-B, ICC 11. The consent of the shipper must be obtained before the shipment is made and reference to this order endorsed on the bill-of-lading and waybills covering the shipment.

(b) *Rules and Regulations Suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Effective date.* This order shall become effective at 12:01 a.m., March 23, 1977.

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 15, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Lewis R. Teeple, and John R. Michael.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-9123 Filed 3-25-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20721; RM-2432; FCC 77-206]

PART 1—PRACTICE AND PROCEDURE

PART 73—RADIO BROADCAST SERVICES

Reviewing of Rules and Regulatory Policies Concerning Network Broadcasting by Standard (AM) and FM Broadcast Stations

Adopted: March 10, 1977.

Released: March 23, 1977.

Report, statement of policy, and order. In the matter of review of Commission rules and regulatory policies concerning network broadcasting by standard (AM) and FM broadcast stations.

Petition of Mutual Broadcasting System, Inc. for rules applicable to audio services furnished by newswire services.

INTRODUCTION

1. In this Report, Statement of Policy, and Order, the Commission resolves the Docket 20721 proceeding, an overall review of "network radio" regulation (eight substantive rules in AM and the same in FM, the "small market policy" in AM, and the rule requiring the filing of network agreements).[1] The proceeding was begun by Notice of Inquiry and of proposed rulemaking adopted February 19, 1976 (FCC 76-157, hereinafter "Notice"). Comments and reply comments, totaling roughly 375 pages, were filed until early September, by some 25 parties, most of them national or regional/state networks, or the two newswire services with respect to their "audio services" (Associated Press Radio (APR) and United Press International Audio (UPIA)).

2. *Summary of actions taken.* In summary, this decision takes the following actions:

(a) The term "network" is defined to include essentially all program sources which feed program material to AM or FM stations entirely or chiefly by interconnection, so that it is capable of simultaneous presentation. This includes the Associated Press Radio (APR) and United Press International Audio (UPIA) services insofar as they present material suitable for rebroadcast as such, as an integrated program, e.g., their hourly newscasts of about 5 minutes. However, since the structure of network regulation is being considerably liberalized herein, e.g., by removal of all specific rule or policy restrictions on "multiple use" of material from the same company by two or more stations in the same market, the question of whether a given entity is or is not included within the definition is less important than it would otherwise be. Moreover, the emphasis here is on the national networks and state and regional networks presenting essentially daily service; the rule concerning the filing of agreements excludes most other entities.

(b) The 5 rules primarily designed to limit network control over individual stations—those pertaining to exclusive affiliations, term of affiliation, time optioning, station right to reject programs and network control over station time rates (respectively, in AM, 73.131, 73.133, 73.134, 73.135 and 73.138)—are repealed. Under present circumstances, it is unnecessary to have specific rules on these subjects; the fundamental concepts involved, which are still of great importance, are set forth in the Statement of Policy below.

(c) The rule concerning network ownership of stations, § 73.136, is repealed, since its concepts are either now contained in the general multiple ownership rules or (the later part of the rule) are matters much better considered on an individual basis in connection with applications.

(d) With respect to "territorial exclusivity", the rules limiting a station's exclusivity as against stations in different places and with respect to the network's programs not taken by the station, § 73.132 is retained in its present form. The Statement of Policy deals with this general subject, the desirability of widely available network programming.

(e) The "dual network" rule (§ 73.137) and the "small market policy", which restrict use of material from the same network company by more than one station in a market, are repealed. In the Statement of Policy, licensees are adjured to use care and judgment in the selection of sources of non-local news and similar material.

(f) The rule concerning the filing of network agreements with the Commission, § 1.613(a), is retained, with some

[1] The eight substantive rules, which are virtually identical in AM and FM and also virtually identical with the Chain Broadcasting Rules adopted in 1941, are §§ 73.131-73.138 for AM and 73.231-73.238 for FM. Hereafter, generally only the AM section is referred to but, unless otherwise indicated, the discussion applies to the corresponding FM section as well. The "small market policy", concerning the permissible number of AM affiliations that a company operating multiple networks may have in the same market, was first adopted as to ABC and its affiliates in 1969 (Mutual Broadcasting System, Inc., 17 FCC 2d 508) and later applied to Mutual (34 FCC 2d 823 (1972)) and Texas State Network (54 FCC 2d 657 (1975)) when those entities commenced operation of two networks (the policy was later liberalized as to Texas State Network; 57 FCC 2d 768 (1976)). The rule requiring the filing of network agreements is § 1.613(a). See 41 FR 36221, August 27, 1976.

modifications with respect to AM and FM station licensees. The only agreements between such licensees and networks required to be filed will be those with networks normally furnishing programming to affiliated stations at least five days each week during eight months or more of the year. Agreements with Associated Press Radio and UPI Audio are included and are to be filed; a period until September 1, 1977 is provided for such filing. The filing requirement does not apply to noncommercial educational stations.

3. *Applicability of regulations to various types of entities.* The network rules and polices retained, or adopted in this proceeding, obviously apply to the national "conventional" networks, which now number 10, operated by 5 companies—ABC with 3 AM and one FM network, CBS, Mutual Broadcasting System, Inc. (Mutual) with its regular MBS and Mutual Black Networks, National Black Network, and NBC with its regular NBC Radio and News and Information Service (NIS) operations.[2] The Notice herein (par. 12) listed five other kinds of entities whose regulation as "networks" should also be considered. These are: (1) The newswire audio services, AP Radio and UPI Audio, (2) state and regional networks providing essentially daily service consisting chiefly of news and other informational material, such as the Intermountain and Texas State networks; (3) "occasional" or ad hoc networks put together for a particular program or series, e.g., the Indianapolis 500 network; (4) state or regional sports networks often of a seasonal nature, such as football or basketball; (5) entities which, unlike the others mentioned, are not interconnected, such as Keystone, Tobacco Network, and the so-called "rep networks" (groups of stations whose time is sold together by a national sales representative, e.g., Blair Represented Network).[3]

4. With respect to the last-mentioned category, we conclude that noninterconnected entities are beyond the scope of the present proceeding, since they lack one of the essential elements of "chain broadcasting" as defined in the Communications Act (section 3(p)), and since we are not aware of any practices or situations contrary to the public interest which would warrant assertion of jurisdiction over them, or over stations in their relations with them, on some other theory. They are not considered further herein.

5. Otherwise, the applicability of the various rules and policies to the four remaining types of entities is discussed below in connection with each of the four main subjects dealt with—the rules dealing with network control over stations and ownership of stations; "territorial exclusivity" and related matters; the dual network rule and small-market policy; and the filing requirement. As indicated below, we conclude that the same substantive rules and policies should apply to all insofar as their characteristics make the regulations pertinent (e.g., rules relating to network or station exclusivity have no relevance to APR and UPIA operations in their present form) but the filing rule should apply only to some.

6. *The comments generally.* The 25 parties filing comments and/or reply comments, listed in Appendix B below with their positions briefly described, included four national commercial networks companies—American Broadcasting Companies, Inc. (ABC), CBS Inc. (CBS), Mutual Broadcasting System, Inc. (Mutual) and National Broadcasting Company, Inc. (NBC)—the two newswire services, AP and UPI; Intermountain Network, Inc. (a network serving stations in several Western states with ABC and other material); Texas State Network, Oklahoma News Network, and Arkansas, Missouri, New York and Virginia state networks; National Public Radio (the public radio station network); Keystone Broadcasting System, Inc. (a non-interconnected entity); Mutual Affiliates Advisory Council (briefly expressing blanket agreement with the Mutual comments); four radio broadcasters; the Commissioner of Baseball and the National Hockey League; the U.S. Catholic Conference; John Blair & Company, station sales representatives, and Mr. Donald Kramer (a late-filed pleading). All of the parties except two broadcasters and the U.S. Catholic Conference took positions in favor of relaxation or total repeal of the network rules; Mutual continued its earlier insistence that the same rules should apply to APR and UPIA and was joined in this plea by some of the state networks; APR and UPIA vigorously opposed regulation of their audio services.

7. *The changed circumstances of network radio since 1941.* One of the points mentioned in the Notice herein, as dictating an overall review of the network radio rules, was the tremendously changed circumstances of network radio now as compared to 1941 and before, the situation dealt with in the Chain Broadcasting Rules. As described in pars. 4–6 of the Notice and in the comments of ABC, NBC and some other parties, these changes include the following:

(a) A tremendous increase in the number of U.S. aural broadcast stations, from well under 1,000 AM stations in 1941 (the Chain Broadcasting Report dealt with 660) and some 25 FM stations, to over 8,000 today—roughly 4,475 commercial AM, 2,850 commercial FM, and some 850 educational FM. This increase also means more numerous outlets in major markets. At the time of the Chain Broadcasting Report, of 92 cities with more than 100,000 population fewer than 50 had 3 or more full-time radio outlets, and fewer than 30 had 4 or more; today, 98 of the top 100 markets (metro areas) have more than 10 radio and television stations, as do many smaller markets. The number of national services has also increased, from three companies and four networks in 1941 to those mentioned above.

(b) The greatly lessened economic importance of networks in radio today as compared to 1941 and as compared to television today, with 1975 national network radio revenues, $49.5 million, only slightly more in dollars than those of 1938, and only about 3 percent of total 1975 radio revenues compared to 46 percent in 1941 and about 41 percent in 1975 television. Another economic difference is the lack of profitability of present-day radio networking overall, with losses in 7 of the last 8 years, $2.6 million in 1975, compared to 1938 profit of about $4.3 million and 1975 TV profit of over $208 million. (ABC points out that its network operations are profitable, but refers to radio networks in the late 1960's just before it began its multi-network operation, as an endangered species).

(c) The change in the nature of the service—In 1941 and the years before, most national network program service was the same kind of programming as that now constituting the bulk of network television — entertainment programs of a half-hour or longer. Today, the bulk of radio network programming is news and informational material, much of it in periodic (e.g., hourly) segments of 5 minutes or less, although ABC, CBS, NBC and Mutual all have 15-minute or half-hour religious, public affairs and other programs. There are other programming activities, such as the CBS nightly 53-minute dramatic program (11:07 p.m.–midnight E.T.) started in early 1974, Mutual's Notre Dame and NFL football games and other live sports events (and similar events on NBC and other networks), Mutual's all-night Herb Jepko talk show begun in November 1975, and NBC's News and Information Service, which began in June 1975 and has featured 50 minutes of news and informational materials each hour around the clock. These program services are often sold separately from the regular network service and sometimes (NBC's NIS service usually) carried by stations other than the network's regular affiliate for other programs.

I SIX RULES RELATING TO NETWORK CONTROL OVER AFFILIATED STATIONS AND NETWORK OWNERSHIP OF STATIONS (§§ 73.131, 73.133, 73.134, 73.135, 73.136, 73.138)

8. ABC and NBC (who urge repeal of all substantive network regulations) and a few other parties urge that all six of these rules should be repealed. Other parties state that they have no objection to these rules, or some of them, and a few—Mutual, Intermountain, and New

[2] The term "conventional" network, where used herein, means a network which sells advertising time on the stations it serves and, at least in large markets, pays them compensation out of the advertising revenues it receives. In early November 1976, NBC announced that its NIS operation would terminate in mid-1977; a number of subscribing stations have ceased carrying it. However, there are reports of efforts to continue the service on a cooperative basis.

[3] CBS and some other parties urge that use of the term "network" by such entities, particularly the "rep networks", is misleading and should be prohibited. Such action by us would probably be beyond our authority, and, even if it were not, the term "network" has a long history independent of its broadcast usage, according to the Oxford English Dictionary going back in some senses to the 16th century. It would be inappropriate for us to say that it cannot be used in the sense that Blair et al. employ it.

York Network—urge that some of these provisions should be retained, as still needed for an appropriate structure of network regulation; Mutual's comments are much the most detailed of those in support.

9. Mutual, while suggesting the elimination of some of these rules, favors retention of those rules barring exclusive affiliations, limiting agreements to 2 years, and requiring the station to retain the right to reject programs. The first two are particularly emphasized. It is asserted that § 73.131, barring exclusive affiliations, is important to prevent artificial restraints and in reminding stations that they may carry material from other networks in addition to their main one. It is claimed that large amounts of Mutual programs so carried, such as Jack Anderson and sports contests, would be much harder to clear without such a rule, because of common station misapprehension that they are limited to their main network. Mutual urges even more strongly that the two-year limitation should be retained and applied to APR and UPIA. It is urged that with this limitation, additional network services have developed in radio, competing to the point that now, in practice, most affiliation contracts are cancellable on much shorter notice than two years. By contrast, it is claimed, the absence of such a limitation in the newswire field, where a high proportion of contracts with stations are for 5 years or more, has frustrated the development of competition with the two giants (a recent unsuccessful effort by National Black Network, and earlier efforts by others, are asserted.) [4]

10. While there may be some substance to these arguments, in our view the weightier arguments are those of ABC and NBC, urging repeal. They assert that, under present circumstances vastly different from those dealt with in the Chain Broadcasting Report 35 years ago, these regulations are unnecessary, simply because (under these vastly different circumstances and with sharply reduced "network dominance"), the abuses and practices dealt with are unlikely to develop to any substantial extent. This is indicated, for example, by the fact that even though substantial time optioning is permitted in radio networking under the rule, many network contracts do not provide for it; and that many, likely most, radio network contracts permit cancellation by either party at any time on 3 months or 6 months notice, considerably less than the 2-year period permitted under § 73.133. Moreover, even if undesirable situations develop in a few cases, these will be so small in light of the vastly increased number of stations, and the greater number of networks, that no significant harm to the overall public interest would be expected. In addition, the Commission has since enunciated some of the important policies involved; for example the importance of licensee responsibility, and freedom from restraints on exercise of licensee programming judgment, have by now been set forth in well-known Policy statements, e.g., "Report and Order re: Commission En Banc Program Inquiry," 20 R.R. 1901 (1960) and "Agreements between Broadcast Licensees and the Public," 57 FCC 2d 42, 35 R.R. 2d 42, 35 R.R. 2d 1177 (1975). These make unnecessary the maintenance of specific rules embodying the concepts.

11. There is the additional consideration with respect to some of the present rules, though probably not all of them, that their presence on the books may serve as a deterrent to the development of new and innovative radio network efforts and entities. For example, there may be cases where a new network would be aided in its struggle to get started by having a period of more than three years over which to spread its start-up costs; similarly, the limitation on time-optioning to three hours per segment of the day might conceivably be a deterrent to a contemplated use of Saturday afternoon time for a basketball doubleheader or some similar use, where an advance option of more than three hours would be helpful in working out the arrangements.[5]

12. However, while changed circumstances make the concepts, represented by these rules, of less overall immediacy than they were a generation ago, the principles are still of great importance in individual relationships between stations and networks. Therefore, we are adopting herein a Statement of Policy setting forth these principles. See Paragraphs 47–51 below. With this Statement, as well as the pronouncements mentioned above, in our view the concerns expressed by Mutual and some other parties with respect to rule repeal are without substantial foundation. We do not have reason to believe that agreements exclusive as against other networks, or for an over-long term and not subject to earlier cancellation, will materialize to a significant extent.

13. *Applicability to various entities.* In our judgment, these concepts must apply to all interconnected entities mentioned in par. 3, above. This includes APR and UPIA (though few of these rules apply to these services in their present form). We note in this connection these services' arguments in reply to Mutual, both now and earlier—the claim that they are not "networks" because they do not sell time and their material is not necessarily broadcast simultaneously, the absence of control over station time since the station may freely use all or none (or part) of the material, the total absence of exclusivity since stations are free to, and some do, use conventional networks as well (and with no exclusivity ever given to the station),[6] the exaggeration in Mutual's claims of monopolization when these services have only 1,100 station subscribers compared to 2,800 for the conventional networks, the failure of the Commission to reach any conclusion in Docket 15721 that long-term newswire contracts are bad, and APR's assertion that a two-year limit would sharply raise its administrative costs (for frequent renegotiation) and thus its level of fees to subscribers who then might not be able to afford it.

14. We conclude that these services are in exactly the same position as the conventional networks with respect to the concepts now under discussion, and therefore the same considerations apply.

15. *Network ownership of stations* (§ 73.136). In the Notice it was proposed to repeal this rule, the view of those parties commenting was that this should be done, and it is being repealed. The first part of this rule, providing that a network company may not own two stations serving the same area, has long since been embraced within the general multiple ownership rules applicable to all parties; therefore its retention here is neither necessary nor appropriate. The second part, barring network ownership of a station where facilities are so few or so unequal that competition would be restrained, is most unlikely ever to find application in view of the multitude of stations in any market where networks have or might want to have stations. Moreover, any network acquisition of a station would involve a specific application, and any questions can be raised and considered in that connection.

II. "Territorial Exclusivity" and Related Matters, § 73.132

16. § 73.132 forbids any contract, etc. with a network "which prevents or hinders another station serving substantially the same area from broadcasting the network's programs not taken by the former station, or which prevents or hinders another station serving a substantially different area from broadcasting any program of the network organization"; but stations are permitted to have first-call exclusivity in their primary service areas. This "territorial exclusivity" rule is in a sense the other side of the coin from the rules dealt with thus far, designed to prevent networks from making concessions on exclusivity

[4] Mutual argues that, if permitted to go unchecked as to length of term and number of stations served in the same market, the newswire audio services will soon monopolize the provision of network news programming. It is claimed that they have initial advantage with long newswire contracts—which the Commission called into question in the Docket 15721 proceeding, begun in 1964 but in which no decision has been reached—which they combine with "package" selling of newswire and audio services at a reduced rate, and then long-term audio service contracts, to reach an entrenched position contrary to the public interest.

[5] This is perhaps a more real problem than it would be otherwise because several of the rules read in terms not only of "prevent" but also "hinder" or "penalize". The meaning of the latter terms is not necessarily clear in advance.

[6] From an examination of lists of conventional national network affiliates (Standard Rate and Data Service) and lists of APR and UPIA subscribers, it appears that somewhere between 25 and 50 stations were subscribers to both kinds of organizations, as of early 1975, probably fewer than the stations affiliated with two national conventional networks.

to stations, to an extent contrary to the public interest—barring networks from giving stations exclusive rights as against other stations serving largely different areas, or as against any station with respect to a program which the first station does not carry.

17. The Notice herein (pars. 19–20) emphasized this subject, suggesting that there may be situations contrary to the public interest. Specifically mentioned were: (1) A station "sitting on" an affiliation, using little or none of the programming for an extended period, while deciding on its future format; (2) a national network refusing to make available to a station in the same city a program not carried by its regular affiliate; (3) assertions that CBS and NBC are not interested in affiliating with stations in Cheyenne, Wyoming, because that city is served by their affiliates in Denver, some 95 miles away (see FCC 76–51); (4) a national network telling a would-be affiliate that affiliation would be granted only if there was no objection from the network's affiliate in a much larger city some 75 miles away. Some possible approaches mentioned were: (1) a narrower definition of permissible exclusivity (now the "primary service area"), perhaps including a maximum mileage limitation such as 50 miles; (2) a rule or policy, similar to the policy adopted for television in 1970 (Docket 16041, 26 FCC 2d 772), emphasizing the duty of networks to make uncleared programs available to other stations and make programs reasonably available to stations at some distance from, but not completely out of reception range of, large-city affiliated stations; and (3) consideration of a rule prohibiting networks from continuing affiliations (beyond a brief period) where the station is not using substantial amounts of the network material, particularly where the station is also affiliated with another network; or conceivably, barring double affiliation by a station entirely if there are other stations in the market seeking a first affiliation.

18. Of the parties commenting on this subject, ABC stated that it has no objection to the present rule but questions whether it is needed. With most network programming being short newscasts, it is usually impractical to offer those not cleared by the affiliate, and normally they would not be wanted; in any event, there is much similar material available from various sources so there is no loss of a unique program product. It was also pointed out that some ABC programs are used by affiliates not as such but by excerpting and inclusion in local programs, and other features are offered on more than one network, so there is less truly uncleared material than might appear. For these reasons, a forced offering of uncleared programs is not worth the trouble. Exclusivity in relation to geographic area is said to present no problems, since generally radio markets and service areas are relatively small; in any event, with much similar material available, there is no significant loss to the public from an occasional instance of overwide exclusivity. It was asked that a more restrictive rule not be adopted; there is need for flexibility in dealing with radio networks to avoid impeding their development. Keystone Broadcasting System also stated that the rule is no longer needed, and the first call provision is a burden on the clearance process. Other parties tended to support the present rule or at least stated no objection to it, sometimes (like CBS) having no other comment. KGVO et al., a group of three Idaho and Montana AM or AM/FM stations, urged retention of the present rule, which has assertedly led to few disputes and minimal problems; the comments asserted the importance of preserving the distinct affiliation image, in which the station has invested promotional effort and money, and the undesirability of "divvying up" a network's programming, claimed to result in disruption of viewing habits and confusion. Intermountain regards the present rule as an appropriate balance, though supporting the proposed 50-mile maximum exclusivity distance.

19. Two commenting parties sought changes. Southwestern Broadcasters, Inc., licensee of a Phoenix area station which lost its Mutual affiliation in August 1975 to a much more powerful Phoenix station also affiliated with ABC, urged that dual affiliations be barred, or, in the alternative, supported the Notice proposal as to barring networks from continuing affiliations going largely unused, especially where it is a second affiliation. It was claimed that the Southwestern station had presented a great deal of Mutual programming and the new affiliate presented much less (and without the usual Mutual promotional material), thus depriving the public of much Mutual newscast service. A somewhat similar complaint by a new station in Helena, Montana, charging an existing station with unfairly keeping it from an Intermountain-ABC affiliation (holding this in addition to an NBC affiliation) was recently received. The U.S. Catholic Conference asked for a requirement that networks offer uncleared public service programs to other stations.

20. Mutual, supporting the present rule as working well, and leading to increased affiliations, opposed revisions along the lines mentioned. It was asserted that the proposed mileage limitation, such as 50 miles, was much too rigid in view of the many variables of radio coverage and market configuration; Mutual's own criterion, of adding an affiliate if 50 percent of its primary service area is presently unduplicated, was defended as reasonable. Calling attention to its own separate offerings of programs not taken by regular affiliates (football, basketball, etc.), Mutual claimed that any required offer of uncleared programs is superfluous; present-day competitive conditions will insure that such a process takes place. Opposing any restriction on a station's having two affiliations, Mutual emphasized the importance to it of such arrangements in New York City and other major cities, where the stations holding the two affiliations, and willing to devote only a limited amount of time to them, might have to give up one or the other, to the detriment of the network. Labelling complaints of "sitting on" affiliations as often lacking in substance, Mutual claimed that there are also countercomplaints of "cherry-picking"—unaffiliated stations taking network programs without having to pay the usual line charges or incur the other regular networking costs.

21. *Conclusions as to territorial exclusivity.* With respect to the present rule, we conclude that it should neither be repealed nor changed. Despite ABC's assertions, there is no reason to believe that the rule is not needed, particularly since this is an area in which the decline of relative network dominance is more likely to increase the need for a rule than to lessen it. We agree with the majority of the parties that the rule serves a very useful purpose. With respect to changes such as those proposed in the Notice, we are not persuaded, at least at this point, that they are warranted. Overall, the rule appears to work reasonably well, and, as Mutual says, probably it is impossible to draw a regulation which would avoid all complaint. There is merit in ABC's position that some flexibility is needed to encourage new developments. We must also bear in mind the chance that adverse consequences might result; for example, a requirement that an affiliation must be substantially used or lost might mean a distortion of a station's programming and infringement of the licensee's free exercise of discretion whose importance we have mentioned. With respect to a required offer of uncleared programs, it appears that this is done to a large extent, and it does not appear that any rule on the subject would be appropriate. Bearing in mind the differences in factual situations, we are of the view that much must be left to the judgment of the networks, to determine whether an offer in a given set of circumstances would be worth the effort. The further step, of barring completely two affiliations by a station as long as another station in the market is seeking its first, does not appear consistent with the American system of broadcasting. As long as there are variations in station value (coverage, etc.), there will always be a tendency toward the more desirable station; and we cannot say that one network should have access to it rather than another. With respect to the possibility of a maximum mileage limit for exclusivity, we agree with Mutual that there are too many variables involved to warrant adoption of such a standard, in the absence of greater need for it than is shown here. In connection with all of these matters, it is appropriate to bear in mind the fact that there is other material of a similar nature available, even though we certainly do not say that all news sources are to be regarded as equal or inter-changeable.

22. However, our conclusion that the rule should not be changed does not represent a view that the situation is entirely a satisfactory one. Rather, in our judgment the public interest requires more vigorous efforts in the future, on

the part of station licensees and networks, to see that network programming is available to the public to the maximum possible extent. The Statement of Policy below addresses our concerns on this subject.

23. *Applicability to various kinds of networks.* There appears no reason why this rule is not just as important in the case of regular state and regional networks as with national networks, and perhaps more so because there are fewer such networks to choose from (usually only one in each state). The rule of course does not apply to the APR and UPIA operations in their present form, since there is no exclusivity against any other station. There remains the question of whether the rule should apply to the "occasional" networks and the regional sports networks.

24. We conclude that the rule should apply to these kinds of entities. While opposing arguments can be made, and were made by KGVO et al., National Hockey League and some others herein, we are not persuaded that the public interest does not require regulation of this type with respect to these entities just as with the regular, daily networks. To use the Indianapolis 500 as an example, it appears at least as important, from the standpoint of other stations and the public, that this program have reasonably wide availability, as a certain news network be widely available. Certainly, the former is more nearly unique. Accordingly, the rule will continue to be applied to all types of networks.

III. Restrictions on Use of a Network Company's Material by More Than One Station in a Market

25. Two aspects of Commission network radio regulation—the "dual network" or "simultaneity" rule (§ 73.137) and the "small market policy" first adopted in 1969 (17 FCC 2d 508, 514) when ABC went to an operation with three AM and one FM networks—have as their chief purpose the prevention of undue concentration of network programming from a single source.

26. Promotion of diversity has been a key policy of the Commission in carrying out its broadcast licensing responsibilities. It is unnecessary to recite the specifics of the many ways in which rules and other decisions have sought to restrict concentrated control over broadcasting at the local level (duopoly rules) and national level (multiple ownership rules) and, in addition, to promote increased competition (prime time access rule) and diversity (AM–FM non-duplication rule). Thus, the Commission has addressed the issue of diversity throughout its ownership rules and policies as well as in those limited areas of Commission regulation which touch on programming matters.

27. *Dual Network Rule.* Adoption of the dual network rule in 1941 was the result of Commission concern over the operation of two separate networks by the same national organization. NBC's Red and Blue networks had the capability—due to the amount of programming and related commercial practices—to monopolize non-local program services in many communities (see Chain Broadcasting Report, pp. 70–73). Since NBC's networks operated full-time, this rule meant that both could not serve stations in the same market. However, with the change in the significance and form of network programming in later years, the rule has lost much of its importance. This is true because: (1) With most network programming now short broadcasts such as 5-minute newscasts, it is perfectly possible under the rule for a network company to operate four, or conceivably even more, separate networks, each taking up to 15 minutes of each hour; and (2) given the economics of interconnection, the various networks' material would generally be fed by the network non-simultaneously anyhow, in order to avoid using more than one intercity line.[7] Rather, the rule currently appears to serve as little more than an arbitrary restraint on the freedom of stations to schedule material from the network organization at whatever time they wish (ABC's affiliates are generally required to present it live, to avoid simultaneity with another ABC network).

28. While Mutual, KGVO et al., and to some extent CBS, supported the rule along with the related small market policy, more parties supported the Notice's proposal to repeal it. We conclude that it should be repealed, as a regulation which, under present conditions, acts as a restriction on licensee freedom without really serving as a check on the potential for undue concentration which is its main purpose.

29. *The small market policy.* This policy, adopted as to ABC AM affiliates in 1969 and later extended to Mutual and Texas State Network operations (it has never applied to FM affiliations) limits the network company to only one AM affiliate in a market with four or fewer AM stations, and to two in a five-station market. The policy was adopted on the finding that it would not be in the public interest "to have all, or nearly all, of the stations in a market affiliated with commonly owned networks." "Mutual Broadcasting System, Inc.," supra. Of particular importance in deciding to adopt this limitation was that all of the "news and commentary programs for all ABC networks originate from one company."

30. In the seven years that the small market policy has been in force we have considered and granted a number of waivers upon a strong factual showing. Most often, these cases turned on one of two facts—a showing either that the community of license received other broadcast stations carrying national networks or that it was highly unlikely that the station requesting the waiver could obtain a different network affiliation. In some recent cases, waiver has been granted on the basis that with the additional affiliation, no more than 50 percent of the AM and FM stations in the market would be associated with ABC. The Notice herein (pars. 21–26) suggested that as a standard. If this type of regulation is to continue, certainly, FM should be included.

31. Viewed in light of the concentration-control objective, this policy makes considerably more sense than does the dual-network rule. Mutual and KGVO vigorously support it herein, asserting that otherwise monopoly will likely result or that the "multi-network" operations and their affiliates will have an undue advantage.[8] Certainly, the idea of all of the radio stations in a community being affiliated with different ABC networks, or all presenting the hourly newscasts of APR (or of UPIA) is not a pleasant one.

32. The small market policy, unfortunately, leads us into an area perilously close to the limits—in terms of both statutory and Constitutional restraints—of our authority to regulate. The heart of the issue is the promotion of diversity in non-local news programming for radio stations. Although the rationale for the policy still has a strong appeal, we must admit that we are unable to conclude here that our policy has or has not served the public interest over the past seven years. We have, it is true, managed to restrict the number of ABC, MBS and, more recently, Texas State Network affiliations in certain small communities; at the same time, however, we have also restricted the ability of individual licensees to choose from among all available non-local program sources, the service, if any, which appears—in the judgment of the licensee—best able to serve the interests and needs of that market. We also must note that in many cases, the restriction on ABC affiliations has not led to an affiliation with another network, at least among the conventional networks. To the extent this is true, the support for the policy must rest on the assumption that no network service at all is to be preferred to a "duopolized" network service—an assumption not necessarily easy to make.[9]

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[7] The largest single expense of network radio operations, aside from program production and administration, is interconnection cost. Under common carrier tariff structures, it is usually necessary to lease circuits on at least an hourly, and usually a monthly, basis. Therefore maximizing the use of one line (without exceeding its capacity) reduces the cost of transmission per minute of programming.

[8] Mutual in this proceeding is chiefly concerned about AP Radio and UPI Audio, foreseeing them as having numerous subscribing stations in each market if not checked. They reply that this is nonsense, comparing 1,100 subscribing stations of APR and UPIA combined to some 2,800 affiliates of conventional national networks. Our analysis showed that, as of early 1975, there were fewer than 10 situations in the U.S. where APR and UPIA subscribing stations would exceed a "50%" standard if it applied to them.

[9] One of the substantial problems in evaluating and administering the policy is how to know when this situation does or does not exist. Will another network be available, at a price the station can reasonably afford? A pending waiver request by a new AM station at Carrollton, Ga. illustrates this. Carrollton is some 40 miles from Atlanta and outside the SMSA. The licensee claims that it cannot expect to get affiliation with a network other than ABC because of proximity to Atlanta, and, with Mutual having an affiliate in a community 20 miles from Carrollton, this may well be true.

33. There are two recent industry developments which cause us at once more concern, but at the same time, some hope for more diversity without governmental involvement. The audio news services operated by the two major wire services, AP and UPI, present a relatively new innovation in network radio since these services neither demand nor receive exclusivity from their subscribers. Because of this, and unlike any one of the four ABC networks, there is no limit to the number of stations in a market which could choose to subscribe to either or both of the services—a course which many stations already follow with respect to their wire service contracts. We are very hesitant to adopt restrictions on these services which, among other things, increase licensees' discretion by relieving stations of any obligation to carry network commercial announcements. The second recent trend—the growth of state networks—also alters somewhat the traditional network radio market. While we do not want to see the handling of state news gravitate to 50 monopolistic state network organizations, we are not sure that our placing a limitation on affiliations with these networks would result in an increase in competing state network services, of which there are now very, very few. With limited sources of such news in most states, we believe that it is unfair for us to deprive stations of access to this material.[10] In addition, to the extent that these state networks provide outlets for non-local news and advertising, they add some competition to the market previously occupied solely by the networks and national and state advertising services. There is no indication that our small market policy has either aided or retarded the development of the audio news services, the state networks or the NBC News and Information Service.

34. What then, does the Commission do? We adopted a policy in 1969 in the name of diversity and competition, but we now believe that the policy has had little positive impact and may in the future hinder competition and restrict diversity. The answer, we conclude, is to remove this restriction (which has always existed on an interim basis) and restate our belief in the importance of diversity and local service in radio broadcasting today. We now abandon the small market policy and leave the matters which it governed to the independent decison making of individual licensees.

35. In looking at this matter, it is to be noted that the number of U.S. markets where these situations are likely to occur is comparatively small, and small in population compared to the major cities and surrounding areas. No question of local monopoly is involved, since the question is non-local service. Moreover, all of these populations, or virtually all, have multiple television signals, and television, much more than radio (and more than newspapers) is the leading opinion-forming medium today. Under these circumstances, the risk of undue concentration on a large scale is not too great. Therefore, given the choice between elimination of the present government restriction on small market affiliations, and any continued or increased effort to insure less dominance in those markets through such restrictions, we choose the first course. In essence, we lift the responsibility of providing small market diversity in non-local news and information from our policy books and place it squarely on the shoulders of the small market licensees, acting individually. Broadcasting is a free enterprise system, and we intend to leave decisions of this sort to that system.

[10] This was one of the chief arguments of Texas State Network in seeking removal of the small market policy which had been applied to it when it began its Continental News Service as a second network in mid-1975. We recognized the problem and considerably relaxed the policy. See footnote 1, above.

IV. The Filing of Network Agreements, Educational Stations, and Other Matters

36. *Requirement of filing contracts.* Section 1.613(a) of the Rules requires that stations file "all network affiliation contracts, agreements or understandings between a station and a national, regional or other network * * *". Of the parties commenting on the point, the majority favored retention of this rule, at least in general. ABC viewed it as important if its suggestion of repealing all of the substantive rules is adopted, so that the Commission may be in a position to observe the results of the liberalization. Some other networks suggested that the requirements help to "keep the stations honest." A few parties urged that the requirement be dropped at least as to them; the Commissioner of Baseball and the National Hockey League urged that regional sports network contracts not be required as a filing because they are just not that important in the broadcast picture and sometimes represent business information of a confidential nature. KGVO et al. and one or two other parties objected generally, on the basis that the material is of a private contractual nature or represents unnecessary paper. CBS, apparently supporting the general requirement, urged that it not apply to require the filing of agreements covering only one program or a small group of programs.

37. There is something to be said for eliminating the filing of network contracts insofar as it is possible, in order to cut down paper work. However, with respect to regular interconnected networks—national, state or regional entities furnishing essentially daily service to stations, usually devoted mostly to news and informational material which may be highly significant in the formation of opinion—we believe that the requirement of the rule must be retained. These entities are of too great importance for us to dispense with having this information readily available, to the Commission and to interested members of the public. It is important, in looking at possible undue concentration of control, to be able to know what stations in a particular area are affiliated with a particular network company, information which is available in trade press sources for national networks but not for other sources such as APR and UPIA. Information on compensation or charges is also important so that the Commission can, periodically, review the general plans of network compensation in order to detect any anti-competitive pricing arrangements which might appear.[11] Moreover, for the near future, there is considerable need to examine radio contracts to see whether the liberalization of rules adopted herein is resulting in developments perhaps contrary to the public interest. However, these considerations do not apply with much force to contracts with other kinds of network entities, such as the "occasional" networks (Indianapolis 500, etc.). Therefore, the filing requirement applies only to entities providing service at least five days a week, at least 8 months of the year.

38. However, while the filing of agreements between stations and "occasional" networks, seasonal sports networks, etc. is not required, it is emphasized that these entities are still networks, if they meet the definition contained in §§ 73.132 and 73.232 and discussed below. Arrangements between such networks and stations are expected to conform to the rules and policies set forth herein and in the Statement of Policy adopted today. If questions arise, stations will be expected to make the agreements with such entities available promptly, and the network companies will be expected to furnish information as to the number and identity of stations taking their service. If cooperation is not forthcoming, it will likely be necessary to extend the scope of § 1.613(a).

39. The Commission and its staff have begun to explore possible ways of getting the needed information in a form more satisfactory than the filings of hundreds of documents which are identical except for a few words, for example from the networks themselves. If this proves possible, and after the initial period when review is desirable for the reason last mentioned above, we hope to be able to modify this filing requirement.

40. Up to now, there has been considerable uncertainty as to what is a "network," and therefore what agreements are required to be filed. The new filing rule and definition cover some classes of agreements which, often, have not been filed up to now, particularly those with APR and UPIA. Accordingly, it is appropriate to allow a grace period, until September 1, 1977, before complete compliance with the new rule is expected.

41. *Filing of notices of termination.* Section 1.613 of the rules, which imposes the filing requirement on broadcast licensees with respect to network contracts and other kinds of documents, contains in its introductory portion the

[11] Ready availability at the station would meet some of these regulatory objectives, but not as easily and in some cases not without extreme difficulty.

word "cancellations", indicating that notices of cancellation or termination are to be filed, as well as contracts and amendments. However, with respect to network agreements, it appears that often stations do not do this, resulting in an erroneous appearance that they are still affiliated with the network involved (thus sometimes they wrongly appear to be affiliated with two networks). The timely filing of termination notices is important. Accordingly, new § 1.613(a) contains specific language concerning the filing of notices of termination, and adherence thereto is expected.

42. *Educational networks and stations.* The Commission's network rules have not hitherto been tailored to educational or public stations, and paragraph 29 of the Notice herein invited comments on what provisions in this area the rules should contain. In response, Mutual stated that they should be governed by exactly the same rules, Texas State Network called attention to use of its material by a number of Texas educational FM stations, and National Public Radio (NPR), the public radio network, filed informative comments as to its operations. It suggested that the regular network rules, geared to commercial stations, are not well designed to deal with educational or public stations, and, in particular, that no restrictions should be imposed on "multiple use" of NPR material by several stations in the same market.

43. With the much more liberal regulatory approach adopted herein, it appears that the same rules and policies should apply to these entities as to commercial networks and stations, with respect to the substantive rule and policies. The rule and policies will so apply. However, as far as the filing rule is concerned, it appears unnecessary to require noncommercial educational stations to file network agreements. They have generally not done so in the past, their agreements do not present the same economic and competitive concerns as do those of commercial stations, and no problems or demand have come to our attention which would warrant an extension of the requirement.

44. *Definition of "network".* The term "network" has never been precisely defined in our rules, and the formulation of an appropriate definition (or more than one) was one of the subjects of the Notice herein (pars. 10–12). A number of parties commenting herein proposed definitions. Most of the proposals included the concept of interconnection; one or two included also the concept that the programs should be primarily designed for simultaneous broadcast by the stations. A number of definitions also would limit the definition to entities providing a program service, not solely or primarily commercial messages. Keystone Broadcasting System, which apparently wishes to be considered a network, advanced a definition based on the commercial nature of the operation—sale of advertising time—rather than interconnection, which would exclude APR and UPIA but include Keystone. Some parties proposed definitions for various categories of networks, such as "national", "regional" and "occasional" or "special"; others opposed this as a basic concept, urging that all networks should be treated alike or that, while there might well be different levels of regulation, there should be a broad basic definition covering all types of entities.

45. With the much more liberal approach adopted herein as to radio network regulation, e.g., the removal of all restrictions on "multiple use" of material from one network company by stations in the same market, the formulation of an exact definition becomes a much less crucial matter than it would be otherwise, and the definition can be rather broad without unduly restricting anyone. The definition we adopt is set forth in new §§ 73.132 and 73.232, and includes any organization furnishing program material, with or without commercials, to stations which are interconnected so that the material may be presented simultaneously (arrangements involving commonly owned stations, and simple rebroadcast agreements between two stations, are excluded).

46. This definition includes AP Radio and UPI Audio insofar as these services provide program material suitable for presentation on the air in exactly the form received at the station. We note these parties' vigorous arguments that they are not networks, in that their material, while fed simultaneously to stations, is not necessarily broadcast simultaneously and in fact is used differently by various stations, and also because they involve no control over stations and simply do not present the same practices and abuses considered in 1941. KGVO et al. made a similar argument. However, the point is not a critical one: clearly it is within the Commission's authority to require stations to file contracts they have with outside program sources—network or other—which provide substantial amounts of material, just as it would be to limit, by rule, the length of contracts with such sources. § 1.613(a) in fact does include other sources now, in addition to networks.

STATEMENT OF POLICY ON NETWORK RADIO

47. The following discussion outlines the Commission's policy toward radio networks and the licensees they serve. It is a supplement to the one substantive rule (§§ 73.132 and 73.232) amended and retained in this proceeding; it is also intended to set forth the concepts which were previously reflected in the rules and the "small market policy" which are being repealed. As mentioned above (par. 12), the rules involved are no longer necessary because the circumstances of the area involved have vastly changed; but the concepts involved are still of great importance. If industry patterns develop in a manner inconsistent with these concepts, re-examination of the subject, to see if there is need to reimpose rules, would be in order.

48. At the heart of this statement is the principle that licensees have an affirmative, non-delegable duty to choose independently all programming for broadcast, in light of the tastes and ascertained needs and problems of the community. This longstanding bulwark of Commission policy is of fundamental importance. The public interest is ill-served when networks and stations enter into excessively long affiliation contracts which hinder the licensee's ability to select programming. Also, regardless of the length of such agreements, affiliates should always remain free not to broadcast network programming—either commercial or non-commercial (although a network of course need not compensate a station for programming which it does not carry). Networks also should not infringe on the licensee's ability to choose programming from other sources such as other networks. Similarly, networks should not place unreasonable restraints on licensee independence through excessive use of options on station time in advance of scheduling particular programming to fill the time, or through attempted influence over station rates for non-network time. Networks should not seek, nor stations allow, restrictions on station independence which contravene these concepts.

49. Network programming is of considerable importance to stations and their communities, and another important principle is that it should be widely available, without undue restrictions on its availability which stations may seek vis-a-vis other stations, and networks might be inclined to grant. The AM and FM "territorial exclusivity" rules on this subject are retained. In addition, networks are urged to take measures in the following respects which would further the Commission's policies:

(a) Treating their programming as separate units to the extent possible, and offering uncleared units to other stations in a market.

(b) Efforts to get presentation of program material by other stations where the regular affiliate has run the commercial but not the program ("wild-spotting").

(c) Re-examination of policies concerning affiliation with stations at a considerable distance from existing affiliates. In situations where an existing affiliate may, under the rule, claim exclusivity so as to bar an additional affiliation by the network with a station in a community fairly distant, existing affiliates are requested, before advancing the claim, to examine their situations to determine whether the additional affiliation would really cause them significant audience loss.

(d) Review of situations where affiliates use little or no network programming but retain the affiliation, hindering other stations in the market who might wish to use the uncleared material.

50. At the same time, networks also have an obligation to refrain from anti-competitive conduct—pricing policies, exclusive arrangements, etc.—which tend to increase the concentration of control over non-local programming, particularly in small markets, and un-

duly hinder other networks' efforts to compete in such markets.

51. *Diversity of programming.* Although the Commission has repealed its "small market policy", the basic concern which led to that policy's adoption remains. There is a strong public interest consideration in preserving diversity of non-local programming services and sources in small markets. While there are admitted economic incentives for joining multiple network operations, this must be only one consideration, albeit important, in the licensee's choice of non-local service. Journalistic and programming judgment will generally favor diversity through seeking to present news and information from a source not already available in the market, and licensees should not inevitably subordinate this judgment to cost considerations.

ORDER

52. In view of the foregoing: *it is ordered*, That: (a) Effective April 25, 1977, Parts 1 and 73 of the Commission's rules are amended, as set forth below.[12]

(b) Complete compliance with the provisions of § 1.613(a) as amended herein, both as to agreements involving the conventional national network companies and those with other entities included within that rule, will be expected of all stations subject to the rule, by September 1, 1977.

(c) This proceeding, Docket No. 20721, is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

1. § 1.613(a) is amended to read as follows:

§ 1.613 Filing of contracts.

* * * * *

(a) Contracts relating to network service: There shall be reduced to writing and filed network affiliation contracts between stations and networks, as follows: (1) All network affiliation contracts, agreements or understandings between a television station and a national, regional or other network; and (2) all network affiliation contracts, agreements or understandings between a commercial AM or FM broadcast station and a network as defined in §§ 73.132 and 73.232, where the network normally furnishes programming to affiliated stations at least 5 days each week during eight months or more of the year. Each such filing on or after May 1, 1969 initially shall consist of a written instrument containing all of the terms and conditions of such contract, agreement or understanding without reference to any other paper or document by incorporation or otherwise. Subsequent filings may simply set forth renewal, amendment, or change, as the case may be, of a particular contract previously filed in accordance herewith. The Commission shall also be notified of the cancellation or termination of network affiliations, contracts for which are required to be filed by this section. Transcription agreements or contracts for the supplying of film for television stations which specify option time must be filed. This section does not require the filing of transcription agreements or contracts for the supplying of film for television stations which do not specify option time, nor contracts granting the right to broadcast music such as ASCAP, BMI, or SESAC agreements.

* * * * *

§ 73.131 [Deleted]

2. Section 73.131 is deleted.

3. Section 73.132 is amended to read as follows:

§ 73.132 Territorial exclusivity.

No licensee of an AM broadcast station shall have any arrangement with a network organization which prevents or hinders another station serving substantially the same area from broadcasting the network's programs not taken by the former station, or which prevents or hinders another station serving a substantially different area from broadcasting any program of the network organization: *Provided, however,* That this section does not prohibit arrangements under which the station is granted first call within its primary service area upon the network's programs. The term "network organization" means any organization originating program material, with or without commercial messages, and furnishing the same to stations interconnected so as to permit simultaneous broadcast by all or some of them. However, arrangements involving only stations under common ownership, or only the rebroadcast by one station or programming from another with no compensation other than a lump-sum payment by the station rebroadcasting, are not considered arrangements with a network organization. The term "arrangement" means any contract, arrangement or understanding, expressed or implied.

§§ 73.133–73.138 [Deleted]

4. Sections 73.133 through 73.138 are deleted.

§ 73.231 [Deleted]

5. Section 73.231 is deleted.

6. Section 73.232 is amended to read as follows:

§ 7.232 Territorial exclusivity.

No licensee of an FM broadcast station shall have any arrangement with a network organization which prevents or hinders another station serving substantially the same area from broadcasting the network's programs not taken by the former station, or which prevents or hinders another station serving a substantially different area from broadcasting any program of the network organization. *Provided, however,* That this section does not prohibit arrangements under which the station is granted first call within its primary service area upon the network's programs. The term "network organization" means any organization originating program material, with or without commercial messages, and furnishing the same to stations interconnected so as to permit simultaneous broadcast by all or some of them. However, arrangements involving only stations under common ownership, or only the rebroadcast by one station or programming from another with no compensation other than a lump-sum payment by the station rebroadcasting, are not considered arrangements with a network organization. The term "arrangement" means any contract, arrangement or understanding, express or implied.

§§ 73.233–73.238 [Deleted]

7. Sections 73.233 through 73.238 are deleted.

APPENDIX

PARTIES COMMENTING AND THEIR POSITIONS

National conventional interconnected network Companies

American Broadcasting Companies, Inc.: favors repeal of all substantive network rules but keeping filing rule.

CBS Inc.; favors some de-regulation but would keep some substantive rules, and the filing rule except for per-program agreements.

Mutual Broadcasting System, Inc.; favors some de-regulation but would keep the exclusive affiliation, term of affiliation and right-to-reject rules and, particularly, the restrictions on multiple use of material from the same company; highly important that these rules should apply to AP radio and UPI Audio; urges even tighter restrictions on multiple use.

National Broadcasting Company, Inc.; favors repeal of all network rules.

Newswire services in connection with their audio services

Associated Press and United Press International vigorously oppose regulation of them as networks, particularly restrictions on multiple use and also term of affiliation; claim it is doubtful if rules are now needed for any networks.

Regional and State networks

Intermountain Network, Inc.: favors some de-regulation but keeping several rules and applying to APR and UPIA.

Texas State Network; favors considerable de-regulation though no objection to some rules if also applied to APR and UPIA; strongly against dual-network or small market policy restrictions on licensee discretion.

Arkansas Network; favors less regulation, particularly of state and regional networks; same rules should apply to APR and UPIA; against filing rule.

Missouri Network; favors several rules (including right of rejection if tightened to protect network); against dual-network rule and small market policy; same rules should apply to APR and UPIA.

New York Network, Inc.; favors retaining most rules and applying to APR and UPIA.

Oklahoma News Network: favors less regulation for state and regional networks than national and certainly no more than APR and UPIA; opposed to small market policy and dual-network rule for regional networks.

[12] Authority for the rule changes adopted herein is contained in sections 4(i) and 303 (f), (g), (i) and (r) of the Communications Act of 1934, as amended.

Virginia Network; against regulation of state or regional networks at all; Commission should do something about high interconnection costs and let commercial networks use educational FM station SCA's.

Other broadcasters

KGVO, Missoula, Montana et al. (Dale G. Moore); generally favors de-regulation, repeal of most network substantive rules and the filing rule; but favors territorial exclusivity, small market policy and dual-network rule as helping to protect the value and image of the affiliation.

Beasley Broadcast Group; opposes small market policy which bars it from an AM affiliation in Jacksonville, N.C.

Lake Shore Broadcasting Co., Inc. (WDOE, Dunkirk, N.Y.); apply small market policy to stations (outside SMSA) in nearby communities, which would bar an ABC affiliation in Fredonia, N.Y.

Southwestern Broadcasters, Inc. (KRDS, Tolleson, Arizona); seeks rule barring stations from having two affiliations when a station in the same market is still seeking its first, or at least barring a network from continuing a little-used affiliation beyond a brief period (especially when it is the station's second affiliation).

Other parties

John Blair & Company; opposes CBS et al. who claim the "rep networks" should not use the term; denies any Commission jurisdiction.

Commissioner of Baseball; asks that regional sports networks, such as baseball, be exempt from filing requirements.

Keystone Broadcasting System, Inc.; various suggestions for deregulation; although not interconnected should be considered a network; urges rule against network ownership of satellites.

Mr. Ronald Kramer; regrets decline of national component (networks) in radio; favors deregulation particularly of duopoly restrictions, NAB Code reduction in permissible commercial time, statement of Commission position on the relative importance of local and national elements in broadcasting, check into affiliate "wild spotting", and tighter Commission controls over network accounting and financial reporting practices.

National Hockey League; favors exemption for sports networks, both from filing rule and also other rules such as term of affiliation.

National Public Radio (NPR); urges different rules for public radio networks particularly as to multiple use by stations in the same market; favors strict territorial exclusivity rule.

United States Catholic Conference; wants rule requiring networks to offer uncleared programs to other stations, particularly public service programs.

Mutual Affiliates Advisory Council; brief blanket endorsement of Mutual comments.

[FR Doc.77-9161 Filed 3-25-77;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.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Part 1980]

[FmHA Instruction 449.1 and 1980–B]

GUARANTEED LOAN PROGRAM

Farmer Program Loans

AGENCY: Farmers Home Administration.

ACTION: Proposed Rule.

SUMMARY: USDA–FmHA proposes, as part of a general restructuring of guaranteed loan regulations, and to allow for greater secondary market participation, this addition to redesignate, clarify, consolidate and revise the regulations concerning Farmer Program guaranteed loans.

DATES: Comments must be received on or before April 27, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, South Building, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Denton E. Sprague, telephone number 202–447–4597.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration has under consideration the establishment under Chapter XVIII, Title 7, Code of Federal Regulations, Subchapter N, "Other Loan Programs," a new Subpart B, Subpart B, "Warmer Program Loans," (§§ 1980.101–1980.200) of this Part 1980 will redesignate, consolidate and revise the regulations concerning Farmer Program Loans. Most of Subpart B was taken from various units and sections of Subchapter D, Guaranteed Loans: Part 1841, "General Provisions," published at 38 FR 29039 as amended at 39 FR 27684; 39 FR 27685; and Part 1843 "Farmer Loans," published at 38 FR 29051 as amended at 38 FR 30102; 39 FR 15868; 39 FR 15869; 40 FR 27931; and 40 FR 42179; and replaces the loan making provisions of Part 1841 "General Provisions," and Part 1843 "Farmer Loans," but does not replace the loan servicing or liquidation provisions of these parts for Contracts of Guarantee issued under those parts. Loans guaranteed by a Contract of Guarantee under the provisions of Parts 1841 and 1843 may either be serviced until paid in full or liquidated under those provisions. If the lender elects, he may liquidate the security for those loans under Subpart B of Part 1980. The lender may also consider converting the Contract of Guarantee to a Loan Note Guarantee under the newly published Subpart B by subsituting a Loan Note Guarantee for the older Contract of Guarantee.

The major revisions of Subpart B of Part 1980 are described in four categories as follows:

A. General Provisions (§§ 1980.101–1980.169):

1. All definitions not contained in Subpart A of Part 1980–A are contained in § 1980–107. Note new definition of a family farm which removes the requirement that the operator and his family provide a major portion of the labor.

2. Eliminates authority to transfer existing Loan Note Guarantees to ineligible applicants.

3. Establishes a one-time 1 percent guarantee fee.

4. Provides for the Finance Office to calculate loan subsidy payments.

5. Provides for the use of Form FmHA 449–23, "Guaranteed Loan Evaluation (Farm Programs)."

6. Provides for extending the termination dates for physical losses from 60 days to 180 days and production losses from 9 months to 12 months.

B. Emergency Loans (§ 1980.170):

1. Provides for the cost of land preparation and other expenses incurred for crops not planted, (including a pro rata share of fixed costs such as rent, taxes and insurance) as a physical loss in instances where the applicant was unable to plant crops due to the disaster.

2. Provides for the refinancing of a modest amount of debt for annual operating purposes where the debt must be paid in order for the applicant to continue farming.

3. Provides for rescheduling payments for advances of annual operating expenses for up to 5 years in unusual cases where circumstances warrant longer than one year.

4. Increases the allowable loan for depreciation from 15 to 20 percent of appraisal market value or amount owed.

5. Allows deferment of interest as well as principal.

6. Inserts "managerial competence:" an as eligibility requirement.

7. Provides for the market value at the time of the disaster as the actual loss, for supplies on hand, harvested or stored crops and livestock products lost or destroyed by or as a result of the disaster.

8. Provides for the inclusion of crops as a physical loss and provides for paying the cost of cleaning debris, preparing the land for replanting, seed, fertilizer and other expenses necessary to reestablish the crop whether or not such costs exceed the market value of the crops at the time of the disaster.

9. Provides for deducting the amount of any crop, livestock or livestock product physical loss loan from any production loss loan based on losses to the same enterprise(s) for which an applicant later qualifies.

10. Provides for scheduling the repayment period of actual losses to crops and other chattel property resulting from any disaster occurring after January 1, 1975, for a period not exceeding 20 years if the FmHA approval official determines that the needs of the applicant justify a longer repayment period than that scheduled for repayment within 7 years initially with a possible 5 year renewal.

11. Provides for exceeding the annual operating loan limit of $50,000 or one-half the estimated gross farm income when an EM borrower who is indebted for an annual production loan during the current crop year must receive a subsequent EM production loan to complete the year's farming operation and protect the Government's financial interest which is secured only by the crop.

12. Provides for the FmHA loan approval official to make an exception to the security requirements if adequate security is not available because of the disaster; security has depreciated in value because of the disaster; and the security property and the applicant's repayment ability as assessed by the FmHA loan approval official are adequate security for the loan.

C. Operating Loans (§ 1980.175):

1. Inserts "managerial competence" as an eligibility requirement.

2. Provides for rural youth loans to persons between 10 and 21 years of age and requires a cosigner on loans for over $2,500.

3. Clarifies loan purpose language.

4. Eliminates reference to prohibited loan purposes.

5. Increases allowable amount of loan for depreciation from 15 to 20 pecent of appraised market value or amount owed.

6. Clarifies the action on loans to partnerships and individuals involved in joint farming operations.

7. Increases amount of loan for real estate improvements from $2,500 to $3,500.

8. Allows deferment of interest as well as principal.

9. Permits loans for annual production expenses to be scheduled for repayment beyond 1 year if justified.

10. Changes limitation that the total outstanding principal balance may not exceed $50,000 at loan closing, rather than loan approval.

D. Individual Farm Ownership (FO), Soil and Water (SW), and Recreation (RL) Loans (§ 1980.180):

1. Eliminates reference to prohibited loan purposes.

2. Increases the amount that may be loaned for improvements on land with defective title from $2,500 to $5,000.

3. In the case of a life estate, provides for loans to remainderman and life estate holder or to the remainderman only if the remainderman is eligible.

4. Provides for loans for pollution control.

For SW and RL: 5. Increases the amount that may be loaned when other than real estate is taken as security from $25,000 to $60,000.

For FO loans only: 6. Adds "managerial competence" as an eligibility requirement.

7. Provides loans for houses physically separate from the farm.

8. Provides for loans where the applicant already owns a mobile home.

9. Deletes the provision for loans of less than $2,500 that will be paid in less than 10 years to be secured by nonreal estate items. All guaranteed FO loans must be secured by real estate, except in Texas where nonreal estate items may be used as security because of unusual homestead laws.

For SW loans only: 10. Clarifies language dealing with eligibility of corporations and partnerships.

11. Broadens refinancing purposes to include any debt incurred for authorized SW purposes.

12. Increases maximum number of members for group participation loans from 10 to 20 members.

For RL loans only: 13. Removes the restriction that a borrower indebted for an FO loan must convert his entire farm to recreation to be eligible.

As proposed Subpart B of Part 1980 reads as follows:

PART 1980—GUARANTEED LOAN PROGRAM

Subpart B—Farmer Program Loans

Sec.

1980.101 Introduction.
1980.102–1980.105 [Reserved]
1980.106 Definitions.
1980.107 Full Faith and Credit.
1980.108 General provisions.
1980.109 Promissory notes, security instruments, and financing statements.
1980.110 Loan subsidy rates, claims and payments.
1980.111–1980.112 [Reserved]
1980.113 Receiving and processing applications.
1980.114 FmHA evaluation of applications.
1980.115 County Committee review.
1980.116 Review of requirements.
1980.117 Conditions precedent to issuance of the Loan Note Guarantee.
1980.118 Issuance of Lender's Agreement, Loan Note Guarantee and Assignment Guarantee Agreement.
1980.119 Substitution of Loan Note Guarantee for Contract of Guarantee issued under previous regulations.
1980.120–1980.122 [Reserved]
1980.123 Transfer and assumption of farmer program loans.
1980.124 Renewal and Reamortization.
1980.125–1980.128 [Reserved]
1980.129 Planning and performing development.
1980.130 Loan servicing.
1980.131–1980.135 [Reserved]
1980.136 Protective advances.
1980.137–1980.138 [Reserved]
1980.139 Termination of Loan Note Guarantee.
1980.140–1980.144 [Reserved]
1980.145 Defaults by borrower.
1980.146 Liquidation.
1980.147 Graduation.
1980.148–1980.152 [Reserved]
1980.153 FmHA forms.
1980.154 Memoranda of Understanding.
1980.155–1980.169 [Reserved]
1980.170 Emergency Loans.
1980.171–1980.174 [Reserved]
1980.175 Operating Loans.
1980.176–1980.179 [Reserved]
1980.180 Individual Farm Ownership (FO), Soil and Water (SW), and Recreation (RL) Loans.
1980.181–1980.200 [Reserved]
Exhibit A—Request for Loan Note Guarantee (Farmer Program Loans).

AUTHORITY: 7 U.S.C. 1989, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

§ 1980.101 Introduction.

(a) *Policy.* This Subpart supplemented by Subpart A of this part, contains regulations for making the following Farmer Program loans: Operating (OL), Farm Ownership (FO), Soil and Water (Individual) (SW), Recreation (Individual) (RL) and Emergency (EM) loans guaranteed by the Farmers Home Administration (FmHA), and applies to lenders, holders, borrowers, FmHA personnel, and other parties involved in making, guaranteeing, holding, servicing, or liquidating such loans.

(b) *Program Administration.* The Farmer Program, like other FmHA programs, is administered by the Administrator through a State Director, serving each State through a District Director to the County Supervisor. The County Supervisor is the focal point for the program and the local contact person for processing and servicing activities even though this subpart refers in various places to the duties and responsibilities of other FmHA employees.

(c) *Administrative Provisions.* Throughout this regulation there appears administrative provisions for the State Director, District Director, and County Supervisor. These provisions establish the internal duties, responsibilities and procedures to carry out the requirements of the program and are identified as "Administrative" and follow the appropriate sections of this Subpart.

(d) *References.* §§ 1980.101–1980.169 pertains to FO, EM, OL RL and SW loan programs. Refer to § 1980.170 for EM loans, § 1980.175 for OL loans and § 1980.180 for FO, RL and SW loans.

§ 1980.102–1980.105 [Reserved]

§ 1980.106 Definitions.

(a) Refer to § 1980.6 of this chapter for abbreviations.

(b) The following definitions are applicable to the terms used in this subpart. Additional definitions may be found in § 1980.6 of this chapter.

(1) *Applicant.* The party applying for a guaranteed loan.

(2) *Approval Officials.* There are field officials who have been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in Tables available in any FmHA State or County Office, or from the National Office, 14th Street and Independence Avenue SW., Washington, DC 20250. Field officials have loan and grant approval authorities are State Directors, District Directors, County Supervisors and Assistant County Supervisors. Refer to Subpart A of Part 1901 of this Chapter for authorities and responsibilities delegated to field officials for all programs of FmHA.

(3) *Aquaculture.* (For EM loans only.) The husbandry of aquatic organisms by an applicant or borrower under a controlled or selected environment. Aquaculture operations are considered to be farming operations. Aquatic organisms may consist of any species of finfish, mollusk, or crustacean (or other invertebrate) amphibian, reptile or aquatic plant.

(4) *Borrower.* All parties liable for the loan or any part thereof.

(5) *Designated counties or similar areas.* (Applies to EM loans only.) This term means a county or similar political subdivision in which EM loans are authorized to be made under designation by the Federal Disaster Assistance Administration (FDAA) pursuant to a Presidential declaration of a major disaster or emergency; under designation by the Secretary of Agriculture based on damage caused by a natural disaster which substantially affect farming, ranching, or aquaculture operations; and when authorized by the State Director without a formal designation when 25 or less farming, ranching, or aquaculture operations are substantially affected by a natural disaster.

(6) *Disasters.* (Applies to EM loans only.) (i) *Major disaster.* Any disaster in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance above and beyond normal emergency services by the Federal Government to supplement the efforts and available resources of States, local government and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(ii) *Natural disaster.* A natural disaster as determined by the Secretary of Agriculture when designating EM loan areas, or by an FmHA State Director when he authorizes the making of EM loans. Natural disasters can be caused by such natural phenomena as hurri-

canes, tornadoes, cyclones, excessive rainfall, floods, earthquakes, blizzards, freezes, electrical storms, snowstorms, drought, excessively high temperatures, and hail; insects where abnormal weather contributed substantially to the spreading and flourishing of such insects; fires resulting from lightning, and fires of other origins which could not be controlled because of abnormal weather; and plant and animal diseases where abnormal weather contributed substantially to such diseases spreading into epidemic stages.

(iii) *Presidential Emergency.* Any disaster in any part of the United States which is of such magnitude that the President makes a declaration which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety, or to avert or lessen the threat of a disaster.

(iv) *Qualifying disaster.* A major disaster, Presidential Emergency, or natural disaster declared by the Secretary of Agriculture or State Director for which EM loans are made available.

(7) *Family farm.* A farm which: (i) Produces agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence;

(ii) Provides substantial income by itself which, together with any other dependable income, enables the family to pay family living and operating expenses, including maintenance of chattel and real property and payment of debts, and (iii) Is managed and operated by the family with a reasonable amount of hired labor.

(8) *Farm.* The term "farm" includes a tract or tracts of land, improvements, and other appurtenances considered to be farm property which is or will be owned or operated by the applicant, and used or to be used in the production of crops or livestock, including the production of fish under controlled conditions. For EM loans this includes the production of aquatic organisms under a controlled or selected environment owned or operated by the applicant or borrower. The term "farm" also includes any such land and improvements and facilities used in a nonfarm enterprise. It will also include a residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.

(9) *Farming or farm enterprises.* (Applies to EM loans only.) These terms are defined as the business of producing crops, livestock products, and aquatic organisms through the management of land, water, labor, capital, and basic raw materials, including seed, feed, fertilizer, and fuel. Farming and farm enterprises consist of a total farming or aquaculture operation, or a portion thereof, which produces different types of products, including crops, livestock, livestock products, and aquatic organisms.

(i) *Basic enterprise.* This term means any single enterprise which constitutes not less than 25 percent of the applicant's normal year's total farming operations gross income. To qualify crops to be fed or pasture to be grazed by livestock as a basic enterprise the value of the crops or pasture for livestock use must be at least equal to 25 percent of the value of the total feed fed to the livestock annually. However, for crops to be fed or pasture to be grazed by livestock to be considered a basic enterprise one or more (individually or collectively) of the livestock enterprises must qualify as a basic enterprise.

(ii) *Single enterprise.* An enterprise which constitutes part of the applicant's farming, ranching, or aquaculture operation. The following are examples of "single enterprises":

(A) All cash field crops;
(B) All cash vegetable crops;
(C) All cash fruit crops;
(D) All crops to be fed to livestock;
(E) All pasture to be grazed by livestock:
(F) Beef operations;
(G) Dairy operations;
(H) Poultry operations; and
(I) Aquaculture operations.

(10) *Farming corporation.* It is a legal entity incorporated under the laws of the United States or of a State and authorized to carry on farming, ranching, or aquaculture operations in the State where the corporation has applied for a loan.

(11) *Incidence period.* (Applies to EM loans only.) This term means the specific time frame established for the occurrence of the qualifying disaster.

(12) *Mortgage.* The term "mortgage" includes any form of security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to any security interest in chattel property.

(13) *Nonfarm enterprise.* This is any business enterprise whose income supplements farm income. It must provide goods or services for which there is a need and a reasonably reliable market.

(14) *Reamortize.* To extend an FO, SW, RL, OL and EM loan payment to its maximum repayment period or to rearrange the payments within the remaining years of the original repayment period.

(15) *Reasonable standard of living.* The level of income obtained by reasonably successful family farmers and rural residents in the community taking into consideration the size of the family.

(16) *Recreation enterprise.* An outdoor, income producing enterprise which will supplement or supplant farm or ranch income.

(17) *Renew.* To reschedule the payment of an original OL and EM loan for operating purposes after the end of the original repayment period.

(18) *Rural youth.* A person who has reached the age of 10 but has not reached the age of 21 and does not reside in any area in any city or town that has a population of more than 10,000 inhabitants.

(19) *Rural youth projects.* Projects initiated, developed, and carried out by rural youths participating in organizations such as 4-H or Future Farmers of America. Projects must produce enough income to meet expenses and debt repayment.

(20) *Security.* The term "security" includes any rights or interests in property of any kind subject to a real or personal property lien.

(i) *Basic security.* All real estate and fixtures and personal property such as foundation herds, flocks, aquatic animal and plant organisms, machinery, and equipment serving as security and crops when crops are the only security.

(ii) *Normal income security.* All normal income security property planned to be marketed in the regular course of business unless liquidation is approved. If liquidation is approved, such security becomes basic security.

(21) *State.* Any of the fifty states, Puerto Rico, or the Virgin Islands (and Guam for EM loans under a Presidential Declaration).

(22) *Termination dates.* (Applies to EM loans). (i) Termination dates are those dates specified in disaster declarations, designations, or State Director authorizations which establish the final dates after which EM loan applications may no longer be received.

(ii) For physical losses, termination dates are 180 days from the date the State Director is notified of the declaration, designation, or State Director authorization, and for production losses, 12 months from such date. The 180-day and 12-month periods will commence on the first workday following the designation or declaration. The final day for accepting applications will always be on a workday. Therefore, if the last day falls on a Saturday, Sunday, or Federal holiday, the next workday will be the final day.

(23) *United States.* The term "United States" means the United States itself, any of the 50 States, Puerto Rico, the Virgin Islands, (and Guam for EM loans under a Presidential declaration).

§ 1980.107 Full Faith and Credit.

Refer to § 1980.11 of this chapter.

§ 1980.108 General provisions.

(a) *Security, personal and corporate guarantees, and other requirements.* See §§ 1980.170(f), 1980.175(f), and 1980.180 (e) for security requirements for the type of loan being considered.

(1) *Security.* (i) The lender is responsible for seeing that proper and adequate security is obtained and maintained in existence and of record to protect the interest of the lender, the holder, and FmHA.

(ii) All security must secure the entire loan. The lender may not take separate security to secure only that portion of the loan or loss not covered by the guarantee. The lender may not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan. However, compensating balances or certificates of deposit as used in the ordinary course of business may be used.

(2) *Personal and corporate guarantees.* (i) Personal guarantees from principal stockholders in a corporation and all partners of partnerships usually will be required. Guarantees of parents, subsidiaries or affiliated companies may also be required. Guarantees will be required in sufficient amounts depending on the credit factors in each loan to reasonably assure repayment of the loan and provide adequate security.

(ii) The requirement for personal guarantees or corporate guarantees may be waived by FmHA if the proposed guarantors cannot provide such guarantee due to other existing contractual obligations or legal restrictions. For those applicants providing documented evidence of successful operations for the past three years, guarantees will be obtained as determined by FmHA.

(iii) If a review of all credit factors indicates the need for additional security, FmHA may require additional personal and corporate guarantees. FmHA also may require that such guarantees be secured. Any collateral referred to in paragraph (a)(1) of this section may be used to secure the guarantees.

(iv) *Guarantors of applicants will:*

(A) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing) signed by the guarantors, and disclosing community or homestead property.

(B) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing) certified by an officer of the corporation.

(C) Provide written evidence through the lender to FmHA of their inability to provide a guarantee because of existing contractual arrangements or legal restrictions.

(3) *Other requirements.* (i) The lender must ascertain that there are no claims or liens of laborers, materialmen, contractors, subcontractors, suppliers of machinery and equipment or other parties against the security of the borrower, and that no suits are pending or threatened that would adversely affect the collateral of the borrower when the security instruments are filed.

(ii) Hazard insurance with a standard mortgage clause naming the lender as beneficiary will be required on every loan in an amount that is at least the lesser of the depreciated replacement value of the property being insured or the amount of the loan. Hazard insurance includes fire, windstorm, lightning, hail, business interruption, explosion, riot, civil commotion, aircraft, vehicle, marine smoke builder's risk public liability, property damage, flood or mudslide, or any other hazard insurance that may be required to protect the collateral.

(iii) Life insurance, which may be decreasing term insurance, may be required for principals of corporate borrowers. When required it will be assigned or pledged to the lender and a schedule of life insurance available for the benefit of the loan will be included as part of the application.

(iv) Workmen's compensation insurance is required in accordance with State law.

ADMINISTRATIVE

The County Supervisor will review and determine whether the Lender has required the necessary security to be taken. If necessary, he will seek the advice and assistance of the District Director.

(b) *Relationship with other FmHA insured or guaranteed loans.* If an applicant for FmHA assistance will qualify for an OL or real estate insured or guaranteed loan and an EM guarantee for the same purpose, it is FmHA policy to process an EM guarantee for that purpose, so long as the repayment and security requirements for the EM guarantee will not preclude furnishing the credit necessary to enable the applicant to carry out sound farming, ranching, or aquaculture operations.

(c) *Person entitled to Veteran's preference.* Applications on hand from veterans will be given preference by the lender over applications of nonveterans on file at the same time for any person applying for an FO, SW, RL, or OL loan who has been discharged or released from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard under conditions other than dishonorable, who served on active duty in such forces: (1) during the period of April 6, 1917, through March 31, 1921; (2) during the period of December 7, 1941, through December 31, 1946; (3) during the period of June 27, 1950, through January 31, 1955; or (4) for a period of more than 180 days, any part of which occurred after January 31, 1955, but on or before May 7, 1975. Discharges under conditions other than dishonorable include "clemency discharges."

§ 1980.109 Promissory notes, security instruments, and financing statements.

(a) *Promissory notes, mortgages, and security agreements.* The lender may use its forms or promissory notes, real estate mortgages (including deeds of trust and similar instruments), and security agreements (including chattel mortgages in Louisiana and Puerto Rico), provided such forms do not contain any provisions that are in conflict or are inconsistent with the provisions of this regulation. The lender will advise the borrower at loan closing that he will be expected to graduate to other credit as required in § 1980.147 of this Subpart and see that the following provisions are inserted in the above mentioned forms as applicable:

(1) *In real estate and chattel mortgages. "Guarantee by Government.* Mortgagor understands that the loan evidenced by the Note secured hereby is being made or allowed to remain extant by Lender only on the condition that repayment thereof or any loss thereon will be guaranteed in whole or in part to Lender by the United States of America or an agency thereof (herein called the "Government"). Therefore, in consideration of such guarantee, mortgagor agrees that if at any time it shall appear to the Government that Mortgagor may be able to obtain a loan without a guarantee from a bank, a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time without such guarantee, Mortgagor will, upon the Government's request, apply for and accept such loan in sufficient amount to pay the indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan."

(2) *In Security Agreements. "Guarantee by Government.* Debtor understands that the loan secured hereby is being made or allowed to remain extant only on the condition that repayment thereof or any loss thereon will be guaranteed in whole or in part to Secured Party by the United States of America or an agency thereof (herein called the "Government"). Therefore, in consideration of such guarantee, Debtor agrees that if at any time it shall appear to the Government that Debtor may be able to obtain a loan without a guarantee from a bank, a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time without such guarantee, Debtor will, upon the Government's request, apply for and accept such loan in sufficient amount to pay the indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan."

(b) *Financing statements.* Commercial financing statement forms that comply with State laws and regulations may be used. They must be adapted to meet FmHA requirements by inserting provisions: (1) Covering the "proceeds and products" of the collateral described, and

(2) That "disposition of the collateral is not authorized hereby."

§ 1980.110 Loan subsidy rates, claims and payments.

Loan subsidies are payments made by FmHA to lenders to induce them to make, service, and collect guaranteed Farmer Program loans.

(a) *Subsidy rates.* FmHA will establish subsidy rates periodically. Thus the subsidy rate for the same type loan may vary from time to time. However, the subsidy rate set forth in the Loan Note Guarantee will remain constant during the life of the loan guarantee. The subsidy rate for each type of loan will be a rate equal to the difference, if any, between the interest rate charged to the borrower and any higher per annum rate prevailing in the private market for similar loans as determined by the Secretary of Agriculture. The lender may contact the local County Supervisor servicing his area to obtain the current subsidy rate.

(b) *Subsidy payments.* Loan subsidy payments will be calculated by FmHA using a 360 or 365 day year method on a declining balance. The lender will indicate on FmHA Form 449–19, "Guarantee Fee Report," the method he prefers which, once established, cannot be changed.

(c) *Annual subsidy claims and payments.* The initial subsidy claim will be prepared by the lender using Form FmHA 449–24, "Loan Subsidy Claim," 12 months from the date of the note and mail the original to the Finance Office with a copy to the appropriate County Supervisor. Subsequent subsidy claims will be filed by the lender every 12 months thereafter no later than the anniversary date of the filing of the initial subsidy claim. The Finance Office will mail the loan subsidy payment to the lender within 10 days after receipt of the claim. Upon full payment of a note the lender will immediately prepare Form FmHA 449–24, "Loan Subsidy Claim," and mail a copy to the County Supervisor and the original to the Finance Office.

(d) *When subsidy payments cease.* When the FmHA purchases a guaranteed portion of a loan, subsidy payments on that portion will cease. Loan subsidy payments will also cease when the Loan Note Guarantee terminates.

§ 1980.111–1980.112 [Reserved]

§ 1980.113 Receiving and processing applications.

Applicants and/or lenders may file either a preliminary application or complete application. A preliminary application may be used when applicant or lender wants a determination from FmHA on eligibility, feasibility or availability of guaranteed authority before proceeding with completed application. The County Supervisor will cooperate with lender and applicant and provide appropriate assistance in connection with loan application processes. The degree of this assistance will be guided by the lender's experience with FmHA Guaranteed Loan processing, the lender's farm lending experience, and the complexity of the proposal.

(a) *Preliminary application.* This will consist of: (1) Form FmHA 449–6, "Application for Guaranteed Loan (Farmer Programs)."

(2) Verification of off-farm employment, if any.

(3) Credit report.

(4) Form FmHA 440–32, "Request for Statement of Debts and Collaterals."

(5) For an EM loan, Form FmHA 441–22, "Certification of Disaster Losses."

(b) *Preliminary determination by FmHA.* If the preliminary application indicates the proposal will not meet FmHA's minimum credit standards for a sound loan, or the applicant appears to be ineligible, or funds or guarantee authority are not available the County Supervisor will so inform the lender using Form FmHA 449–13, "Denial Letter." The lender will notify the applicant in writing of all the reasons for the decision indicated. If it appears that the proposal is economically feasible, the applicant is eligible, and loan guarantee authority is available, the County Supervisor will inform the lender in writing and request the formal application be prepared.

(c) *Completed application.* This will consist of: (1) Those items listed in § 1980.113(a).

(2) Applicable items required by §§ 1980.40; 1980.41; 1980.42; 1980.43; 1980.44 and 1980.45 of this chapter.

(3) Form FmHA 449–12, "Request for Loan Note Guarantee." (Exhibit A).

(4) A copy of the lease agreement between tenant applicants and their landlords. When a written lease is not obtainable a statement setting forth the terms and conditions of the agreement will be included in the loan docket.

(5) (For EM loans only) Form FmHA 441–29, "ASCS Verification of Farm Production History and Payments," if needed, and Form FmHA 441–26, "County Supervisor or Lenders Calculations and Verification of Qualifying Production Losses."

(6) Proposed loan agreements between the borrower and lender. (Refer to paragraph VIII of Form FmHA 449–35 "Lender's Agreement"). Ordinarily, agreements will include information such as the following: (i) Improved management practices to be implemented, if any.

(ii) Requirements for accounting and record keeping and periodic financial reporting.

(iii) A list of security property for the loan and periodic accounting of security property (at least annually).

(iv) Prohibitions against assuming liabilities or obligations of others.

(v) Restrictions on dividend payments if a corporate entity.

(vi) Limitations on purchase or sale of equipment and/or fixed assets.

(vii) Limitations on compensation of officers and/or owners if not a sole proprietorship.

(viii) Minimum working capital requirements.

(ix) Minimum debt to net worth ratio.

(x) Restrictions concerning consolidation, mergers or other circumstances if a corporate entity.

(xi) Repayment and reamortization of the loan.

(7) Production history and operation forecast provided by lender and/or applicant. This will indicate a production history, (up to 5 years of EM loans), current financial condition, projected production, income and expenses, and loan repayment plan. Forms ordinarily used by the lender or Form FmHA 430–2, "Farm and Home Plan", Form FmHA 430–1, "Long-Time Farm and Home Plan," or Form FmHA 424–1, "Development Plan", may be used to project proposed development and construction.

(8) Appraisal report. (i) A real estate appraisal will be required when real estate is purchased, or taken as security, or both, for loans for FO, SW, RL or EM loan purposes, (except that for EM loans, where a long-term reputable lender is involved and the loan will be $10,000 or less no appraisal is required but a certification of ownership and verification of equity in real estate is required).

(ii) A chattel appraisal will be required when chattel is taken as security for FO, SW, RL, OL and EM loans.

(iii) For real estate security, an acceptable appraisal not over 3 years old and for chattel security not over 6 months old, may be used in lieu of a new appraisal providing the appraisal was completed by FmHA or similarly qualified lending appraiser.

(iv) Appraisals will be made by a qualified appraiser selected by the lender. A real estate appraisal report will be based on at least two comparable sales. Appraisal reports may be on forms approved by the lender and or Form FmHA 422–1, "Appraisal Report (Farm Tract)" and Form FmHA 440–21, "Appraisal of Chattel Property."

(v) The lender will be responsible for determining that appraisers have the necessary qualifications and experience to make appraisals. If the lender has any questions in this regard, it should consult with FmHA before having an appraisal made.

(9) The Lender's plan for servicing the loan and providing management assistance to the borrower should include the steps necessary to see that the requirements of the loan agreement are met.

(10) Notices of compliance with the Privacy Act of 1974. (i) If the applicant is acting in a personal capacity and not as a representative of a partnership, or a corporation, and FmHA solicits personal information from him, the individual will be provided Form FmHA 410–9, "Statement Required by the Privacy Act."

(ii) If FmHA desires to obtain information concerning an individual from any source, FmHA will provide such source with Form FmHA 410–10, "Privacy Act Statement to References."

§ 1980.114 FmHA evaluation of applications.

When the County Supervisor receives a completed application, he will make the proper independent investigations, inspections, and appraisal reviews necessary to determine whether the applicant is eligible, the proposed loan is for an eligible purpose, and there is reasonable assurance of repayment ability and sufficient collateral and equity. The determinations will be recorded on Form FmHA 449–23, "Guaranteed Loan Evaluation". This evaluation is for the benefit of FmHA and not the lender.

(a) *Indication of unacceptability.* If the evaluation indicates that the guarantee cannot be approved (for reasons that would not be affected by the County Committee certification), the County Supervisor will inform the lender on Form FmHA 449–13 of the reasons and will discuss with the lender the items necessary to overcome any objections and will record such discussion in the County Office file.

(b) *Indication of acceptability.* If the evaluation indicates that the guarantee may be approved, the County Supervisor will present the application to the

County Committee for certification or rejection.

ADMINISTRATIVE

The County Supervisor will: 1. Determine if the material and information submitted is complete. If he determines that the lenders appraisal(s) of security property appears inadequate he will make a formal appraisal of the required security property.

2. Determine that §§ 1980.40 through 1980.45 of this Chapter are complied with.

3. Review Form FmHA 449-10, "Applicant's Environmental Impact Evaluation," submitted by the applicant and follow the requirements of 1910-G

§ 1980.115 County Committee review.

The County Committee will review the application and determine whether the applicant meets the FmHA eligibility requirements.

(a) *Rejection.* If the County Committee rejects the application, the County Supervisor will inform the lender of the reasons for the rejection using Form FmHA 449-13, "Denial Letter". Such notification will include the reasons for denial of the guarantee.

(b) *Certification.* If the County Committee finds the applicant eligible, it will sign Form FmHA 440-2, "County Committee Certification or Recommendation". This form will be retained in the County Office file.

ADMINISTRATIVE

A. *After County Committee certification is obtained, the County Supervisor will:* 1. Prepare Form FmHA 449-14, "Conditional Commitment for Guarantee." If it is within his approval authority, he will list any special conditions of approval in the space provided on the form, including requirements for security, improved management practices, type and frequency of financial reports required but not proposed by the lender, and the loan subsidy rate. An attachment to the form may be used if necessary. The County Supervisor is authorized to execute Form FmHA 449-14.

2. Prepare and distribute Form FmHA 440-1, "Request for Obligation of Funds," in accordance with the Forms Manual Insert (FMI). The Finance Office will obligate funds and so notify the County Supervisor by forwarding the original and one copy of Form FmHA 440-57, "Acknowledgment of Obligated Funds/Check Request." When the County Supervisor receives notice that funds have been obligated, he will notify the lender by providing him a copy of Form FmHA 449-14. The County Supervisor will record the actual date of lender notification on the remaining copy of Form FmHA 440-1 and make such copy a permanent part of the County Office loan file.

3. Determine if a project is located in a special flood or mudslide hazard area. (Refer to Subpart B of Part 1806 of this Chapter, FmHA Instruction 426.2)

4. Assure that equal opportunity and nondiscrimination requirements are met. (Refer to § 1980.41 of this Chapter)

5. Contact the District Director if he needs any assistance.

6. Forward the loan docket to the appropriate approval official if above his approval authority.

B. *The appropriate approval official within his authority whether Assistant County Supervisor, County Supervisor, District Director or State Director will:* 1. Set forth any special conditions of approval, including requirements for security, improved management practices, type and frequency of financial reports required but not proposed by the lender in the space provided in Form FmHA 449-14, "Conditional Commitment for Guarantee," and return to the County Supervisor for execution and proper distribution.

2. Sign original and one copy of Form FmHA 440-1 distributing copies in accordance with the FMI being sure the lender receives a signed copy.

3. Forward the loan docket to the National Office for approval when the loan exceeds the State Director's authority or when he needs assistance in handling any complaints of noncompliance.

§ 1980.116 Review of requirements.

The lender and applicant, after reviewing approval conditions and security requirements as set forth in Form FmHA 449-14, "Conditional Commitment for Guarantee" should complete and execute the "Acceptance or Rejection of Conditions" and return a copy to the County Supervisor. If the conditions cannot be met, the lender and applicant may propose alternate conditions to the County Supervisor. These alternatives will be considered by the County Supervisor and the lender will be advised of his decision. If altered conditions are acceptable, Form FmHA 449-14 will be revised.

§ 1980.117 Conditions precedent to issuance of the loan note guarantee.

(a) Refer to § 1980.60 of this Chapter.

(b) The provisions under § 1980.60(a)(2) are not applicable to Farmer Program loans.

ADMINISTRATIVE

The County Supervisor will: 1. Negotiate with the lender and applicant any changes made to the initially issued or proposed Form FmHA 449-14, "Conditional Commitment for Guarantee." A copy of Form FmHA 449-14 and any amendments thereto will be included in the loan file.

2. Review the loan agreement between the borrower and lender which provides for the frequency of submission of financial statements to the County Supervisor. Quarterly financial statements should be required on new loans needing close monitoring. However, an annual analysis report will always be required.

3. Review plans for inspection made on construction projects.

4. Review cost overruns, if any, and how they will be met.

5. Review basic credit requirements of all loans.

§ 1980.118 Issuance of lender's agreement, loan note guarantee and assignment guarantee agreement.

(a) Refer to § 1980.61 of this chapter.

(b) Disposition of a guaranteed portion of the loan may be made only after a like amount of guaranteed loan funds have been disbursed to the borrower.

(c) The amount to be entered in the blank on Form FmHA 449-35 paragraph X(c)(5) for a loan secured by chattels will be the lesser of $10,000 or 20 percent of the loan for OL loan purposes and the lesser of $25,000 or 20 percent of the loan for EM loan purposes.

(d) Paragraph X(c)(10) of Form FmHA 449-35, will be changed by striking the word semiannually and inserting the word annually in its place and eliminating December 31.

ADMINISTRATIVE

A. *par. (a) of § 1980.61* The original Form FmHA 449-35 will be kept in the County Office.

B. *par. (b) 1 of § 1980.61* Copy(ies) of the Loan Note Guarantee(s) will be kept in the County Office. Additional copy(ies) may be retained by the State Office. Copies of all issued Loan Note Guarantees will be kept in the loan file.

C. *par. (b) (3) of § 1980.61* For reporting purposes where multi-notes are issued, the loan to the borrower will be counted as one loan regardless of the number of notes issued.

§ 1980.119 Substitution of loan note guarantee for contract of guarantee issued.

Refer to § 1980.61 of this Chapter. As used in § 1980.61(b)(2), the term "State Director" will be construed to mean "County Supervisor."

ADMINISTRATIVE

County Supervisor will: 1. Verify that the approval requirements have been met.

2. Review the submitted request and, if in order, send the guarantee fee and guarantee fee report to Finance Office with a notation of the date the new Loan Note Guarantee will be issued. (Note: The substitution of a Loan Note Guarantee for the Contract of Guarantee is not to be considered as a new loan for record keeping purposes.)

3. Execute Form FmHA 449-35, "Lender's Agreement."

4. Complete form FmHA 449-34, "Loan Note Guarantee" (appropriate number for attachment to each note), date and sign the instrument. The following statement will be entered at the top of the form: "This Loan Note Guarantee is issued in substitution of Contract of Guarantee dated _____." The County Supervisor will transfer from the Contract of Guarantee all information pertaining to the Loan Note Guarantee.

5. Cancel the original Contract of Guarantee.

6. Transmit to the Lender the original Loan Note Guarantee, and a copy of executed Lender's Agreement and retain in the loan file copies of Loan Note Guarantee with attached original cancelled Contract of Guarantee, copy of a Guarantee Fee Report and the original Lender's Agreement.

§§ 1980.120–1980.122 [Reserved]

§ 1980.123 Transfer and assumption of farmer program loans.

(a) All transfers and assumptions must be approved in writing by FmHA. Such transfers and assumptions must be to an eligible applicant. For EM loans, only the surviving spouse, who is a co-obligor, or the former spouse, who is a co-obligor, of a divorced spouse, or the remaining partner(s) in a partnership from which one or more of the jointly obligated partners have withdrawn may be considered for a transfer.

(b) The applicant will submit to FmHA Form FmHA 449-4 for the required character evaluation prior to the execution of the Assumption Agreement.

(c) Available transfer and assumption options to eligible applicants include the following:

(1) The total indebtedness may be transferred to another borrower on the same terms.

(2) The total indebtedness may be transferred to another borrower on different terms not to exceed those terms

for which an initial loan can be made.

(3) A part of the total indebtedness may be transferred to another borrower on the same terms.

(4) A part of the total indebtedness may be transferred to another borrower on different terms.

(d) In any transfer and assumption case, the transferor, including any guarantor(s) may be released from liability by the lender with FmHA written concurrence only when the value of the collateral being transferred is at least equal to the amount of the loan or part of the loan being assumed. If the transfer is for less than the entire debt:

(1) FmHA must determine that the transferor has no reasonable debt-paying ability considering his assets and income at the time of the transfer.

(2) The FmHA County Committee must certify that the transferor has cooperated in good faith, used due diligence to maintain the collateral against loss, and has otherwise fulfilled all of the regulations of this Subpart to the best of his ability.

(e) Any proceeds received from the sale of secured property before a transfer and assumption will be credited on the transferor's guaranteed loan deft in inverse order of maturity before the transfer and assumption transaction is closed.

(f) When the transferee makes any cash downpayment in connection with the transfer and assumption.

(1) The lender will employ an independent appraiser, subject to concurrence of both the transferor and transferee, to make an appraisal to determine the fair market value of all the collateral securing the loan. Such appraisal report fee and any other costs related thereto will be paid by the transferor and the transferee as they mutually agree.

(2) The market value of the secured property being acquired by the transferee, plus any additional security the transferee proposes to give to secure the debt must be adequate to secure the balance of the total guaranteed loan owed, plus any prior liens. If any cash downpayment is made, it may be paid directly to the transferor as payment for his equity in the project provided:

(i) The lender recommends and FmHA approves the cash downpayment be released to the transferor. The lender and FmHA may require that an amount be retained for an established period of time in escrow as a reserve account as security for use against any future default on the loan. Any interest accruing on such an escrow amount may be paid periodically to the transferor.

(ii) Any payments that are to be made by the transferee to the transferor in respect to the downpayment do not suspend the transferee's obligation to continue to meet the guaranteed loan payments as they come due under the terms of the assumption.

(iii) The transferor must agree not to take any actions against the transferee in connection with such transfer in the future without first obtaining the approval of FmHA and the lender.

(iv) The lender determines that there is repayment ability for the guaranteed debt assumed and any other indebtedness of the transferee.

(g) The lender will issue a statement to FmHA that the transaction can be properly transferred and the conveyance instruments will be filed, registered, or recorded, as appropriate, and legally permissible.

(h) FmHA will not guarantee any additional loans to provide equity funds for a transfer and assumption.

(i) The assumption will be made on the lender's form of assumption agreement.

(j) The assumption agreement must contain the FmHA case number of the transferor and transferee.

(k) Loan terms cannot be changed by the Assumption Agreement unless previously approved in writing by FmHA, with concurrence of any holder(s) and concurrence of the transferor (including guarantors) if they have not been released from personal liability. The interest rate to be paid by the assuming parties shall be the same as the interest rate paid by the transferor. Any new repayment schedule needed to meet the repayment ability of the transferee may cover a period not to exceed that authorized in this subpart for the type of loan being transferred. The lender's request for approval to FmHA will be accompanied by:

(1) An explanation of the reasons for the proposed change in the loan terms.

(2) Certification that the lien position securing the guaranteed loan be maintained or improved, proper hazard insurance will be continued in effect, and all applicable Truth in Lending requirements will be met.

(l) In the case of a transfer and assumption, it is the lender's responsibility to see that all such transfer and assumptions will be noted on all originals of the Loan Note Guarantee(s). The lender will provide FmHA a copy of the transfer and assumption agreement. Notice must be given by the lender to FmHA before any borrower or guarantor is released from liability.

(m) The holder(s), if any, need not be consulted on a transfer and assumption case unless there is a change in loan terms.

ADMINISTRATIVE

A. *Loan approval officials, consistent with their authority to approve guarantees, may consent:*

1. To all transfer and assumption cases.

2. To the releases of the transferor and guarantor(s) from liability on the loan and will notify the lender and the appropriate parties of the decision in writing.

3. To any changes in the loan terms provided the holder(s), if any and lender agree.

B. The Loan Note Guarantee will be endorsed in the space provided on the form.

C. A copy of the Assumption Agreement will be retained in the County Office file. The County Supervisor will notify the Finance Office of all approved transfer and assumption cases so that Finance Office records may be adjusted accordingly.

§ 1980.124 Renewal and Reamortization.

All borrowers are expected to repay their guaranteed Farmer Program loans according to the planned repayment schedules. However, circumstances may occur which will not permit them to pay as scheduled or to refinance their loans without a guarantee. This section prescribes the policies and procedures for reamortizing and/or renewing such loans.

(a) *Reamortization.* The lender with the concurrence of FmHA and any holder may agree to reamortize the balance of a Farmer Program loan provided:

(1) For OL and EM loans (made for operating purposes), the reamortized repayment period for an operating type loan does not exceed seven years from the date of the initial note.

(2) The security instrument and note will secure the reamortized loan.

(3) For FO, SW, RL and EM loans (made for Real Estate purposes) secured by real estate, the repayment period for the real estate loan, initially scheduled for repayment in not more than 40 years, may be reamortized for a repayment period that will not extend the repayment period beyond 40 years from the date of the original note.

(b) *Renewal.* An OL and EM operating type loan, initially scheduled or reamortized for repayment in not more than 7 years, may be renewed with the concurrence of FmHA and any Holders for up to 5 additional years at the end of the 7 year period. The renewal and any combination of initial and subsequent renewals will not extend the repayment period beyond 12 years from the date of the original note:

(c) *The renewed or reamortized promissory note will:*

(1) Not increase the amount of principal which the borrower would have been required to pay if the reamortization or renewal had not been made.

(2) Require the borrower to pay the interest rate to the lender in effect at the time of renewal or reamortization, except for EM loans at 5 percent interest rate.

(3) Describe the note being reamortized or renewed and state that the indebtedness evidenced by said note is reamortized or renewed but not satisfied. The original note must be retained for identification purposes.

(d) *Security instruments will:* Be required as necessary when a loan is renewed or reamortized.

§§ 1980.125–1980.128 [Reserved]

§ 1980.129 Planning and performing development.

The lender is responsible for seeing that any buildings or other improvements or major land development to be provided with loan funds are properly completed within a reasonable period of time, and that they are free of any mechanics, materialmen's or other liens that would affect the lien priority which

the lender advised FmHA that the lender's security instruments would have. All major construction, major repairs, and major land development must be performed under contract. As soon as such construction, repair, or land development involving use of loan funds has been completed in accordance with the plans and specifications submitted to FmHA in connection with the Request for Loan Note Guarantee, Form FmHA 449–11 "Certificate of Acquisition or Construction," will be provided by the County Supervisor. This form will be used by a lender, borrower, and/or contractor to certify that security property has been acquired or construction performed as previously agreed by the lender and concurred in by FmHA. The lender's responsibility in connection with construction includes but is not limited to:

(a) Compliance with applicable laws, ordinances, codes, and regulations.

(b) Adequacy of plans, specifications, and estimates.

(c) Sufficiency, quality, and rights to adequate water supply.

(d) Method of construction or development.

(e) Awarding, execution, and provisions of construction or development contracts, and bonding of contractors when necessary.

(f) Seeing that all equal opportunity and nondiscrimination requirements are met. (Refer to § 1980.41 of this Chapter)

(g) Seeing that construction or development is performed expeditiously and properly, including inspection of sites and construction or development in various stages of completion to determine that the work and material conform with the plans and specifications and any other requirements.

(h) Limiting periodic or partial payments for construction or development to a reasonable percentage of the actual value of work and material in place.

(i) Making final payment only after final inspection has been made and the construction or development has been found proper in all respects.

(j) Ascertaining that after planned development is completed, the development is free of any claims or liens from laborers, materialmen, contractors, subcontractors, or other parties.

ADMINISTRATIVE

A. The County Supervisor will:

1. Determine that the construction, repair or land development has been satisfactorily completed.

2. Forward to the lender for completion and execution by the lender, borrower and contractor, Form FmHA 449–11 "Certificate of Acquisition or Construction."

§ 1980.130 Loan servicing.

The lender is responsible for loan servicing. Refer to paragraph X of Form FmHA 449–35, Appendix B of Subpart A of this Part.

ADMINISTRATIVE

A. While the lender has the responsibility for loan servicing and protecting the collateral, the County Supervisor is responsible for seeing that required servicing is properly accomplished. Loan servicing is a preventive rather than a curative action. Prompt follow up on delinquent payments and early recognition and solution of problems are keys to resolving many delinquent loan cases.

B. *The County Supervisor will:*

1. Make timely investigations during acquisition or development and at least annually thereafter to determine whether any security property that was to be acquired or constructed after issuance of the Loan Note Guarantee has been acquired or constructed, and whether the guaranteed loan is being properly serviced. If a problem develops the County Supervisor will promptly contact the lender to resolve it.

2. Review all borrowers financial statements furnished by the Lender and will take the appropriate servicing action reminding the lender of his servicing responsibilities. Refer to paragraph X of Form FmHA 449–35.

3. Immediately contact the District Director when notified by the lender of borrower's failure to fulfill any conditions of the loan approval conditions to determine the action to be taken.

4. Notify the District Director in writing upon receipt of notice from the Lender when any guaranteed loan is delinquent more than 30 days or when the loan otherwise appears to be developing into a problem case. Refer to paragraph XI of Form FmHA 449–35.

5. Establish an office management system for guaranteed loans in accordance with guidelines available in all FmHA offices (FmHA Instruction 405.1) to insure timely followup on all required financial statements, and any special requirements for loan servicing conditions.

6. Notify the Finance Office when the lender makes any protective advances.

7. Submit to the Finance Office annually immediately after June 30 of each year the lender's statement required in paragraph X–C–10 of Form FmHA 449–35, reflecting the unpaid principal balances on the loan.

C. *District Director will:*

1. Assure that the County Supervisor obtains from the lender the necessary financial statements and reports and transmits the statements with his recommendations to the State Director.

2. Accompany the County Supervisor on initial field visits to the borrower's place of business and at least annually thereafter. Such visits should be coordinated with the lender.

3. Provide guidance and assistance to the County Supervisor if a loan develops into a problem case.

4. Review all Field Visit Reports and make recommendations or comments and transmit them to the State Director, if necessary.

D. *FmHA servicing authorizations.* For loans in amounts not in excess of their loan approval authority, FmHA officials are authorized to approve or concur in:

1. Alterations in the loan approval conditions which will not prejudice the Governments interest.

2. Any replacement of collateral for the loan.

3. All lien coverage and lien priorities on the collateral established by the lender before issuance of the Loan Note Guarantee.

4. Any deferment and reamortization of the loan in concurrence with the lender.

5. Use of proceeds from disposition of collateral meeting the provisions of paragraph X of Form FmHA 449–35, "Lender's Agreement".

E. *National Office Assistance.* State Directors may consult with the National Office on any servicing problem, and if it cannot be handled at the State level, the file will be forwarded to the National Office with proposed recommendations.

§§ 1980.131–1980.135 [Reserved]

§ 1980.136 Protective advances.

Refer to paragraph XIII of Form FmHA 449–35.

ADMINISTRATIVE

A. It is not intended that protection advances be made in lieu of additional loans.

B. The County Supervisor is authorized to approve all protective advances and will consider the following when approving such advances:

1. The total amount of outstanding advances, the amount of those for which approval is requested, the outstanding loan balance, whether the account is current, and, if not, the extent of the delinquencies.

2. The borrower's ability to pay the remaining loan balance and any future advances in accordance with the existing repayment schedule.

§ 1980.137–1980.138 [Reserved]

§ 1980.139 Termination of Loan Note Guarantee.

Refer to paragraph 12 of Form FmHA 449–34.

ADMINISTRATIVE

The County Supervisor will advise Finance Office when a Loan Note Guarantee is terminated.

§§ 1980.140–1980.144 [Reserved]

§ 1980.145 Defaults by borrower.

(a) Refer to paragraph XI of Form FmHA 449–35, Appendix B of this part.

(b) The lender will arrange with the County Supervisor a meeting with the borrower to resolve the problems.

(c) A memorandum of the meeting, a list of the individuals who attend, a summary of the problem and proposed solutions will be retained in the lender's loan file and a copy will be submitted to the County Supervisor.

ADMINISTRATIVE

A. The County Supervisor monitoring the loan will coordinate and process any request for FmHA to purchase when the holder(s) are located in close proximity to the local lender. If several holders are located outside the area, the State Director will handle the transaction and notify the County Supervisor.

B. The County Supervisor will review the material submitted, verify the amounts due the holder(s) and transmit the request by memorandum to the State Director. Copies of evidence of ownership will be included. Any original evidence of ownership will be retained in the County Office. A proposed payment date will be established in order to calculate the interest due the holder(s).

C. The County Supervisor will verify the amounts payable to the holder and assure that all necessary material has been obtained. The County Supervisor will request a check to pay the holder(s) on the appropriate date entry form. The Finance Office will forward the check within 10 days after receipt of the request.

D. Any evidence of ownership retained in the County Office will be considered in any future report of loss calculations. A record of any purchase will be maintained in the loan file.

§ 1980.146 Liquidation.

Refer to paragraph XII of Form FmHA 449–35.

ADMINISTRATIVE

A. District Director determines which FmHA personnel will attend meetings with the lender.

B. *Form FmHA 449–35, paragraph XII B.* FmHA will exercise the option to liquidate only when there is reason to believe the lender's liquidation plan will likely not result in maximum recovery. District Directors are authorized to approve lender liquidation plans or exercise the FmHA option to liquidate.

C. *Form FmHA 449–35, paragraph XII D.* County Supervisors are responsible for seeing that the lender complies with the requirements of paragraph XII D. The concurrence of the District Director will be necessary before the County Supervisor may accept the accounting reports as submitted by the lender and before submission of such reports to the lender when FmHA is conducting liquidation.

D. *Form FmHA 449–35, paragraph XII E 2.* County Supervisors are authorized to accept Report of Loss determinations on Form FmHA 449–30 "Loan Note Guarantee Report of Loss," in those cases where loss will not exceed $35,000; District Directors for loss not to exceed $100,000; and State Directors for all others. The State Director will submit Form FmHA 449–30 to the Finance Office for payment of any losses. The Finance Office will forward loss payment checks within 10 days of the receipt of the request to the County Supervisor for delivery to lender.

E. *Form FmHA 449–35, paragraph XII E 3.* Final loss payments will be made within the 60 days required but only after a review has been made to assure all collateral for the loan has been properly accounted for. State Directors are responsible to see that such reviews are accomplished in time to be evaluated and accepted or otherwise resolved within the 60-day period. County Supervisors may conduct such reviews when the loss does not exceed $35,000; District Directors $100,000; and State Directors for amounts not to exceed their loan approval authority. All reviews involving losses in excess of the amounts equal to the State Director's loan approval authority will be submitted to the National Office for review. If the State Director wishes National Office assistance in the conduct of any review, he may so request.

§ 1980.147 Graduation.

(a) All borrowers will be advised that their loans will be reviewed for "graduation" by the lender and FmHA, 5 years (for OL and EM loans for operating purposes or 10 years for FO, RL, SW, and EM loans for real estate purposes) after they are received and every other year thereafter. They will also be advised that they are required to refinance if other credit is available even though their loans have not fully matured.

(b) When the lender and/or FmHA determine that the borrower is clearly eligible to graduate to conventional credit without a guarantee and the borrower is so informed and given adequate time to graduate, but refuses to do so, the lender will accelerate the loan and carry out liquidation proceedings against the borrower.

ADMINISTRATIVE

A. The County Supervisor: 1. Is responsible for seeing that the graduation policies are carried out. 2. Should contact the District Director if further assistance is needed.

§§ 1980.148–1980.152 [Reserved]

§ 1980.153 FmHA Forms.

Refer to § 1980.83 of this Chapter.

§ 1980.154 Memoranda of Understanding or other Items.

The following items also apply to this subpart.

(a) FmHA and Extension Service (FmHA Instruction 003.2).

(b) FmHA and SCS (FmHA Instruction 003.4).

(c) FmHA and SCS, ASCS, and FCIC (FmHA Instruction 003.1).

(d) FmHA and FCIC (FmHA Instruction 003.5).

(e) FmHA and Farm Credit Administration (Appendix I to Subpart A of Part 1821 of this chapter; FmHA Instruction 443.1, Exhibit A).

(f) FmHA and SBA (Appendix II to Subpart A of Part 1832 of this chapter and Subpart O of Part 2000 of this Chapter).

(g) FmHA and FDAA (Appendix I to Subpart A of Part 1932 of this chapter).

(h) FmHA and ASCS (Appendix III to Subpart A of Part 1932 of this chapter).

GENERAL ADMINISTRATIVE

A. *Office of the General Counsel (OGC):* In performing the FmHA functions with respect to Farmer Program loans, the advice and assistance of OGC may be sought and followed on any legal matter. However, in loan making, it is the responsibility of the lender to ascertain that all requirements for making, securing, and servicing the loan are duly met. If FmHA has any questions concerning the lender's resolution of these matters, it should consult with OGC.

B. *Delegation of Authority:* The State Director may delegate to his staff those administrative duties and responsibilities stipulated in the Administrative sections of this Subpart.

§§ 1980.155–1980.169 [Reserved]

§ 1980.170 Emergency loans.

This Section contains procedures for all Emergency (EM) loans guaranteed by the Farmers Home Administration (FmHA).

(a) *Objectives.* The basic objectives of EM loan guarantees are to provide financial assistance to eligible farmers, ranchers, and aquaculture operators to cover losses, make major adjustments, pay operating expenses, and provide for other essential needs so that they may maintain sound farming, livestock, or aquaculture operations. No ceiling has been established on the size of operations that may be financed with EM loans or on the size of loans that may be made.

(b) *Eligibility.* To be eligible for a guaranteed EM loan, an applicant must:

(1) Be unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and period of time. The applicant's equity in real estate, chattels, and other assets will be considered in determining his ability to obtain such credit from other sources without a guarantee. For partnerships or corporations, the principal partners or principal stockholders, either individually or collectively, must be unable to obtain the required funds with their own resources or with credit obtained by them from other sources. Any partner or stockholder owning or controlling a 20 percent interest in a partnership or a corporation's stock is considered a principal partner or stockholder. If no partner or stockholder owns or controls at least a 20 percent interest, all partners or stockholders will be considered as principal partners or stockholders. The facts concerning the findings in either case must be documented.

(2) Be a citizen of the United States, if an individual. If a partnership, the individual partners must be citizens of the United States. If a corporation, the corporation must be incorporated under the laws of the United States or any State thereof, and the principal stockholders must be citizens of the United States.

(i) One or more of the following sources of information should be used in determining whether applicants qualify for EM loans as a partnership.

(A) Written partnership agreements that set forth the farming arrangements and ownership of property before the start of operation.

(B) Agricultural Stabilization and Conservation Service (ASCS) County Office Records.

(C) Local bank and Production Credit Association records.

(D) Invoices and receipts showing purchase of farm supplies, livestock, and machinery.

(E) Records or receipts from sale of farm production products or commodities.

(F) Written farm rental agreements.

(G) Income tax returns and personal property tax records.

(H) Financial statements.

(ii) When an EM loan is made to a corporation or partnership, only one EM loan can be made to the entity constituting the farming operation. However, an individual stockholder or partner may obtain a separate EM loan to cover losses in a separate farming operation which he is conducting as and individual on a different farm tract.

(iii) Individual members of a partnership will not receive individual loans to finance their interest in the joint or partnership farming operation. The partnership will be considered for one loan to cover the loss in its farming operation. If the members of a partnership change after the disaster, the new partnership may be considered for a loan provided no substitutes other than heirs or remaining partners are involved.

(3) Be an established farmer doing business as an individual, partnership, or corporation, either as an owner-operator or tenant, who manages the farming operations. If the applicant is a partnership or corporation, it must be engaged primarily in farming operations and the operation(s) must be managed by one of the partners or stockholders. Also, if

a corporation, it must be authorized to conduct farming operations in the State in which the farming operation is conducted. An applicant who does not devote full time to his farming operation may be considered as the manager provided he (or the managing partner or stockholder) visits the farm at sufficiently frequent intervals to exercise control and see that the operations are being carried on properly pursuant to his direction. Any operation that involves a full-time hired manager or management service does not qualify regardless of the number of visits made.

(4) Operate in a county or counties in which EM loans are authorized to be made under.

(i) A designation by the Federal Disaster Assistance Administration (FDAA) pursuant to a Presidential declaration of a major disaster or emergency.

(ii) A natural disaster designated by the Secretary of Agriculture.

(iii) A State Director's authorization when 25 or less farmers, ranchers or aquacultue operators are substantially affected by the natural disaster.

(5) Have suffered qualifying production losses or property damage in a declared or designated county or counties. Such losses or damages must be a direct result of the qualifying disaster. A statement of loss or damage will be obtained from the applicant on Form FmHA 441–22, "Certification of Disaster Losses," as indicated in paragraphs (b)(5)(i) and (ii) of this section.

(i) For production losses the applicant must have actually suffered at least a 20 percent loss of a normal per acre production or animal production in one or more basic single farming enterprises as a direct result of the designated disaster. Compensation for losses to an enterprise from a disaster through Insurance or Government program(s) benefits which the applicant is not obligated to repay reduces the applicant's actual loss by the amount of such compensation for purposes of this 20 percent loss test. Losses to farming enterprises located in a county or counties which have not been designated cannot be used in determining the amount of the loss. However, production in a non-designated county(ies) must be included in the computation of normal year's production as part of the total farming operation. Production loans will be shown on Form FmHA 441–22 in accordance with the FMI.

(ii) Physical damages or losses, not compensated by insurance or otherwise, to farm dwellings including home equipment, furnishings, personal possessions, farm service buildings, and facilities, land and water resources, farm supplies including harvested or stored crops, and livestock essential to normal farm operations qualify an applicant for a loan to repair, replace, or restore such property or to reimburse the applicant for costs incurred for such purposes. Physical losses in a non-designated county(ies) are not eligible for a EM loan. Sheet erosion does not qualify as a physical loss. The physical losses will be shown on Form FmHA 441–22 by indicating the actual loss as the market value of the property at the time of the disaster except in the case of repair or restoration, in which case the actual cost may be shown provided it does not exceed the market value of the property at the time of the disaster.

(6) Show an intent to continue operations after the disaster. Those applicants who may have stopped temporarily because of the disaster loss or damage to their operation but intend to continue with EM loan assistance will be considered to meet this requirement.

(7) Possess the legal capacity to contract for the loan.

(8) Have the character, managerial competence, ability, industry, and experience necessary to carry out the proposed farming operations to assure a reasonable prospect for success with the assistance of the loan, and will honestly endeavor to carry out the undertakings and obligations required in connection with the loan.

(c) *Determining losses and maximum amount of loan for actual losses.* (1) *Production loss.* To determine eligibility for a loan based on production losses, the lender must determine first which single enterprises are basic enterprises (Refer to § 1980.107(b)(8)(i)). Production loss is defined as a reduction in the normal level of production of crops, livestock, or aquatic organisms. Livestock increases (i.e., calves, pigs, etc.) are considered in determining production. Reductions in the production of livestock products due to losses resulting to crops to be fed or pastures to be grazed by livestock will not be considered as production losses when feed is available for purchase, regardless of the cost of the feed. When the disaster has severely disrupted the usual feeding pattern of a livestock enterprise because of an extended utility failure or inaccessability to the livestock, a loss in production (i.e., milk, eggs, weight loss, etc.) may be calculated based on the reduction from normal production for the disruption period and the period needed to bring production to the normal level. When the gross farm income has been determined and one or more basic enterprises (as defined in § 1980.106(b)(9)(i) has suffered at least a 20 percent loss of normal production for the disaster year, the amount of the production loss can be determined by subtracting the disaster year's gross income from the normal gross income and/or adding to that result the amount of any losses resulting to crops to be fed or pasture to be grazed by livestock determined as provided in § 1980.170(c)(1)(iv) to establish the amount of actual loss which will establish the maximum production loss loan. All calculations will be recorded by the lender on Form FmHA 441–26, "County Supervisor's Calculations and Verification of Qualifying Production Losses." Any claims for production losses that seem to be unreasonable will be checked carefully.

(i) Normal year's production will be determined on the basis of the per acre for animal production for the 5 years immediately preceding the year in which the disaster occurred. Such production will be that as provided by the State Crop and Livestock Report Service, State Statistical Office of the Statistical Reporting Service (SRS) or similar body. When such information is published by county, county averages will be used. If published only in a State, the State average shall be used.

(A) In those States where neither a county or State average is published, the State Director, with the advice of representatives of other Federal and State agricultural agencies, will establish and advise county offices by state instruction of the county averages. The applicant may select and eliminate one year out of the 5 years immediately preceding the disaster and the average of those remaining 4 years will be his normal year's production.

(B) If an applicant presents factual records for at least 4 of the 5 years immediately preceding the disaster which results in a higher normal production than that in the preceding paragraph, the higher production may be used in calculating the loss.

(ii) The normal gross farm income will be calculated by multiplying the acreage of crops or number of livestock, or both, which constituted the farming operation during the disaster year by the average yield per acre or units of production for each farming enterprise as determined in paragraph (c)(1)(i) of this section and by the average market price for the commodity as established by the State Director. The State Director will prepare and distribute to all County Offices, a list of the average market price for commodities during the past calendar year, if available, or otherwise use the crop year or harvest season average market price. These prices will be based on the State Crop and Livestock Report Service, State Statistical Office of the Statistical Reporting Service or similar bodies. The County Supervisor will provide lenders with these prices. The lender will total each single enterprise separately and then add together to determine the applicant's normal gross farm income.

(iii) Gross income for the disaster year will be calculated by multiplying: the same acreages and/or number of livestock used in the calculation in paragraph (c)(1)(i) of this section by the actual or estimated yields (this estimate cannot be greater than his established normal) per acre or units of production for each crop and farming enterprise conducted in the disaster year by the average market price as established in paragraph (c)(1)(i) of this section.

(iv) Losses to crops to be fed and pastures to be grazed by livestock will be determined as follows:

(A) Production history for crops to be fed to livestock will be established by using the county average for the previous 5 years provided by the State Crop and Livestock Report Service, State Statistical Office of the Statistical Reporting Service (SRS) or similar body unless the applicant has records which prove higher production than such average. To establish normal production, the applicant will select the county averages

(or his actual production if he supplies records) for the highest 4 out of 5 years immediately preceding the disaster. He will then multiply the number of acres grown for crops to be fed to livestock during the disaster year by the average yield for the 4 years by the unit price as established by the State Director to establish the normal year's gross dollar value of feed produced for livestock. He will then subtract the disaster year's gross dollar value of feed produced for livestock from the normal year's gross dollar value of feed produced for livestock to obtain the disaster year's gross dollar loss. Disaster year's gross dollar value of feed produced for livestock is determined by multiplying the acres of feed produced for livestock in the disaster year by the disaster year yield per acre by the unit price. The difference between normal year's production and disaster year's production represents the total dollar loss to crops to be fed to livestock for which the applicant is entitled.

(B) In calculating losses to pasture to be grazed by livestock either the established seasonal or yearly price per acre for rent for normal pasture or the animal unit may be used. The method used should be established by the State Director to assure uniformity throughout the State. In either case, the gross dollar value for a disaster year is subtracted from the gross dollar value of a normal year to determine the gross dollar loss for the disaster year. The gross dollar value of pasture for a normal year is determined by multiplying the number of acres grazed in the disaster year by the average rental charge per acre for the highest 4 out of 5 years immediately preceding the disaster or by multiplying the number of animal units grazed in the disaster year by the average charge per head or animal unit for the highest 4 out of 5 years immediately preceding the disaster. If the rental rate per acre is used for the disaster year, multiply the number of acres by the established normal rental charge by the percentage pasture loss to arrive at disaster year gross dollar value. If animal units are used, multiply the animal units grazed by the rental charge per animal unit by the percentage of pasture loss to arrive at disaster year gross dollar value. The percentage pasture loss will be determined by dividing the number of months in which livestock could not be grazed because of damage to pasture resulting from the disaster by the number of months in the normal grazing season.

(v) When an applicant was able to plant all or a portion of his normal crops during the disaster year, the production for that portion of the planted crops will be shown as zero on Form FmHA 441–22 if no part of the crop can be harvested, and provide that a substitute or different crop could not be planted. (Refer to § 1980.170(c)(2)(vii) concerning cases where normal crops were not planted during the disaster year.)

(vi) When acreage for crops that were destroyed by a qualifying disaster are replanted with a substitute crop *during the same crop year*, the substitute crop's income will be subtracted from the normal year's income in arriving at the disaster year's income loss.

(vii) When an applicant elects to sell livestock at an earlier date or lighter weight than usual rather than purchase feed to replace that lost as a result of the disaster, the difference between the sale price and an estimate of what the sale price would have been if the livestock had been fed for the normal period may not be claimed as a loss.

(viii) When the loss from the disaster is due to a reduction in quality that can be substantiated, rather than production, the applicant will be given credit for his loss by adjusting actual production downward to compensate for any loss in value resulting from poor quality.

(ix) Claims of production losses from the applicant will be verified by the lender and FmHA when the applicant's claims appear to be unreasonable.

(2) *Physical loss.* This is damage to or destruction of physical property including farmland (except sheet erosion); structures on the land such as buildings, fences, dams, etc; machinery, equipment, and tools; basic livestock; crops; and supplies; (and actual expenses incurred for crops not planted or to be replanted). As a general rule, losses of a physical nature will be shown by the applicant on Form FmHA 441–22 by indicating the actual loss as the market value of the property at the time it was lost or damaged by the disaster; except that in case of repair or restoration, the actual cost of such repair or restoration may be used provided it does not exceed the market value of the property at the time of the disaster. The amount of loan made for this purpose will be determined as follows:

(i) For basic livestock, the market value of the livestock lost at the time of the disaster will be considered the actual loss.

(ii) For farm dwellings for the operator and existing labor, the amount of actual loss will be the amount required to permit the repair or replacement of the dwelling with one of like quality and size, as necessary to meet local codes and to provide permanent, adequate but modest, decent, safe, and sanitary living conditions for the family. Provided the cost of the necessary repair or replacement does not exceed the market value of the property at the time it was damaged or destroyed. The financing of such dwelling is permissible, except that, a loan for any amount above the actual loss will bear interest at the market rate.

(iii) For farm service buildings and farm real estate other than buildings, the amount of the actual loss will be an amount sufficient to permit the repair or replacement of the damaged property with a building or property of like quality and capacity that will meet local codes and be adequate to meet the needs of the farming operation provided the cost does not exceed the market value of the property at the time of the disaster. If the financing required exceeds the actual loss, the amount in excess of the actual loss may be loaned at the market rate.

(iv) For supplies on hand, harvested or stored crops, and livestock products lost or destroyed by or as a result of the disaster the market value at the time of the disaster will be considered the actual loss.

(v) The actual physical loss to income producing trees will be the cost of removing the damaged or destroyed trees, clearing debris, preparing the land for replanting, the cost of suitable replacement trees, and other necessary expenses to re-establish the income producing trees.

(vi) The actual physical loss to crops or pasture will be the cost of cleaning debris, preparing the land for replanting, seed, fertilizer, and other expense necessary to re-establish the crops or pasture whether or not such costs exceed the market value of the crop or pasture at the time of the disaster.

(vii) When an applicant is unable to plant a crop during the disaster year (due to the disaster), the loan will be limited to the cost of land preparation and other expenses incurred to the date of the disaster for the crop(s) that could not be planted except that a pro rata share of fixed costs such as rent, taxes, and insurance charged to the total operation will be included. Since an EM loan will be used to cover the applicant's actual losses sustained, the County Supervisor will request an itemized list from the applicant verifying the claimed expenditures incurred in the disaster year for those enterprises for which disaster losses are claimed. This portion of the EM loan will be limited to the amount of expenditures that are shown on the list and will be a physical loss. In all cases, the applicant must furnish a signed statement itemizing all expenditures he claims were incurred in the disaster year. The County Supervisor will document his verification in the applicant's case file.

(3) *Compensation or FmHA for losses.* Compensation for losses from a disaster through insurance or government program(s) benefits which the applicant is not obligated to repay reduces his actual loss by the amount of such compensation and this reduces the amount of the EM actual loss loan. The amount of any benefits from ASCS programs including the Emergency Livestock Fund program (LFP), Emergency Conservation Measures (ECM) payments, Sugar Abandonment or Deficiency payments, and Disaster payments will be considered as compensation for losses. Also, the amount of any crop, livestock or livestock product physical loss loan must be deducted from any production loss loan based on losses to the same enterprise(s) for which an applicant later qualifies.

(d) *Loan purposes.* EM loans may be guaranteed for the following purposes:

(1) *Actual loss loans.* (i) Loans may be made to applicants for the amount of actual losses and expenses for disaster damaged or destroyed farm property, or production enterprises or both resulting from the disaster. Actual loss loan funds

may be used for any authorized EM loan purpose. Applications for actual losses must be processed within 1 calendar year after they are filed.

(ii) EM loans will not be made to flood and mudslide victims to repair or replace damaged or destroyed farm dwellings or farm service buildings and their contents in areas where "National Flood Insurance" is available, except as authorized in Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2). Note: Refer to § 1980.42 (a) and (b) of this Chapter for flood or mudslide hazard area precautions.

(2) *Annual operating purposes.* After the initial EM loan for any purpose, five annual subsequent EM loans may be made for annual operating purposes, provided they are made within 5 full calendar years after the disaster, to permit the borrower to return to his normal credit sources without a guarantee. If the borrower has received EM loans in the past for annual operating purposes because of a designated disaster, these loans will be deducted from the six. For example, if a borrower received an initial and two subsequent EM loans for annual operating purposes, based on losses from a qualifying disaster, only three additional loans may be considered and then only within the 6-year period. However, in the event a borrower who has paid his EM loan in full is unable to obtain sufficient credit elsewhere he may obtain an EM loan for annual operating purposes to satisfy his operating needs, provided the loan is made within the first five full calendar years after the disaster. Annual loans for operating purposes may be made for:

(i) Annual production expenses and the purchase of feeder livestock, farm and other supplies including inventory, the repair or rental of equipment; and the payment of essential expenses for the operation or paying bills incurred for any items in this subparagraph for the crop or operating year being financed.

(ii) Payment of customary cash rent or cash charges for the use of essential buildings, pasture, crops, hay, land, and grazing permits or bills for such purposes for the operating or crop year being financed, subject to the following:

(A) The applicant is obligated under a written lease or other agreement to pay such rent or charges in advance of the time income will be available from the operations to make such payment. For grazing fees an invoice showing the number of livestock to be grazed, the grazing period, the cost per head and the total cost may be used in lieu of a written lease. However, when relatively small amounts of funds are involved, an invoice will not be required if the applicant's explanation of a satisfactory grazing agreement is recorded in the loan docket.

(B) Arrangements cannot be made for the rent or charges to become due when income will be available from the operations to make such payment.

(C) Not more than one year's cash rent or cash charges will be paid with loan funds in any one lease year, except that if a loan is approved near the end of the current lease year, funds for payment of such rent or charges for the succeeding lease year may be included in the loan.

(D) The terms of the rental agreement provide the applicant with reasonably satisfactory tenure.

(iii) Payment of: (A) Personal (chattel and equipment) and real property taxes due or about to become due and water or drainage charges or assessments.

(B) Applicant's share of Social Security taxes for hired labor for the operation.

(C) Premiums for insurance on real estate and personal (chattel and equipment) property including premiums for public liability and property damage insurance on farm and other essential equipment, including farm trucks. When a loan is secured by chattels and the loss of such chattels would jeopardize the interest of the Government, the lender may require the borrower to insure the chattels against hazards customarily covered by insurance in the area.

(iv) Payment of not more than a year's interest that is due or about to become due on debts secured by liens of other creditors on property essential for the farm or other income producing nonfarm enterprises located on the farm.

(v) Payment to a creditor in any one year not to exceed 20 percent of the market value of the essential farm equipment under prior lien to that creditor or 20 percent of the principal amount owed to such creditor, whichever is less.

(vi) Meeting modest family subsistence needs, including premiums on reasonable amounts of health and life insurance, and expenses for medical care or for paying bills incurred for any of these purposes during the crop year being financed.

(vii) Refinancing a modest debt that must be paid for an applicant to continue farming.

(3) *Major adjustments to the operation.* An EM loan may be made to an applicant for the following purposes to enable him to change his operation because of economic conditions and to overcome the financial difficulties caused by the disaster. The resulting operation must be one which only realizes a gross income equivalent to that of the operation conducted before the disaster. Applications for loans may not be received for such purposes later than one full calendar year after the designation date.

(i) *Real estate purposes (Subtitle A).* The following are authorized real estate purposes: (A) The purchase of additional essential real estate necessary for an effective operation provided the resulting operation will not provide more net income annually than the normal operation before the disaster. Depreciation will be disregarded in computing net income in both cases.

(B) The construction, improvement, alteration, repair, relocation, purchase or moving of essential but modest dwellings and service buildings, facilities and structures on the applicant's real estate, including the purchase and/or installation of essential farmstead water and sewage systems, and other equipment or facilities necessary to the operation.

(C) Providing land and water development, acquiring water supplies, rights, use, and providing conservation essential to the operation. This includes but is not limited to fencing, land clearing, forestry practices, establishment and improvement of permanent hay or pasture, drainage and irrigation facilities, basic application of lime and fertilizer, and development of fish ponds, trails, and lakes.

(D) Refinancing secured and unsecured debts.

(E) Payment of reasonable expenses customary to obtaining, planning, and making the loan such as the guarantee fee, loan fee and fees for legal, architectural, and other services which are required to be paid by the borrower and which he cannot pay from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned building or land improvements.

(F) Payment of the first-year premium for required insurance on buildings on the property which are to serve as security for the loan. Buildings will be insured in accordance with Subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1), except when the appraisal report shows that the land alone will adequately secure the loan. However, the applicant will be encouraged to take property insurance on essential buildings to protect his own interest. Borrowers eligible for insurance under the National Flood Insurance Act of 1968 will be advised of its availability in accordance with Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

(G) EM loans may be made to tenants to finance real estate improvements or repairs provided:

(1) The lender determines that the applicant has reasonably secure tenure for a long enough period to enable him to realize adequate benefits to justify the expenditures.

(2) A written lease is obtained providing for compensating the tenant for any unexhausted value of the improvement upon termination of the lease.

(3) Not more than $50,000 may be loaned to a tenant for real estate improvement, repairs, or for refinancing unsecured debts clearly incurred for such purposes.

(4) Before a loan is made for real estate improvements to a tenant, the following determinations must be made:

(i) EM loans will not be needed or made year after year to make substantial real estate improvements.

(ii) The applicant will likely continue to operate the farm for a sufficient period of time and under such terms that will enable him to obtain a reasonable return on his investment.

(ii) *Operating purposes (Subtitle B).* The following are authorized operating purposes.

(A) Purchase of livestock, poultry, fur bearing and other farm animals, aquatic organisms, bees, farm equipment, and paying costs incident to reorganizing the farming system for a sound operation.

(B) Purchase and repair of essential home equipment and furnishings, and the payment for home equipment repairs required by the applicant family to sustain itself in a reasonably satisfactory manner.

(C) Refinancing secured and unsecured debts.

(D) Purchase of milk base either with or without cows when such action is necessary to assure the borrower a satisfactory market for his dairy production.

(E) Purchase of grazing license or permit rights of privatte parties which can be validly sold and transferred.

(4) *General purposes.* In addition to the purposes authorized in paragraphs (d) (1), (2), and (3) of this section, loans may also include funds for:

(i) Expenses incident to loan closing.

(ii) Payment of interest-only installment(s) scheduled for the first installment due date and the second installment due date when a borrower will not otherwise be able to meet the initial interest payment(s) on his loan because income from crops, livestock, or other sources is not available.

(iii) Payment of fees, including the guarantee fees.

(5) *Variable Circumstances.* When an applicant has been determined eligible for a production or a physical loss he may obtain an annual or major adjustment loan irrespective of a loss loan.

(e) *Interest rates and terms.* (1) The interest rate which the lender may charge borrowers obtaining EM loans for actual losses is 5 percent. The interest rate for other than actual losses will be the interest rate prevailing in the private market for similar loans as determined by the Secretary of Agriculture. The Secretary will review the interest rates periodically and may establish new rates.

Lenders may ascertain the current established market rates for EM loans by telephoning any FmHA office. Interest will be charged only on the actual amount of loan funds borrowed and for the actual time the loan is outstanding. The interest rate initially established for each loan will remain constant during the existence of the FmHA Guarantee thereon. Interest on protective advances made by the lender to protect the security may be charged at the rate specified in the security instruments. See also § 1980.136 of Subpart A of this Part.

(2) *Terms of loan repayment.* (i) EM loans will be scheduled for repayment at such time and periods as the lender may determine, consistent with the purpose of the loan as set forth below, and in accordance with the useful life of the security and the reasonable repayment ability of the applicant as determined by his plan of operation. However, there must be at least an annual installment unless a deferment of principal and/or interest is authorized in accordance with paragraph (e) (2) (iii) (D) of this section.

(A) Loan terms for actual losses to crops, livestock, supplies, harvested or stored crops, livestock products on hand, and equipment; and items financed under § 1980.170(d) (3) (ii) will be for a period not to exceed 7 years.

(*1*) When conditions warrant, installments may vary in amounts. However, the final installment will not be larger than the amount which can then be financed by the lender without a guarantee or be repaid within a renewal period of not to exceed 5 years. The applicant must be advised before the loan is closed that the lender will review each case at the end of the initial loan term and, together with FmHA will determine if a renewal is warranted. (Refer to § 1980.124)

(2) Loans made for actual losses to crops and other property listed in § 1980.170(e) (2) (i) (A) of this paragraph resulting from any disaster occurring after January 1, 1975, may be scheduled for a longer repayment period if the FmHA approval official determines that the needs of the applicant justify a longer repayment period than that scheduled for repayment within 7 years initially with a possible 5-year renewal. Such period may be approved as warranted but for not more than 20 years. Generally real estate will be needed as security when the longer repayment period is authorized. When the longer period is used, renewal is not authorized.

(ii) The terms for actual losses to real estate and items financed under paragraph (d) (3) (i) will be for a period not to exceed 40 years.

(iii) The term for loans for annual operating expenses financed under paragraph (d) (2) will be as follows:

(A) Advances for annual recurring operating expenses or for paying bills incurred for such purposes for the operating or crop year being financed will be scheduled for payment when the principal income from the year's operations normally would be received. However, in an unusual case where circumstances warrant a longer period, up to 5 years, may be scheduled.

(B) Advances to purchase or produce feed for productive livestock or livestock to be fed for the market, or to pay bills incurred for such purposes for the crop year being financed, will be scheduled for repayment when the principal income from the sale of such livestock or livestock products can be expected. Advances will not be allowed, however, for feed of a type which the lender determines will not produce a crop within three years.

(C) The final maturity of the loan may not exceed 7 years from the date of the promissory note.

(D) When income sufficient to meet the scheduled installment will not be received by the borrower until the second or third year following the due date, the payment may be deferred to the second or third year as appropriate providing any holders agree. The lender and FmHA must agree that the borrower can reasonably be expected to pay the total debt with a deferment.

(f) *Security requirements.* The lender is responsible for seeing that proper and adequate security is obtained and maintained in existence and of record to protect the interests of the lender and FmHA.

(1) *Lien priority.* When the same Lender is involved in a guaranteed loan and an unguaranteed loan, the guaranteed loan must be adequately secured by a lien on separate security property that is clearly identifiable or by a lien of a higher priority if the same property is used to secure both loans. The lender must agree in writing that the guaranteed loan will be paid first.

(2) *Security for EM loans.* (i) Annual operating loans will be secured by a first lien on the crop or livestock or both, being financed with EM loan funds plus enough other security, including personal property, real estate, and crop insurance, to assure that the lender's and FmHA's financial interest will be protected. When the applicant can provide no collateral other than a first lien on crop and/or livestock production, or both, the amount of the loan will be limited to the greater of $50,000 or one-half the estimated gross farm income planned as shown on the plan of operation which will be based on normal production and prices authorized by the State Director for developing annual farm plans within the State. When an EM borrower who is indebted for an annual production loan must have a subsequent EM production loan during the current crop year to complete that year's farming operation and protect the Government's financial interest which is secured only by the crop, the $50,000 or 50 percent gross income requirement will not apply provided the loan is otherwise sound and proper.

(ii) Actual loss loans for the same purposes as authorized for loans under § 1980.170(d) (3) (ii) and loans made under § 1980.170(d) (3) (ii) will be secured by a lien on sufficient equity in livestock, equipment and machinery, and other personal property if necessary to protect the lender's and FmHA's interest, plus when necessary, a lien on equity in part or all of the real estate owned by the applicant. When the applicant can provide no collateral other than a first lien on crops and/or livestock production or both, then the policy outlined in § 1980.170(f) (2) (i) will apply. If the applicant has enough equity in real estate, no additional security need be taken. A second crop lien may be taken when deemed necessary to assure repayment of the loan.

(iii) Actual loss loans for the same purposes as authorized for loans under § 1980.170(d) (3) (i) and loans made under § 1980.170(d) (3) (i) will be secured by equity in real estate. However, if there is not sufficient equity in the real estate, a lien also will be taken on personal property, plus if necessary, a second lien on the crops. An EM loan made to a tenant with a long-term lease will be secured by a lien on a transferable leasehold.

(iv) The FmHA loan approval official may make an exception to the security

requirements if all of the following conditions are met:

(A) Adequate security property is not available because of the disaster.

(B) The applicant offers all available security property, some or all of which may have depreciated in value due to the disaster.

(C) The security property, and the applicant's repayment ability as assessed by the FmHA loan approval official and lender are adequate security for the loan.

(v) When an EM loan, for whatever purpose, is to be secured by a lien on real estate or a combination of real estate and chattels, the security will be considered "basic security." For all loans over $10,000 title clearance is required except that, when a reputable long-term lender has a first mortgage on the property, the search need only be made after the recordation date for such mortgage. For loans of $10,000 or less, only certification of ownership and verification of equity in real estate is required. Certification of ownership may be accepted in the form of a notarized affidavit from the applicant stating who is the owner of record of the real estate in question and acknowledging all known debts, with balances owed, against the real estate. Whenever the lender is uncertain of the ownership or debts against the real estate security, he will require title clearance.

(vi) If the real estate offered as security is held under a purchase contract, the following conditions will prevail:

(A) The applicant must be able to provide mortgageable interest in the real estate concerned.

(B) The applicant and the purchase contract holder will agree in writing that all insurance claim settlements received for real estate losses will be used in their entirety to replace or repair the damaged real estate. The applicant will renegotiate with the purchase contract holder to arrive at a new contract without any provisions objectionable to FmHA and the lender.

(C) If a satisfactory contract of sale cannot be renegotiated or the purchase contract holder refuses to apply the insurance proceeds toward the repair or replacement of the real estate losses, but chooses to retain some of the proceeds as an extra payment on the balance owed, the applicant will make every effort to refinance the existing purchase contract. If the applicant cannot obtain refinancing from another source, an EM loan will be considered to include funds to pay off the contract and improve the property. If the applicant can get the contract refinanced, an EM loan will be considered to restore the property to its predisaster condition.

(D) If the conditions provided for in paragraph (f)(2)(vi) (A) (B) and (C) of this section can be met and an EM loan is approved, it can be closed provided the lender's attorney determines that:

(*1*) The applicant has mortgageable interest in the property under a long term purchase contract.

(2) The purchase contract is not subject to summary cancellation on default and does not contain other provisions which might jeopardize the lender's security position or the borrower's ability to repay the loan.

(3) The contract holder will agree in writing to give the lender notice of any breach by the purchasers, and further agrees to give the lender 30 days from notice of such breach to rectify said conditions.

(vii) If any of the prior liens against real estate offered as security contain future advance provisions, or other provisions which might jeopardize the security position of the lender or the applicant's ability to meet his obligations under these prior liens and to pay the EM loan, the prior lienholders involved must agree in writing, before the loan is closed, to modify, waive, or subordinate such objectionable provisions.

(viii) In States where a prior lienholder may foreclose his security instrument under power of sale or otherwise and extinguish junior liens of private parties without giving junior lienholders actual notice, when a junior lien on real estate is to be taken as security for the loan, the prior lienholder must agree in writing to give the lender advance notice of foreclosure or assignment of the mortgage.

(ix) If essential insurable buildings are located on the property, or if new buildings are to be erected or major improvements are to be made to existing buildings, the applicant will provide adequate property insurance coverage at the time of the loan closing or as of the date materials are delivered to the property, whichever is appropriate. However, when the real estate appraisal report shows that the present market value of the land after deducting the value of buildings shown on the report exceeds the amount of the debt including the loan and the owner has equity equal to or exceeding the amount of the debt including the loan, real property insurance will not be required. However, the applicant will be encouraged to obtain such insurance if he does not already have it to protect his interest. If insurance claims for loss or damage to buildings to be replaced or repaired with loan funds are outstanding at the time the loan is approved, the applicant will be required to agree in writing that when settlement is made the proceeds of such claims will be used for replacement or repair of buildings; application on debts secured by prior liens or application on the EM loan.

(x) Loan amounts borrowed for repair or replacement of personal possessions and home equipment or furnishings will be secured by a lien(s) on crops, aquatic organisms, livestock, farm machinery, essential trucks or automobiles, and/or farm real estate.

(xii) Lenders may require Federal or other types of Crop Insurance, with an assignment to the lender during the repayment period of the EM loan if such insurance is available in the county. This determination is a judgment factor and the decision should be based on the amount and type of security, other than crops, that the applicant can provide. However, when only a crop lien is taken as security for EM loans, the borrower will be required to carry Federal or other type of Crop Insurance during the repayment period of such loan(s) if such insurance is available.

(g) *Receiving applications.* (1) Applications for EM loans will be received only in designated counties.

(2) *Information needed from partnership applicant.* If the applicant is a partnership, personal financial statements will be obtained from each of the partners and included in the loan docket in addition to the partnership's financial statement.

(3) *Information needed from corporation applicant.* If the applicant is a corporation, the following additional information will be obtained and included in the loan docket.

(i) A complete list of stockholders, showing the address, citizenship, principal occupation, and the number of shares of stock held in the corporation by each.

(ii) A current personal financial statement from each of the principal stockholders. Any other stockholder whose financial statement, in the judgment of the County Supervisor or the loan approval official, would be pertinent to consideration of the financial strength of the corporation and its stockholders will also provide a personal financial statement. (Refer to § 1980.170(b)(1) for a definition of principal stockholder.)

(iii) A copy of the corporation's charter, articles of incorporation and bylaws, and a resolution(s) adopted by the Board of Directors or stockholders authorizing specified officers of the corporation to apply for and obtain the desired EM loan and execute required debt, security and other instruments and agreements.

(iv) A copy of any lease, contract, or agreement entered into by the corporation which may be pertinent to consideration of its application.

(h) *Additional EM loan guarantees.* Guarantee of additional EM loans at the prevailing rate may be made for the same purposes and under the same conditions as an initial EM loan under the following conditions.

(1) When the applicant did not obtain a loan for the full amount of the actual loss authorized as shown by the loss statement filed, the applicant may, within 1 year after the date of the request for Loan Note Guarantee, be considered for an additional loan, based on the initial application, for all or a portion of the loss balance not requested initially.

(2) Additional loans for major adjustments of the farming operation made under § 1980.170(d)(3) of this subpart must be made within 1 full calendar year after the designation date.

(3) New appraisal reports for real estate will not be required if the appraisal report in the file is not over 2 years old unless the approval official requests a new appraisal report. Any changes in the value of real or chattel security will be recorded, dated, and initialed by the authorized appraiser on the appropriate appraisal reports in the file.

ADMINISTRATIVE

The County Office will make reports in accordance with guidelines for reporting EM loan disaster activity in all FmHA Offices (FmHA Instruction 492.7) except as follows:

A. Receipt of Form FmHA 449–12, "Request for Loan Note Guarantee," from the lender will be shown in item 1 of Form FmHA 492–7, "Report of EM Loan Applications," as a loan approved.

B. Signing of the Loan Note Guarantee will be shown in item 2 of Form FmHA 492–7 as a loan approved.

C. If the gurantee cannot be approved, item 3 on Form FmHA 492–7 will shown this as a rejected application.

D. Receipt of Form FmHA 449–12 before the signing of the Loan Note Guarantee will be shown in item 4 of Form FmHA 492–7 as an unprocessed EF application.

E. Where security property will be taken under the conditions of § 1980.170(f)(2)(iv), the FmHA official will determine whether an insured loan will be made to the applicant instead of a guaranteed loan.

F. The County Supervisor will give written notice to eligible lenders in his service area when FmHA will guarantee loans. This notification will specify the type of disaster, the designated county or counties, the termination date for receiving EM loan applications, the incidence period for the disaster, and the Disaster Designation Number.

§ 1980.171–1980.174 [Reserved]

§ 1980.175 Operating Loans.

(a) *Objectives.* The basic objective of an Operating loan is to provide the credit necessary for eligible family farmers, ranchers and rural youths to conduct successful operations.

(b) *Eligibility.* To be eligible for an operating loan each applicant must: (1) Be a citizen of the United States.

(2) Possess the legal capacity to incur the obligations of the loan.

(3) Have a farm background and sufficient experience or training to assure reasonable prospects of success. (Except for youth loans)

(4) Have the character, managerial competence, ability and industry to carry out the proposed enterprise and obligation.

(5) Be unable to obtain sufficient credit elsewhere to finance his actual needs at rates and terms he could reasonably expect to meet, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time.

(6) Be an individual owner operator or tenant operator of not larger than a family farm after the loan is closed. (Except for youth loans)

(7) Rely on farm income for a reasonable standard of living after the loan is closed. (Except for youth loans)

(c) *Special cases.* (1) If they are otherwise eligible, individuals jointly engaged in farming, recreation and nonfarm enterprises may obtain an operating loan under the following conditions:

(i) A joint loan not to exceed $50,000 may be made to two eligible applicants to operate not larger than the equivalent of one family farming operation. For a joint loan, both individuals will execute all documents required to be signed for the loan.

(ii) Separate loans may be made to eligible applicants engaged in an operation, provided not more than three individuals have an interest in the operation; the operation provides the equivalent of not larger than one family farming operation for each individual; and the amount of the loan to each individual does not exceed $50,000. Each individual will execute separate documents.

(2) Although a partnership is ineligible for a loan, individual applicants are not ineligible because they are partners, even though title to the property may be vested in the partnership and the farming operations are conducted by the partnership. Separate loans will not be made to individual members of a partnership. A joint loan not to exceed $50,000 may be made to not more than three partners as individuals provided:

(i) The applicants are the only partners and each member of the partnership is an eligible applicant.

(ii) The partnership is not engaged in any other business or enterprise other than operation of the farm.

(iii) Personal participation in the management of the farming operations by the applicants meets the conditions that would be required for a loan to them if the partnership did not exist.

(iv) The financial resources and borrowing capacity of the partnership are treated as the financial resources and borrowing capacity of the individual partners in determining whether they can obtain the necessary credit elsewhere.

(v) The note, mortgages, and any other required instruments are executed by the partnership as well as by all the partners as individuals as necessary to close the loan and obtain the desired liens and liability.

(3) If otherwise eligible rural youths may obtain an operating loan under the following conditions: (i) Rural youth applicants include persons who have reached the age of 10 but have not reached the age of 21 and do not reside in any area, city or town that has a population of more than 10,000 inhabitants.

(ii) Loans made to rural youths must be recommended by their project advisors who are 4–H club advisors, vocational agricultural teachers, home economics teachers, county extension agents, or similar sponsors or advisors. In addition, youths who has not reached their majority under State law must obtain the written recommendations of their parent or guardian. All recommendations will be filed with the application in the County Office case file.

(iii) Youth loan funds will not be dispersed until the Loan Note Guarantee is executed by FmHA.

(d) *Loan purposes and limitations.* (1) Loan purposes. Loans may be made for farm, recreation, forestry and nonfarm enterprises or rural youth projects for the following purposes, when such purposes are essential to the operation:

(i) Purchase of livestock, poultry, fur bearing and other farm animals, fish, birds, bees, tools, inventories and equipment.

(ii) Purchase of an undivided interest in the items included in paragraph (d)(1)(i) of this section which would be operated under a joint arrangement or as a group service.

(iii) Payment of annual production expenses.

(iv) Payment of family living expenses.

(v) Refinancing debts. The amount advanced for refinancing will not exceed the value of the property which will serve as security for the loan, less any prior liens not to be refinanced.

(vi) Purchase of membership and stock in cooperatives.

(A) Purchase of membership or stock in farm purchasing, marketing, and service-type cooperative association, including a grazing association, to help provide capital for improvement of services to farmer members.

(B) Purchase of membership or stock in recreation or other nonfarm purchasing, marketing, service or promotional type cooperative association organized to produce additional income for its members.

(C) Loans will not be made for membership in production cooperative associations or in associations that will acquire, lease, or improve land not otherwise under the control of the members.

(vii) Purchase and repair of essential home equipment.

(viii) Purchase of milk base or milk quota with or without cows.

(ix) Up to $3,500 in a fiscal year for real estate improvement, repairs, or for refinancing unsecured debts clearly incurred for such purposes. In unusual cases, loans above $3,500 may be forwarded to the National Office for consideration. The following determinations must be made before an operating loan is made for real estate improvements:

(A) An operating loan will not be needed or made year after year for this purpose.

(B) A real estate loan would not be better suited for needed improvements.

(C) The applicant will likely continue to operate the farm for a sufficient period of time and under such terms to obtain reasonable returns on the investment. A tenant must have reasonably secure tenure for a sufficient period to realize adequate benefits to justify the expenditures.

(D) Funds used for real estate purposes will be planned and developed in accordance with § 1980.129 of Subpart A of this part.

(x) Payment of an amount to a creditor in any one year not to exceed 20 percent of the appraised market value of the essential farm and nonfarm equipment under prior lien to that creditor, or 20 percent of the amount owed to such creditors, whichever is less.

(xi) Purchase of franchise, contract or privilege when necessary to the operation and Drying Equipment Loan Program.

(xii) Partial payment on grain or other storage and drying facilities when the Commodity Credit Corporation, through

the Agricultural Stabilization and Conservation Service (ASCS), is providing the rest of the credit under the Commodity Credit Corporation Farm Storage and Drying Equipment Loan Program.

(2) Loan limitations. The total outstanding operating loan principal balance may not exceed $50,000 at loan closing. The amount of each loan will be limited to the applicant's needs and ability to pay. Loans may not be made for the purchase of real estate, making principal payment on, or refinancing any debts incurred for the purchase of real estate. In addition, loans may not be made to pay land lease costs under any program other than cash rent.

(e) *Rates and terms.* (1) The interest rate to borrowers is fixed pursuant to statutory formula. FmHA will determine the rate periodically. However, the rate initially established for each loan will remain constant during the existence of the FmHA guarantee. The lender may ascertain the rate by telephoning any FmHA office. Interest will be charged only on the actual amount of funds loaned and for the actual time the loan is outstanding. Interest on protective advances made by the lender to protect the security may be charged at the rate specified in the security instruments.

(2) Loan installments will be determined as follows: (i) Advances for annual recurring production expenses or for paying bills incurred for such purposes for the production or crop year being financed ordinarily will be scheduled for payment no later than one year following the date of the promissory note.

(ii) Advances for purposes other than those for annual production expenses will be scheduled for payment over the minimum period necessary considering the applicant's ability to pay and the useful life of the security for the loan.

(iii) When conditions warrant, installments scheduled in accordance with paragraph (e) (2) (ii) of this section may include equal, unequal, or balloon instruments, as appropriate to the borrower's financial situation.

(iv) When income sufficient to meet the scheduled installment will not be received by the borrower until the second or third year following the due date, the payment may be deferred to the second or third year as appropriate providing any holder(s) agree. The lender and FmHA must agree that the borrower can reasonably be expected to pay the total debt with a deferment.

(v) The final maturity of the loan cannot exceed 7 years from the date of the promissory note.

(f) *Security.* The entire loan must be secured by a first lien on all property or products acquired, produced, or refinanced and by any additional security needed to adequately secure the loan. Such additional security may consist of the best lien obtainable on real estate or other property. Youth loans greater than $2,500 will be co-signed. In exceptional cases the loan approval officials may require a co-signer for youth loans of $2,500 or less.

(g) *Other considerations.* (1) Applicants will be advised by the lender that they are expected to comply with any applicable special laws and regulations.

(2) Applicants receiving loans for a nonfarm enterprise will be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance.

§§ 1980.176–1980.179 [Reserved]

§ 1980.180 Individual Farm Ownership (FO), Soil and Water (SW), and Recreation (RL) loans.

(a) *Objectives.* The basic objectives of the FmHA in making FO, SW and RL loans are:

(1) For FO loans—To assist eligible farmers and ranchers to become owners-operators of not larger than family farms.

(2) For SW loans—to encourage better conservation and use of soil and water resources on farms and ranches.

(3) For RL loans—To assist eligible owners or tenants to convert all or a portion of their farms or ranches to outdoor income-producing recreation enterprises.

(b) *Eligibility requirements.* To be eligible for an FO, RL, SW or any combination thereof an applicant must:

(1) For FO and RL loans—Be a citizen of the United States.

(2) For FO, SW and RL loans—Possess the legal capacity to incur the obligations of the loan.

(3) For FO, SW, and RL loans—Have a farm background (except for veterans) and sufficient experience or training to assure reasonable prospects of success.

(4) For FO, SW, and RL loans—Have the character, managerial competence, ability and industry to carry out the proposed enterprise and obligation.

(5) For FO, SW and RL loans—Be unable to obtain sufficient credit to finance his actual needs at rates and terms he could reasonably expect to meet, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time.

(6) For FO, SW (Individuals), and RL loans—For FO loans be an individual owner-operator of a family farm after the loan is closed. For SW be a farm owner or operator. For an RL be an individual owner or operator regularly engaged in farming at the time of application, and be the manager and operator of the recreation enterprise after the loan is made. Loans may be made to other than individual owners or operators under the following circumstances:

(i) Whenever it is not feasible to divide the land into family farms with individual ownership, a loan may be made to two applicants constituting a family group such as father-son, mother-son or grandfather-grandson who own or will own a farm jointly and conduct a joint operation if each of the applicants is individually eligible and the family group likewise meets all eligibility requirements, provided that for FO loans the total operation will not be larger than a family farming operation. The participation of a member of such family in the operation without an ownership interest in the farm is not prohibited, but the responsibility of management must be in the owner or owners. In any case, it must be determined that because of previous experience in working together, such a family group likely will succeed in the proposed joint farming operation. All joint owners of the land will execute all loan forms.

(ii) A loan may be made to an eligible applicant who will own a farm and will conduct a joint operation with another individual or individuals provided that:

(A) Not more than three individuals have an interest in the operation.

(B) Because of previous experience in working together as farmers, they will likely succeed in the proposed joint operation; and

(C) For FO loans the joint operation will not be larger than the equivalent of a family farm operation for each full-time operator involved. However, such operation will not exceed a single family operation whenever the individual who has an interest in the applicant's operation does not personally perform labor in an amount at least equal to his respective interest in the operation.

(iii) When a life estate is involved, a loan may be made to the life estate holder and the remainderman jointly. A loan may be made to the remainderman only, when he holds title to the property except for a small tract set aside for the life estate holder, and the remainderman can legally execute a lien on the property and can provide the necessary security.

(7) For SW loans only—if a corporation or partnership:

(i) Be a farm owner or operator.

(ii) Be organized under the laws of the United States or of a State.

(iii) Be authorized to own or operate a farm in the State where the loan is made.

(iv) The corporation or partnership and the principal stockholder or partners as individuals are unable to provide the necessary improvements with its and their own resources, or obtain sufficient credit at rates and terms they could reasonably expect to fulfill. A principal stockholder is one who owns 20 percent or more of the corporation's stock. If no person owns as much as 20 percent, then all stockholders are considered principal.

(8) For SW and RL loans—If a tenant, have a satisfactory written lease for a sufficient period of time and under terms that will enable the obtaining of reasonable returns on the improvements made with the loan. In addition, the lease or a separate agreement must provide for compensating the tenant for any unexhausted value of the improvements upon termination of the lease, unless the loan is secured by a leasehold.

(c) *Loan purposes.* When an RL is made, the purposes listed in this paragraph must be in connection with an outdoor recreation enterprise. When loan funds are used for development, the work

must be planned and performed in accordance with § 1980.129.

(1) For FO and RL loans—Purchase land, easements and rights-of-way for a farm, nonfarm or recreation enterprise. This purpose is subject to the following special requirements:

(i) Preference will be given to persons who are married or have dependent families and, wherever practicable to persons who are able to make initial downpayments, or who are owners of livestock and farm implements necessary to successfully carry on farming operations.

(ii) Adequate development to place the farm and any nonfarm enterprise in condition for a successful operation will be provided at the outset in connection with each loan.

(iii) Land which has been designated for retirement from agriculture by Federal, State or local Agencies will not be acquired.

(iv) If the farm contains two or more noncontiguous tracts, they must be so located that the farming operation and any nonfarm enterprise can be efficiently conducted, considering the distance and adequacy of rights-of-way or public roads between the tracts.

(2) For FO and RL loans—To construct, improve, repair or relocate an essential but modest dwelling (FO only), service buildings and facilities which become a permanent part of the farm. This includes items for use in nonfarm enterprises.

(i) Special Requirement. Buildings adequate for the planned operation of the farm, including any nonfarm enterprise, must be available for the applicant's use after the loan is made. The necessary buildings ordinarily will be located on the applicant's farm. However, if an applicant already owns an adequate, decent, safe, and sanitary dwelling suitable for the family's needs, which is located close enough to the farm so the farm may be operated successfully, it will not be necessary to provide a dwelling on the farm. A real estate lien will be taken on such dwelling.

(ii) Exception. An exception to the requirement that the farm include a suitable dwelling may be made when the applicant has a long-term lease on acceptable rented buildings that are adjacent to or near the farm, or when the applicant occupies suitable buildings of relatives that he will eventually inherit or be permitted to purchase. The applicant will not be required to build a dwelling if the farm being purchased has an existing mobile home which is suiable and unencumbered, or the applicant may retain for his residence a suitable mobile home which he already possesses provided the farm he owns or plans to purchase does not have an adequate dwelling.

(3) For SW loans only—to construct, improve, or relocate essential buildings and structures that will be used primarily for pollution abatement or control.

(4) For FO, SW, and RL loans—Land and Water Development. (i) Pay cash costs for materials, supplies and services related to: land and water development, use and conservation; the purchase and/or installation of water and sewage disposal systems necessary to the operation of the farm or nonfarm enterprise; and for pollution abatment and control that is related to soil and water conservation. This includes the planting of fruit trees when they relate to conservation of soil or water.

(ii) To acquire a source of water to be used on land the applicant owns or is acquiring, including:

(A) The purchase of water stock or membership in an incorporated water users' association.

(B) The acquisition of a water right through appropriation, agreement, permit, or decree.

(C) The acquisition of a water supply or water right, and the land on which it is presently being used, when the water supply or water right cannot be purchased without the land, provided:

(1) The value of the land without the water supply or water right is only an incidental part of the total price, and

(2) The water supply and water right will be transferred to, and used more effectively on other land owned by the applicant.

(iii) Purchase or repair special-purpose equipment necessary to perform land and water development subject to the following requirements:

(A) Such equipment is needed for, and will facilitate the completion or maintenance of the planned improvement, and

(B) The cost of the equipment plus other costs related to the improvement will not be more than if performed by contract or other methods.

(iv) To pay that part of the cost of facilities, improvements, and practices to be earned by participation in programs administered by Agencies such as the Agricultural Stabilization and Conservation Service or the Soil Conservation Service only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of payment for which the funds were advanced likely will exceed $1,000, the applicant will assign the payment to the lender.

(5) For FO, SW and RL loans—To refinance secured and unsecured debts when the lender determines that the applicant's present creditors will not give him rates and terms on his existing debts which he can reasonably be expected to meet, except that SW loan funds may only be used to refinance debts that were incurred for authorized SW loan purposes.

(6) For FO, SW, and RL loans—Pay expenses incident to obtaining plans and making the loan, such as fees for legal, architectural, appraisal, and other technical services, hazard insurance premiums, closing costs, social security taxes for labor hired by the borrower in connection with making the planned improvement, and loan fees as authorized in § 1980.22 of this Chapter which the borrower cannot pay from other funds.

(7) For FO, SW and RL loans—Purchase any stock in a cooperative lending agency that is necessary to obtain the loan.

(8) For SW loans only—Purchase stock or membership in, or pay assessments to, a corporation, association or organized group service which will help such association or group service to finance facilities and improvements for which loan funds may be used.

(9) For RL loans only—(i) Purchase and install materials, supplies, equipment, fixtures, animals, fish and birds necessary for the efficient operation of a recreation enterprise.

(ii) Pay operating expenses necessary to the efficient operation of the recreation enterprise. When the loan includes funds for operating expenses the borrower will agree to repay that amount as expeditiously as feasible, usually within the first year or two but in no case longer than 5 years.

(d) *Rates and terms.* (1) FO, SW, and RL loans—The interest rate which the lender may charge is 5 percent.

(2) For FO, SW and RL loans—Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

(3) For FO, SW and RL loans—The combined total of individual farm real estate loans to a borrower cannot exceed $100,000, the market value of the farm and any other security, or the amount certified by the County Committee, whichever is less.

(e) *Security.* (1) For FO, SW and RL loans—FO loans will be secured by real estate only, except in Texas nonreal estate security may be used due to unusual homestead laws. RL and SW loans will generally be secured by real estate except as provided in paragraph (e) (2) of this section. When real estate is taken as security for a loan the following requirements will be met:

(i) A mortgage on the entire farm owned by the applicant will be obtained except if the applicant's title to any part of the farm is defective and cannot be cured at a reasonable cost, or if State law will not recognize a mortgage upon it. The part of the farm to which the title is defective will be omitted from the appraisal. The maximum amount of loan funds which can be used to improve property which has a defective title or property not owned by the applicant is $5,000.

(ii) Except as stated in § 1980.180(c) (2), if the applicant owns other real estate which is not a part of the farm, he will normally be required to dispose of the property before or simultaneously with the closing of the loan. If this is not feasible the loan can still be closed if the applicant agrees to dispose of the property as quickly as possible but not later than two years after loan closing. Form FmHA 443–17, "Agreement to Sell Nonessential Real Estate," will be executed at loan closing when this is the

case. The security instrument will not include real estate that is to be sold. The FmHA State Director may permit an applicant to retain real estate that is not a part of the farm when any of the following conditions exist:

(A) The real estate provides employment or income which together with farm income is essential to the applicant's success.

(B) The real estate is the applicant's residence.

(C) A sale of the property would not materially reduce the applicant's need for a real estate loan or for operating credit; and provided further, in the case of an FO loan, retention of the real estate will not allow the borrower to operate larger than a family farm or own a farm for rental purposes.

(iii) Loans of $5,000 or less may be secured by the best lien obtainable without title clearance or legal services normally required, provided the lender believes from a search of the county records that the applicant can give a mortgage on his farm.

(2) For SW and RL loans—Any loan of more than $60,000 and any loan to be paid in more than 20 years from the date of the note will be secured by a mortgage on the applicant's entire farm or leasehold unless an exception is made in accordance with paragraph (e)(1)(i) and (ii), of this section. A loan of less than $60,000, to be paid in 20 years or less may be secured by any combination of real estate, chattels or other miscellaneous security that cannot be converted to cash without jeopardizing the borrower's farming operations or means of livelihood. When other than real estate is taken as security the following conditions and requirements will be met:

(i) Whenever both real estate and chattel security are taken and the payment period of the loan will exceed the maximum period for which the chattel lien may be valid under State law, the loan guarantee approval official will determine whether the real estate security will be adequate to secure the scheduled unpaid balance of the loan when the chattel lien expires.

(ii) A chattel lien need not be taken when real estate is taken as security and such security is adequate.

(iii) When the loan includes funds for items of equipment upon which a chattel lien is necessary to adequately secure the loan, a severance or subordination agreement will be obtained when appropriate.

(iv) In a State in which a chattel lien is not valid for as long as needed by applicants for the repayment of the loan, instructions for making loans secured by chattel liens will be included in a State supplement.

(v) When a lien on equipment, other personal property, or a fixture is necessary to adequately secure the loan, it will be taken and kept effective as notice to third parties.

(vi) When a loan is made only for the purchase of shares of water stock, such stock will be pledged or assigned as security for the loans. No other security is required if the stock represents the right to receive water for irrigation purposes and if the water right is transferable separately from the land and the stock can be resold readily by the pledgee or assignee, or if the purchase price is not greater than the price at which the stock in the particular company is normally sold.

(vii) A lien will be taken on the rights-of-way and easements owned or acquired by the borrower for use in connection with the proposed improvements or facility if it is necessary to do so in order to protect adequately the lender's financial or security interests.

(viii) A loan may be secured by a mortgage on a leasehold if it has negotiable value that is mortgageable. The mortgage on the leasehold may be supplemented by additional security. The unexpired term of the lease should extend beyond the repayment period of the loans to provide reasonable prospects that the objectives of the loan will be achieved.

If the loan repayment period is equal to the period covered by the lease, the borrower must give other security of sufficient value to adequately secure the loan or the lessor must agree in writing to compensate the borrower at the expiration of the lease for any unexhausted value of the improvements made with the loan. Loans secured by leaseholds will be subject to the following provisions:

(A) The lessor must own good and marketable title in the real estate. There may be a lien on it or the lessor may be acquiring it under contract providing the lien instruments or contract do not contain covenants that may jeopardize the lender's security, or providing any adverse covenants are waived.

(B) The lessor's consent to the mortgage will be acquired.

(C) The lessor must be required to give advance notice to the lender of his intention to cancel, terminate or foreclose upon the lease. Such advance notice will be long enough to permit the lender to ascertain the amount of delinquencies, the total amount of the lessor's interest and any other prior interest, the market value of the leasehold interest and, if litigation is involved, time enough to refer the case to their attorney and permit him to take appropriate action.

(D) In any State in which real estate or chattel liens may be taken on lease hold interest in farmland and recorded so as to protect the mortgagee, a State Instruction will be issued in regard to making loans to holders of such interests.

(3) For SW loans only—When a loan is made to a corporation, the note and mortgage will be executed by the appropriate officials in behalf of the corporation. The loan guarantee approval official may require principal stockholders to be personally liable for the debt when needed to protect the lender's interest. Each principal stockholder will sign the note as an individual in such cases.

§ 1980.181–1980.200 [Reserved]

Exhibit A, "Request for Loan Note Guarantee" is a part hereof.

USDA-FmHA
Form FmHA 449-12
(3-16-77)

Position J

1980-B
Exhibit A
Form Approved
OMB No.

REQUEST FOR LOAN NOTE GUARANTEE
(Farmer Program Loans)

TO: Farmers Home Administration (FmHA)	Case No. (Borrower's Soc. Sec. or IRS Tax No.)	Principal Amount of Loan $
Type of Loan	State	County
Applicant's Name	Applicant's Address	

The undersigned Lender hereby request issuance of a Loan Note Guarantee in subject case.

THE FOLLOWING INFORMATION AND DOCUMENTS ARE SUBMITTED FOR YOUR CONSIDERATION:

1. Copy of Application for Loan with enclosures.
2. Cash flow sheet.
3. Any drawings and specifications for: ☐construction ☐major repairs ☐major land development
4. Appraisal report on any real estate security.
5. For Emergency Loans only, Form FmHA 441-22, "Certification of Disaster Losses" and Form FmHA 441-26, "County Supervisor's Calculations and Verification of Qualifying Production Losses."
6. Purposes for which guarantee loan funds will be used and the amounts to be used for such purposes, are:

Purposes	Amounts
	$

7. Interest rate to borrower is _____% per annum.
8. Loan fee payable by loan applicant is _____% of principal amount of loan or $ _____. 2/
9. Repayment period for the loan is _____ year(s).
10. Proposed loan guarantee is _____% of the principal and interest.
11. Escrow account is required for: ☐Taxes ☐Insurance premiums ☐Other (Specify) _____
12. The undersigned Lender is subject to examination and supervision by

_____
(Insert name of agency of United States or State, or "None")

2/ Insert "None," or if Lender charges a loan fee, insert percentage or dollars.

13. Loan(s) will be ☐made, and/or ☐serviced; by the undersigned's:

☐Main office address: _____

☐Branch office: _____ (Name of office)

Branch office address: _____

☐Agent: _____ (Name of Agent)

Agent's address: _____

14. Loan is scheduled for repayment: _____ (Dates of monthly, annual or other installments)
15. Late payment charges, if any, are made on the following basis pursuant to a written agreement between the applicant and the undersigned lender _____
16. Types and amounts of insurance required are:

Types	Amounts
	$
	$
	$
	$

17. List of Required Security Property
(Including That on Hand and to be Acquired)

DESCRIPTION OF PROPERTY A. ON HAND *	APPRAISED VALUE	AMT. ANY PRIOR LIENS	EQUITY
	$	$	$
TOTAL	$	$	$

Appraiser's Certificate on Personal Property

Personal property listed above, if any, was appraised by me at the values set forth opposite the description thereof.

_____ (Date)

_____ (Appraiser)

*Quantity and brief description. For example: "Smith farm 160 acres," (based on real estate appraisal report) "1 - 1972 John Deere 2520 Tractor," "25 Hereford range cows, 3-6 years."

B. TO BE ACQUIRED – FIRST LIEN IS REQUIRED*	VALUE**
	$
TOTAL	$

18. The loan will be properly closed and the required security obtained. The construction, relocation, repairs, or other development will be completed in accordance with approved drawings and specifications.

19. The borrower has title marketable in fact to security property now owned (and will obtain such title to any additional property to be acquired with loan funds), subject only to the instruments securing the loan to be guaranteed and any other exceptions set forth below:

20. Security property now owned (and any to be acquired) is considered adequate security for the loan to be guaranteed. If inadequate, state in item 29 of this form why you believe the borrower's farm or ranch operating plans will permit him to pay all guaranteed loan advances in full within the period stated in item 9 of this form. The security instruments will be properly filed or recorded prior to or simultaneously with issuance of the Loan Note Guarantee; except that if security property is yet to be acquired in a jurisdiction in which an after acquired property clause is not valid, a security instrument covering such property will be obtained as soon as possible and filed or recorded, as appropriate and legally permissible. Loan funds will be used only for FmHA-approved purposes.

21. Truth in Lending requirements will be met.

22. All Equal Opportunity and Nondiscrimination requirements will be met (or any that cannot yet be met will be met at the appropriate time).

23. If loan funds are to be used at or after the time of loan closing for acquisition of substantial amounts of property, or for construction or substantial repairs or major land development, certification(s) on Form FmHA 449-11, "Certificate of Acquisition or Construction," will be furnished on that part acquired at loan closing, and will be furnished to FmHA as soon as possible on such subsequent acquisitions, construction, repair or land development.

24. Proper hazard and any other required insurance will be obtained or is now in effect. .

**Value of Real Estate based on separate appraisal report.

25. Plan of Operation agreed upon by Lender and loan applicant for first full operating year

a. PLANNED CROPS, PASTURE, ETC. - PRODUCTION AND SALES

CROPS, PASTURE, ETC.	ACRES	YIELD PER ACRE	OPERATOR'S SHARE	OPERATOR'S SHARE FOR SALE AMOUNT	OPERATOR'S SHARE FOR SALE VALUE
1.					$
2.					
3.					
4.					
5.					
				TOTAL	$

b. PLANNED LIVESTOCK AND PRODUCTS PRODUCTION AND SALES

KIND	PRODUCTION PER ANIMAL	NUMBER	OPERATOR'S SHARE	OPERATOR'S SHARE FOR SALE AMOUNT	OPERATOR'S SHARE FOR SALE VALUE
1.					$
2.					
3.					
4.					
5.					
				TOTAL	$

26.

CASH OPERATING EXPENSES	TOTAL CREDIT NEEDED	TOTAL PLANNED EXPENSES
Hired Labor	$	$
Machinery Repair	$	$
Interest	$	$
Cash Rent	$	$
Feed	$	$
Seed	$	$
Fertilizer	$	$
Pesticides & Spray Materials	$	$
Livestock Expense	$	$
Machinery Hire	$	$
Fuel and Oil	$	$
Personal Prop. Tax	$	$
Real Estate Taxes	$	$
Water Charges	$	$
Property Insurance	$	$
Auto & Truck Expense (Farm)	$	$
Utilities	$	$
Feeder Livestock (Bought & sold during year)	$	$
Family Living Expenses	$	$
Other	$	$
TOTAL	$	$

27. Financial Summary of First Full Years Operation

A.	Livestock Income	$
B.	Crop Income	$
C.	Other Farm Income	$
D.	Off-Farm Income (net)	$
E.	Total Gross Income (A+B+C+D)	$
F.	Total Cash Expenses (Table 19)	$
G.	Net Cash Income (E minus F)	$
H.	Loans and Other Credit	$
I.	Interest	$
J.	Balance Available for Debt Payment (G+H+I)	$

28. DEBT REPAYMENT

TO WHOM OWNED	AMOUNT DUE FIRST YEAR (PRIN. & INT.)	PLAN PRIN. & INT. TO BE PAID	PLAN DATE	PLAN SOURCE OF FUNDS
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
Income and Social Security Taxes	$	$		
TOTAL	$	$		

29. Other Relevant Information:

30. Lenders Planned Loan Servicing:

31. A Guarantee Fee Report on Form FmHA 449-19 and a check for the amount of the guarantee fee will be provided at the time the Loan Note Guarantee is issued.

32. The undersigned (a) considers the proposed loan to be sound and within the borrower's repayment ability, (b) believes that all applicable requirements in 7 CFR Part 1980 Subpart B have been or will be met, (c) will not make the loan without an FmHA guarantee, and (d) does not believe the needed financing can be provided by the applicant from his or its own resources or obtained by him from other sources at rates and terms he or it could reasonably be expected to meet without an FmHA guarantee. If the applicant is a partnership or cooperative, the undersigned does not believe that the principal partners or principal stockholders, either individually or collectively, will be able to provide the needed funds, either with their own resources or with credit obtained by them from other sources without an FmHA guarantee. A principal partner or principal stockholder is one who owns 20% or more of the interest in the partnership or cooperative. If no person owns or controls as much as 20%, all partners and stockholders will be considered principal partners or stockholders.

(Name of Lender)

(Date) BY:

TITLE:

(Lender's IRS ID Tax No.)

33. From an examination of information supplied by the Lender on the above proposed loan, the county committee's certification or recommendation and other relevant information deemed necessary, it appears that the transaction can properly be completed.

Therefore, the United States of America acting through the FmHA hereby agrees that, in accordance with applicable provisions of the FmHA regulations published in the Federal Register and related forms, it will execute Form FmHA 449-34, "Loan Note Guarantee," on the above loan at the time, subject to the conditions and requirements specified in said regulations and Form FmHA 449-14, "Conditional Commitment for Guarantee," attached.

If the Loan Note Guarantee is executed and the guarantee fee is paid by the Lender to FmHA, the loan subsidy rate, if any, payable by FmHA to the Lender, and the interest rate payable by the borrower in cases which that rate is limited by statute or is fixed from time to time pursuant to statute, will be those rates in effect on the date of this approval.

Rate payable by borrower _____% per annum. Subsidy rate _____% per annum.*

This approval will expire _____ days from the date hereof unless the time is extended in writing by FmHA, or upon the Lender's earlier notification in writing to FmHA that it does not desire to obtain an FmHA guarantee.

UNITED STATES OF AMERICA

FARMERS HOME ADMINISTRATION

(Date) BY:

TITLE:

*If none, insert "none" in blank.

Dated: March 22, 1977.

DENTON E. SPRAGUE,
Acting Administrator, Farmers Home Administration.

[FR Doc.77-9041 Filed 3-25-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 76-PC-7]

TRANSITION AREA

Proposed Alteration; Extension of Comment Period

Correction

In FR Doc. 77-7864, appearing on page 14885, in the issue of Thursday, March 17, 1977, in the first column, the agency's Airspace Docket Number should read as set forth above in the heading.

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1150]

LEAD-CONTAINING PAINT AND CERTAIN CONSUMER PRODUCTS BEARING LEAD-CONTAINING PAINT

Banned Hazardous Products; Extension of Date for Promulgating Rule or Withdrawing Proposed Rule

The purpose of this notice is to announce the extension until July 14, 1977, of the period of time within which the Consumer Product Safety Commission is required to either promulgate or withdraw the consumer product safety rule proposed on August 10, 1976.

In the FEDERAL REGISTER of August 10, 1976 (41 FR 33637), the Commission proposed to establish a regulation (16 CFR Part 1150) under sections 8 and 9 of the Consumer Product Safety Act (15 U.S.C. 2057, 2058) to declare as banned hazardous products (1) lead-containing paint and similar surface-coating materials containing more than a safe level of lead, (2) toys and other articles intended for use by children bearing lead-containing paint or other similar surface-coating materials containing more than a safe level of lead, and (3) articles of furniture bearing lead-containing paint or other similar surface-coating materials containing more than a safe level of lead. An oral hearing on the matter at which all interested persons were given the opportunity to testify was conducted on September 13, 1976. The last date for filing written comments on the proposal was extended by notice published October 6, 1976 (41 FR 44126) from September 9, 1976 to October 26, 1976.

The determination of a safe level of lead was to be made by the Commission in accordance with a separate proceeding under the Lead-Based Paint Poisoning Prevention Act (LBPPPA) (42 U.S.C. 4801 et seq.), as amended (Pub. L. 94-317). This proceeding was also commenced by an announcement in the FEDERAL REGISTER on August 10, 1976 (41 FR 33636), which invited submission of written comments and also advised of the aforementioned September 13, 1976 oral hearing. Subsequently, the last date for filing written comments was extended by notice published October 6, 1976 (41 FR 44126) from September 24, 1976 to October 26, 1976. Within respect to this proceeding the Commission, in the FEDERAL REGISTER of February 16, 1977 (42 FR 9404), formally announced its determination which was made on December 16, 1976, under the LBPPPA that the available scientific information is insufficient to establish that a level of lead in paint above 0.06 percent but not over 0.5 percent is safe.

As provided in section 9 of the Consumer Product Safety Act, whenever the Commission proposes a rule declaring a product to be a banned hazardous product, it must, within 60 days after publication of the proposal, (1) promulgate the consumer product safety rule if the appropriate findings are made, or (2) withdraw the proposal if it determines that the rule is not reasonably necessary or not in the public interest. The 60-day period, however, may be extended for good cause if the Commission publishes its reasons for the extension in the FEDERAL REGISTER. In the FEDERAL REGISTER of October 6, 1976 (41 FR 44126), the Commission published its reasons for extending the period of time for either promulgating the rule or withdrawing the proposal from October 9, 1976 to April 1, 1977.

The Commission now announces a further extension of the period of time for promulgation or withdrawal of the consumer product safety rule proposed on August 10, 1976, for the reasons set forth below.

In the FEDERAL REGISTER of February 4, 1977, the Council on Environmental Quality announced the receipt and availability of a draft environmental impact statement submitted by the Commission. Under Council Guidelines (40 CFR 1500 et seq.) the minimum period of time for public review and comment is forty-five (45) days from publication of the notice of availability, which in this instance has been established as ending March 23, 1977. Thereafter, the Commission and staff will require a sufficient period of time to adequately review and analyze the comments which are received preparatory to the development and publication of a final environmental impact statement. In that regard, the Council Guidelines explicitly state that to the maximum extent practicable no administrative action is to be taken sooner than (90) days after a draft environmental statement has been circulated for comment and no sooner than thirty (30) days after the final statement has been made public. The economic findings required to be made by the Commission by section 9 of the Consumer Product Safety Act prior to promulgating a consumer product safety rule are currently being prepared. However, their completion would best await review and analysis of the public comments made in response to the draft environmental impact statement, since the draft statement addresses economic issues. In light of that fact, it is believed that the responsive public comments may contribute substantially to the development of the economic findings required by section 9.

Accordingly, pursuant to provisions of the Consumer Product Safety Act (secs. 8, 9, 86 Stat. 1215-17; 15 U.S.C. 2057, 2058) the Commission, for good cause, as stated above, extends the period of time within which it must promulgate or withdraw the consumer product safety rule (16 CFR Part 1150) proposed in the FEDERAL REGISTER of August 10, 1976 (41 FR 33637) until July 14, 1977. This period may be further extended by a notice published in the FEDERAL REGISTER showing good cause.

Dated: March 23, 1977.

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

[FR Doc.77-9137 Filed 3-25-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 416]

[Regs. No. 16]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Earned Income Tax Credits

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security with approval of the Secretary of Health, Education, and Welfare. The proposed amendments to Subpart K, Income and Exclusions, which do not have major program significance, reflect the provisions of section 2(d) of Pub. L. 94-164 and section 402 of Pub. L. 94-455. These proposed amendments would, in most situations, exclude from countable income, earned income tax credit refunds provided under Section 43 of the Internal Revenue Code of 1954, as amended, when considering eligibility for, or the amount of, benefits under the supplemental security income program. According to Social Security Administration data, only 2.9 percent of supplemental security income recipients have earned income. The individuals affected by these proposed amendments to the regulations are minimal, and the proposed amendments merely implement statutory provisions. Publication of this notice gives interested individuals and organizations on or before May 12, 1977, in which to submit their views and comments.

The Tax Reduction Act of 1975 (Pub. L. 94-12) establishes section 43 of the Internal Revenue Code of 1954 which provides an earned income tax credit applicable to taxable years beginning after December 31, 1974, and before January 1, 1976. This period has been twice extended so that credits are now available for taxable years beginning after December 31, 1974, and ending before January 1, 1978. (Pub. L. 94-12 was silent with respect to the treatment of these tax credit refunds in determining eligi-

bility for, or the amount of, benefits under public assistance programs.

Inasmuch as § 416.1112 of Regulations No. 16 already provided for the exclusion of income tax refunds from countable income for title XVI purposes, the tax credit refunds were considered excludable from the income of a supplemental security income recipient and of any individual whose income would be deemed to the recipient under the provisions of Regulations No. 16 relating to deeming of income (§§ 416.1185 and 416.1190), Section 1614(f) of the Social Security Act, and Section 211 of Pub. L. 93–66.

However, section 2(d) of Pub. L. 94–164, as amended by section 402 of Pub. L. 94–455 provides that, for taxable years ending after December 31, 1975, any such refund of earned income tax credits made to any individual by reason of Section 43 of the Internal Revenue Code of 1954, as amended, shall not be taken into account as income or receipts for purposes of determining the eligibility, for the month in which such refund is made or any month thereafter of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds, but only if such individual is a recipient of benefits or assistance under such a program for the month before the month in which such refund is made.

The proposed amendments to the regulations place a limitation on the applicability of § 416.1112 of Regulations No. 16 so that an earned income tax credit refund, if received by an eligible individual for taxable years ending after December 31, 1975, is excluded from that individual's income only if he received a Federal supplemental security income benefit, a federally-administered State supplementary payment, or a State administered mandatory supplement for the month preceding the month in which he received the tax credit. (Conforming amendments to Regulations No. 16, Subpart T, "State Supplementation Provisions; Agreements; Payments", will be made at such time as that subpart is revised.) For any individual already receiving supplemental security income benefits, receipt of an earned income tax credit refund under Sec. 43 of the Internal Revenue Code of 1954, as amended, would have no effect on his current payments. For a taxable year ending before January 1, 1976, the refund is excluded under § 416.1112(a) of the proposed regulation, regardless of the individual's status with respect to supplemental security income benefits for the month prior to the month when the refund is received.

If there are any questions concerning these regulations, you may contact Henry D. Lerner, Legal Assistant, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone—(301) 594–7336. Mr. Lerner will respond to questions but will not accept comments on these regulations.

Prior to final adoption of these proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, by May 12, 1977.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in sections 1102, 1612, and 1631 of the Social Security Act, as amended, Sec. 204 of Pub. L. 94–12, Sec. 2 of Pub. L. 94–164 and Sec. 402 of Pub. L. 94–455, 86 Stat. 1468 and 1475, 89 Stat. 30 and 972, 90 Stat. 1558; 26 U.S.C. 43, 42 U.S.C. 1302, 1382a, and 1383.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

NOTE: The Social Security 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.

Dated: January 17, 1977.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: March 18, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

Section 416.1112 is revised to read as follows:

§ 416.1112 Income tax refund.

(a) *General.* Since income taxes are included as income when determining the amount of wages and net earnings from self-employment (see § 416.1102 (b)) or unearned income (see § 416.1120) of an individual, a refund of such taxes will not be included as income.

(b) *Exception.* An earned income tax credit refund under the provisions of section 43 of the Internal Revenue Code of 1954, as amended by Pub. L. 94–164 and Pub. L. 94–455, if received by an eligible individual or eligible spouse for taxable years ending after December 31, 1975, and before January 1, 1978, is excluded as income if he or she received a Federal supplemental security income benefit, a federally-administered State supplementary payment, or a State administered mandatory supplement for the month preceding the month in which he or she received the tax credit refund. Such earned tax credit refunds received for a taxable year ending before January 1, 1976, are excluded under the provisions of paragraph (a) of this section. These tax credit refunds are also excluded from income to be deemed to the individual (see §§ 416.1185 and 416.1190).

[FR Doc.77-9077 Filed 3-25-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 704-3]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Revision to Virginia State Implementation Plan

On August 14, 1975, January 29, 1976, and October 20, 1976, the Commonwealth of Virginia submitted to the Regional Administrator, EPA Region III, amendments to the Virginia Regulations for the Control and Abatement of Air Pollution. The Commonwealth has requested that these amendments be reviewed and processed as revisions of the Virginia State Implementation Plan (SIP) for the attainment and maintenance of national ambient air quality standards. The August 1975 amendments consist of extensive additions and modifications to the Virginia Air Regulations as well as a number of deletions. The October 1976 submittal also contains additions, deletions and modifications, but these changes are less extensive. The January 1976 submittal contains certain additions.

These amendments consist of changes to Parts I, II, III, IV, V and VII of the Commonwealth Regulations. On November 19, 1975 (40 FR 53595), the Regional Administrator proposed some of the changes included in the August 14, 1975 submittal. However, in subsequent discussions between EPA and the Commonwealth of Virginia, it was discovered that the list of changes published in the November 19, 1975 Notice of Proposed Rulemaking was incomplete. A number of amendments which Virginia had adopted and forwarded to EPA in the August 14, 1975 submittal had been inadvertently omitted from the November 19, 1975 Notice of Proposed Rulemaking and therefore EPA could not receive public comment on the amendments as a revision of the Virginia SIP.

The Commonwealth of Virginia submitted proof that the following concurrent public hearings were held; with respect to the August 14, 1975 amendments, hearings were held on May 12, 1975 in Abingdon, Roanoke, Lynchburg, Fredericksburg, Richmond, Virginia Beach and Fairfax; with respect to the January 29, 1976 amendments, hearings were held on November 17, 1975 in Abingdon, Radford, Lynchburg, Fredericksburg, Richmond, Virginia Beach and Fairfax; and with respect to the October 20, 1976 amendments, hearings were held on July 23, 1976 in Abingdon, Radford, Lynchburg, Fredericksburg, Richmond, Virginia Beach and Falls Church. All three sets of public hearings were held in accordance with the requirements of 40 CFR 51.4.

In order to alleviate any confusion that may have resulted from the omission in the November 19, 1975 notice of proposed rulemaking of certain amendments submitted by Virginia, the Regional Administrator hereby proposes as a revision of the Virginia SIP all of the below-listed changes submitted by Virginia on August 14, 1975, January 29, 1976 and October 20, 1976:

1. The basic format and numbering system is changed.

2. The special regulations for Region 7 are deleted and incorporated into regulations applicable to Regions 1 through 7, with the following exceptions (the former SIP regulation designations appear in brackets):

a. Section 3.02(b) [§ 3.702(a)];
b. Section 4.12 [§ 4.701.02];
c. Section 4.30(a)(2) [§ 4.703.01];
d. Section 4.40(a)(1)(ii) [§ 4.704.01(a)];
e. Section 4.51(a)(1)(ii) [§ 4.705.02(a)(1)]; and
f. Section 4.52 [§ 4.705.03].

3. The Ringelmann method for measuring visible emissions is replaced by the opacity method.

4. In cases where the regulation changes consist of "administrative amendments only", the changes include one or more of the following:

a. Elimination of unnecessary wording and definitions no longer used.

b. Changes in wording for clarification and consistency with Federal regulations and laws and other provisions of State regulations and laws.

c. Reorganization of material in a more logical order.

d. Deletion of provisions not currently in effect.

5. The main components of the Virginia SIP Regulations are proposed to consist of the following sections [brackets indicate current SIP designations where they differ from designations being proposed]:

Part I—Definitions [Section I—Definitions]
Part II—General Provisions [Section II—Procedures]
Part III—Ambient Air Quality Standards [Section III—Air Quality Standards]
Part IV—Existing and Certain Other Sources [Section IV—Rules for Existing and Certain Other Sources]
Special Provisions—
Sections 4.01–4.05 [§§ 2.04, 2.07, 2.08]
Rule EX–1—Open Burning [Rules 1,701—Open Burning]
Sections 4.10–4.13 [§§ 4.01.01–4.01.03; 4.701–4.701.03]
Rule EX–2—Visible Emissions [Rules 2,702—Smoke and Other Visible Emissions—Stationary Sources]
Sections 4.20–4.22 [§§ 4.02.01–4.02.03; 4.702.-01–4.702.03]
Rule EX–3—Emission Standards for Particulate Emissions From Fuel Burning Equipment [Rules 3,703—Particulate Emissions From Fuel Burning Equipment]
Sections 4.30–4.32 [§§ 4.03.01–4.03.03; 4.703.-01–4.703.04]
Rule EX–4—Emission Standards for Particulate Emissions from Manufacturing Operations and Fugitive Dust [Rules 4.704—Particulate Matter.
Sections 4.40–4.41 [§§ 4.04.01–4.04.02; 4.704.-01–4.704.02]
Rule EX–5—Gaseous Pollutants [Rules 5,705—Gaseous Contaminants]
Sections 4.50–4.53 [§§ 4.05.01–4.05.05; 4.705.-01–4.705.05]
Rule EX–7—Incinerators [Rules 7,707—Incinerators]
Sections 4.70–4.72 [§§ 4.07.01–4.07.05; 4.707.-01–4.707.05]
Rule EX–8—Coal Refuse Disposal Areas [Rule 8—Coal Refuse Disposal Areas]
Sections 4.80–4.86 [§§ 4.08.01–4.08.07]
Rule EX–9—Coke Ovens and Charcoal Kilns [Rule 9—Coke Oven and Charcoal Kiln]
Sections 4.90–4.92 [§§ 4.09.01–4.09.03
Rule EX–10—Mobile Sources [Rules 10,710 Motor Vehicle Emissions]
Sections 4.100–4.102 [§§ 4.10.01–4.10.03, 4.710.01–4.710.03]
Part V—New Source Performance Standards [added]
Part VII—Air Pollution Episode [Section VI—Air Pollution Emergency Episode Plan]
Appendices

6. The amendments proposed herein as revision to the Virginia SIP consist of additions, modifications and deletions of definitions and regulations included in Parts I through V, VII, and Appendices; they are summarized below:

a. The following definitions are added, modified, or deleted:

ADDITIONS

Actual Heat Input
Administrative Process Act
Affected Facility
Aircraft Operation
Air Quality Control Region
Air Quality Maintenance Area
Alternative Method
Best Available Control Technology
Capital Factor
Capital Expenditure
Commence
Continuous Monitoring System
Dust Removal System
Emergency
Emergency Special Order
Emission Standard
Equivalent Method
Excess Emissions
Executive Director
Federal Clean Air Act
Fixed Capital Cost
Fossil Fuel
Fossil Fuel Fired Steam Generator
Heat Input
Highway Project
Highway Section
Indirect Source
Isokinetic Sampling
Locality
Malfunction
Modification (Indirect Source)
Modified Source
Monitoring Device
Nitric Acid Plant
Nitrogen Oxides
One Hour Period
Order
Performance Test
Proportional Sampling
Public Comment Period
Reconstruction
Reference Method
Regional Director
Run
Shutdown
Six Minute Period
Special Order
Standard Metropolitan Statistical Area
Startup
Sulfuric Acid Plant
Virginia Air Pollution Control Law

MODIFICATIONS

Air Pollution Episode
Ambient Air
Ambient Air Quality Standard (Primary and Secondary)
Board
Construction
Control Program
Existing Source
Fugitive Dust
Incinerator
Mobile Source
Modification (Stationary Source)
Motor Vehicle
New Source
Opacity
Open Burning
Owner
Particulate
Person
Source
Standard Conditions
Standard of Performance
Stationary Source

DELETIONS

Area Source
Commence New Source
Contaminant
Director
Dust
Fly Ash
Foundry Cupola
Foundry Open Hearth
Furnace
Gases
Odor
Point Source
Refuse
Ringelmann Chart
Screening Equipment
Superphosphate

b. Regulations contained in Parts II, III, IV and VII are added, modified or deleted, as listed in the following chart. In certain cases, the current SIP regulation designation appears in brackets ([]):

Part	New designations (no change to regulations)	Additions	Modifications (administrative amendments only)	Modifications (substantive amendments)	Deletions
II		2.01 Applicability. 2.05(b) Variances (fuel variance). 2.09 Appeals. 2.10 Right of entry. 2.11 Conditions on approvals. 2.12 Procedural information and guidance. 2.30 Availability of information.	2.33 Permits [2.06]. 2.34 Facility and control equipment maintenance or malfunction [2.09].	2.02 Establishment of regulations and orders [2.01(a)(b)(d)]. 2.03 Enforcement of regulations and orders [2.01(c)]. 2.04 Hearings and proceedings [2.01(e)]. 2.05(a) Variances (general) [2.01(f)]. 2.06 Local ordinances [2.02]. 2.07 Circumvention [2.10]. 2.08 Severability [2.11]. 2.31 Registration [2.03]. 2.32 Control programs [2.05].	
III			3.03 Sulfur dioxide. 3.04 Carbon monoxide. 3.05 Photochemical oxidants. 3.06 Hydrocarbons. 3.07 Nitrogen dioxide.	3.01 General. 3.02 Particulate matter.	3.03(b)(1) Annual secondary SO_2 stnadard. 3.03(b)(2) 24-hr secondary SO_2 standard. 3.06 Dustfall.

Part	New designations (no change to regulations)	Additions	Modifications (administrative amendments only)	Modifications (substantive amendments)	Deletions
IV	4.12 Exceptions (AQCR 7) [4.701.02]. 4.72 Flue fed incinerators [4.07.02].	4.01 Applicability. 4.05 Notification, records and reporting. 4.101 Other mobile sources. 4.102 Exemptions.	4.22 Traffic hazard. 4.41 Fugitive dust. 4.50 General provisions. 4.53 Nitrogen oxide emissions. 4.70 General. 4.80 Purpose. 4.81 New coal refuse disposal areas. 4.82 Existing coal refuse disposal areas. 4.83 Conditions for approval. 4.84 Ignition of a coal refuse disposal area. 4.85 Burning coal refuse disposal areas. 4.86 Exceptions. 4.90 Beehive coke ovens. 4.91 Other byproduct coke ovens. 4.92 Charcoal kilns.	4.02 Compliance. 4.03 Emission testing. 4.04 Monitoring. 4.10 General. 4.11 Exceptions (AQCR 1 through 6). 4.13 Exclusion. 4.20 Emission Standards. 4.21 Exceptions. 4.30 Standards for particulate matter. 4.40 Manufacturing operations. 4.51 Sulfur oxide emissions and other gases and compounds containing sulfur. 4.52 Hydrocarbon emissions. 4.71 Standard for particulate matter. 4.100 Motor vehicles.	4.03.02 Emission testing. 4.05.03 Control of hydrocarbon emissions from stationary sources (AQCR 1 through 6). 4.05.04 Control of carbon monoxide emissions. 4.05.05(b) Control of nitrogen oxide emissions—fuel burning equipment. 4.07.02 Smoke and odor emissions. 4.10.03 Determination of violations.
VII [VI]			7.01 General. 7.05 Local air pollution control agencies.	7.02 Episode Determinations (alert stage change—region 7). 7.03 Standby emission reduction plans. 7.04 Control requirements.	
Appendix	C—Major pollutant sources [appendix A]. E—Guidelines for operation of coal refuse disposal areas [4.08.04].	A—Additions. D—Forest management and agricultural practices. G—Standard metropolitan statistical areas. H—Air quality maintenance areas. I—EPA regulations referenced documents. J—Emission monitoring procedures for new and modified sources.	B—Air quality control regions.		

The addition of § 2.30 of Part II, if approved, would allow the Administrator to rescind 40 CFR 52.2424 and 52.2430 (the Administrator's disapproval sections regarding confidentiality of emissions data). Similarly, approval of the amendment in § 2.33 of Part II would allow the Administrator to rescind 40 CFR 52.2448 (the Administrator's disapproval action regarding indirect source control regulations).

7. Part V, New Source Performance Standards, is proposed to be incorporated into the Virginia SIP for informational purposes only, and consists of the following:

PART V—NEW SOURCE PERFORMANCE STANDARDS

Sec.	Title
5.01	Applicability.
5.02	Compliance.
5.03	Performance testing.
5.04	Monitoring.
5.05	Notification, records and reporting.
5.10	Applicability and designation of affected facility.
5.12	Standards for visible emissions.
5.13	Standard for fugitive dust.
5.15	Test methods and procedures.
5.16	Exceptions.
5.17	Traffic hazard.
5.20	Applicability and designation of affected facility.
5.22	Standard for odorous emisalons.
5.23	Determination of violation.
5.24	Exception.
5.30	General.
5.31	Designated standards of performance.
	Subpart D—Fossil Fuel Fired Steam Generators.
	Subpart E—Incinerators.
	Subpart F—Portland Cement Plants.
	Subpart G—Nitric Acid Plants.
	Subpart H—Sulfuric Acid Plants.
	Subpart I—Asphalt Concrete Plants.
	Subpart J—Petroleum Refineries.
	Subpart K—Storage Vessels for Petroleum Liquids.
	Subpart L—Secondary Lead Smelters.
	Subpart M—Secondary Brass and Bronze Ingot Production Plants.
	Subpart N—Iron and Steel Plants.
	Subpart O—Sewage Treatment Plants.
	Subpart P—Primary Copper Smelters.
	Subpart Q—Primary Zinc Smelters.
	Subpart R—Primary Lead Smelters.
	Subpart S—Primary Aluminum Reduction Plants.
	Subpart T—Phosphate Fertilizer Industry: Wet Phosphoric Acid Plants.
	Subpart U—Phosphate Fertilizer Industry; Superphosphoric Acid Plants.
	Subpart V—Phosphate Fertilizer Industry; Diammonium Phosphate Plants.
	Subpart W—Phosphate Fertilizer Industry; Triple Superphosphate Plants.
	Subpart X—Phosphate Fertilizer Industry; Granular Triple Superphosphate Storage Facilities.
	Subpart Y—Coal Preparation Plants.
	Subpart AA—Steel Plants—Electric Arc Furnaces.
	Appendix A—Reference Methods.
5.32	Word or phrase substitutions.

The public is invited to submit comments on whether the amendments to the Virginia Regulations for the control and abatement of Air Pollution should be approved as a revision of the Virginia State Implementation Plan. Only those comments received on or before April 27, 1977 will be considered. The Administrator's decision to approve or disapprove this proposed SIP revision will be based on whether it meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

Copies of the proposed SIP revision and the analysis on which it is based are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106, Attention: Harold A. Frankford.

Virginia State Air Pollution Control Board, Room 1106, Ninth Street State Office Building, Richmond, Va. 23219. Attention: Mr. John Daniel.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

All comments should be submitted to:

Mr. Howard R. Heim, Jr., Chief (3AH10), Air Programs Branch, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106. Attention: AH006/010VA.

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

Dated: March 7, 1977.

DANIEL J. SNYDER, III,
Regional Administrator.

[FR Doc.77-8890 Filed 3-25-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 196]

DOMESTIC MINING AND MINERAL AND MINERAL FUEL CONSERVATION FELLOWSHIPS

Proposed Rulemaking

Under the authority contained in title IX, part D, of the Higher Education Act of 1965, as amended (20 U.S.C. 1134n et seq.) notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend several provisions of Part 196 of Title 45

of the Code of Federal Regulations. These regulations pertain to the Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program.

Final regulations for the program were published in the FEDERAL REGISTER on July 15, 1976 (41 FR 29123). Several technical changes were published on October 13, 1976 (41 FR 44860).

The Education Amendments of 1976 (Pub. L. 94-482) made several amendments to Title IX, Part D (see section 171(d) of Pub. L. 94-482). The current regulations need to be revised to reflect these new statutory provisions. Specifically, we propose to amend the regulations:

(1) To implement the statutory provision permitting the Commissioner, in certain cases, to award an additional 12 months of fellowship tenure to a fellow who has already received 36 months of fellowship support;

(2) To implement the statutory provision allowing a fellow to interrupt his or her studies in certain circumstances for a period up to 12 months;

(3) To set the stipend, the dependency allowance, and the institutional allowance at levels consistent with prevailing practices in comparable federally supported programs, as is now required by statute;

(4) To delete the provision concerning payment of travel allowances (formerly § 196.9), which are no longer authorized by the statute; and

(5) To establish weighting factors for the criteria (§ 196.10) used in evaluating the applications.

Interested persons are invited to submit written comments, suggestions, or objections regarding these regulations to the Division of Training and Facilities, Bureau of Postsecondary Education, Room 3060, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. 20202. Comments received in response to this notice will be available for public inspection at the above office on Mondays through Fridays between 8:30 a.m. and 4:30 p.m. All relevant materials must be received not later than May 12, 1977.

For further information, contact Dr. Clarence Lindquist, Graduate Training Branch, Division of Training and Facilities, Bureau of Postsecondary Education, Room 3060, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. 20202. Telephone No. (202-245-2347).

(Catalog of Federal Domestic Assistance Number 13.567; Domestic Mining and Mineral Fuel Conservation Fellowships.)

NOTE.—The Office of Education 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: February 8, 1977.

WILLIAM F. PIERCE,
Acting United States Commissioner of Education.

Approved: March 18, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended by revising Part 196, to read as follows:

Sec.
196.1 Definitions.
196.2 Purpose.
196.3 Award procedures.
196.4 Types of fellowships.
196.5 Eligibility for fellowships.
196.6 Fellowship conditions.
196.7 Stipend.
196.8 Dependency allowance.
196.9 Institutional allowance.
196.10 Criteria for allocating fellowships to institutions of higher education.
196.11 Reaward of vacated fellowships.
196.12 Payment procedures.
196.13 Criteria for determining financial need.
196.14 Records and reports.

AUTHORITY: Title IX, Part D, sections 961-965 of Pub. L. 89-329, as amended (20 U.S.C. 1134n-1134r), unless otherwise noted.

§ 196.1 Definitions.

As used in this part:

(a) "Act" means the Higher Education Act of 1965, as amended.

(b) "Domestic Mining" is defined as the means by which mineral and mineral fuel resources of the United States are extracted from the earth.

(c) "Fellow" means a person to whom the Commissioner awards a fellowship under this part.

(d) "Fellowship" means an award by the Commissioner under this Part.

(e) "Institution of higher education" is defined in Section 1201(a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1141(a)).

(f) "Mineral and Mineral Fuel Conservation" is defined as the means by which an adequate supply of the Nation's non-renewable resources is maintained, either through exploration for new sources, more efficient extraction of existing reserves, or better utilization of already processed minerals and mineral fuel.

(20 U.S.C. 1134n.)

§ 196.2 Purpose.

It is the purpose of this program to provide fellowships to assist graduate students of exceptional ability who demonstrate a financial need for advanced study in domestic mining and mineral and mineral fuel conservation including oil, gas, coal, oil shale and uranium.

(20 U.S.C. 1134n(a).)

§ 196.3 Award procedures.

Fellowships will be allocated to institutions of higher education which apply for a fellowship allocation and which offer a graduate program leading to an advanced or professional degree in the field of domestic mining or mineral and mineral fuel conservation on the basis of the criteria set forth in § 196.10. Institutions receiving such an allocation shall recommend eligible students to the Commissioner for fellowship award.

(20 U.S.C. 1134n(b)(1); 1134(c).)

§ 196.4 Types of fellowships.

The types of fellowships that will be awarded under this Part are as follows:

(a) Fellowships for individuals for graduate study leading to an advanced or professional degree in a field of domestic mining or mineral and mineral fuel conservation.

(1) These fellowships will be awarded to individuals who have been accepted for graduate study at an institution of higher education that has received a fellowship allocation under this part.

(2) The fellowships will be allocated each year to institutions of higher education and will consist of two categories: new fellowships and continuation fellowships. Continuation fellowships will only be awarded to individuals who previously received an award under this Part and who are continuing their study leading to an advanced or professional degree.

(3) An individual may receive assistance under this part for up to 36 months, except that the Commissioner may award a fellowship for an additional 12 month period to allow a student who has completed all course work and comprehensive examinations (if any) to complete the doctoral dissertation.

(b) Doctoral dissertation fellowships. These fellowships are one-year fellowships for persons who have completed all course work required for granting a doctoral degree or an equivalent degree (except such course work credited on the dissertation) and comprehensive examinations where appropriate, and whose doctoral dissertation (or other equivalent dissertation) proposal has been approved by appropriate officials of an institution of higher education that has received a fellowship allocation for this purpose.

(c)(1) A fellow may take a leave of absence for a period up to 12 months for the purpose of work, travel, or independent study away from the campus, if (i) the leave of absence is approved by the institution at which the fellow is enrolled and by the Commissioner; and (ii) the independent study is supportive of the fellow's academic program.

(2) The Commissioner shall make no payments to the fellow or the institution during this period. The fellowship is not vacated during this period and no reaward of the fellowship to another student may be made.

(20 U.S.C. 1134n(c); 1134n(d); 1134o.)

§ 196.5 Eligibility for fellowships.

Recipients of fellowships under this part must:

(a) Be of exceptional ability, as determined by the institution of higher education;

(b) Demonstrate financial need, as determined by the institution of higher education under the criteria set forth in § 196.13; and

(c) Be a national of the United States or be in the United States for other than a temporary purpose and intend to become a permanent resident thereof, or be a permanent resident of the Trust Territory of the Pacific Islands.

(20 U.S.C. 1134n(a)(1).)

§ 196.6 Fellowship conditions.

In order to continue receiving payments under the provisions of this part, a fellow must:

(a) Maintain satisfactory proficiency in the approved program in which he or she is registered;

(b) Continue to devote full-time to study or research in the field in which the fellowship was awarded; and

(c) Not engage in gainful employment during the period of the fellowship tenure, except in an internship or research activity under faculty supervision in the field in which he or she is studying.

(20 U.S.C. 1134q(a).)

§ 196.7 Stipend.

(a) The stipend to which a fellow is entitled will be $3,600 for an academic year consisting of twelve months.

(b) A fellow who is enrolled in the program of study for less than twelve months shall only be entitled to receive a pro rata share of the annual entitlement. For purposes of this section, a fellow who is enrolled in the program for the entire academic year (including summer sessions) at an institution of higher education shall be considered to be enrolled in the program for the full twelve months.

(20 U.S.C. 1134p(a).)

§ 196.8 Dependency allowance.

A fellow shall also be entitled to receive $300 per twelve month academic year for each of his or her dependents.

(20 U.S.C. 1134p(a).)

§ 196.9 Institutional allowance.

The institution of higher education at which the fellow is pursuing his or her course of study shall be paid $3,600 per twelve month period, except that any amount charged to and collected from the fellow by the institution for tuition and other expenses required by the institution as part of the fellow's instructional program shall be deducted from this amount. If the fellow is enrolled for less than 12 months, the institution will be paid a pro rata share of this amount.

(20 U.S.C. 1134p(b))

§ 196.10 Criteria for allocating fellowships to institutions of higher education.

The allocation of fellowships among institutions of higher education which apply for participation in this program and which offer a graduate program leading to an advanced or professional degree in the field of domestic mining or mineral and mineral fuel conservation will be based on the following criteria:

(a) Highest priority will be given to allocate fellowships to institutions of higher education where the fellowships will be used to support fellows who are currently receiving assistance under this part or who are returning from an approved leave of absence (see § 196.4(c)) if there is evidence that these individuals have made satisfactory progress toward completing their course of study during the time when they are (or were) enrolled at the institution.

(b) The remaining fellowships will be allocated among institutions of higher education based on the degree (calculated according to the maximum point scores as shown) to which there is demonstrated evidence that the educational program at that institution:

(1) Is designed to address one or both of the following national needs (25 points):

(i) The need for trained individuals to improve the technologies for the efficient extraction and processing of nonrenewable mineral and mineral fuels including the development of improved systems of underground, underwater, and surface mining techniques, improved methods to protect the health and safety of people working in extraction and processing operations, and improved methods to protect and restore the environment in extraction and processing operations;

(ii) The need for training individuals to develop ways to ensure the availability of non-renewable minerals and mineral fuels through improved exploration or discovery techniques, optimum recovery of existing mineral and mineral fuel reserves, improved utilization of processed minerals and mineral fuels through recycling technology, and improved understanding of mineral economics;

(2) Is of high quality in terms of course offerings (20 points);

(3) Leads to immediate career opportunities in domestic mining and mineral and mineral fuels industries, including careers in teaching in those subject areas at institutions of higher education (5 points);

(4) Offers an opportunity for relevant supervised practicum, internship, or field experience (5 points);

(5) Has a program director and teaching staff which have the education, background, research interests, and experience to plan and implement a successful program of domestic mining and mineral and mineral fuel conservation education (20 points);

(6) Has the necessary institutional resources (facilities, equipment, library, etc.) to meet program objectives (20 points); and

(7) Has developed procedures to measure the effectiveness of the program (5 points);

(20 U.S.C. 134n(c).)

§ 196.11 Reward of vacated fellowships.

If a fellowship is vacated prior to the end of a period for which it was awarded, the institution to which the fellowship is allocated may recommend to the Commissioner another individual to receive the fellowship. This individual must meet all the eligibility requirements set forth in § 196.5. The duration of a rewarded fellowship shall be for a period of graduate or professional work or research not in excess of the remainder of the period for which the fellowship it replaces was awarded.

(20 U.S.C. 1134n(b)(2).)

§ 196.12 Payment procedures.

(a) The Commissioner will pay to the approved institution of higher education the stipend, dependency allowance, and institutional allowance (calculated pursuant to §§ 196.7, 196.8, and 196.9) for each fellowship allocated to that institution. The institution of higher education is responsible for disbursing all funds due the recipient.

(b) The timing of payments to fellows will be left to the discretion of each institution of higher education, although no fewer than two payments a year shall be made. Institutions are responsible for recovery of excess payments made to students who, for any reason, fail to complete the academic year for which they are registered.

(20 U.S.C. 1134p.)

§ 196.13 Criteria for determining financial need.

In determining whether a student has financial need for the purposes of this fellowship program, the institution must consider the student's projected costs for the year including tuition, fees, books, materials, and supplies, plus other reasonable costs that a student might have for room and board in comparison with the student's resources (including available income and contribution from available assets).

(20 U.S.C. 1134n(a).)

§ 196.14 Records and reports.

Each institution of higher education which receives an allocation of fellowships under this part, and each individual who is awarded a fellowship shall keep such records and submit such reports as are required by the Commissioner. Such reports shall include a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that the fellow is making satisfactory progress in and is devoting essentially full time to the program for which the fellowship was awarded.

(20 U.S.C. 1134q(b).)

[FR Doc.77-9074 Filed 3-25-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21174; RM-2790]

FM BROADCAST STATION IN PALM SPRINGS, CALIFORNIA

Proposed Change in Table of Assignments

Adopted: March 18, 1977.
Released: March 24, 1977.

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Notice proposing the assignment of FM Channel 291 (Class B) to Palm Springs, California, based on a petition filed by Joe F. Mackey. According to the FM population guidelines, Palm Springs warrants one or two FM assignments. Comments are invited from interested parties to determine whether the public interest would be served by

making the additional assignment of a third channel.

DATES: Comments must be received on or before May 2, 1977, and Reply Comments must be received on or before May 23, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Legal Branch, Policy and Rules Division, Broadcast Bureau, Federal Communications Commission, Washington, D.C. 20554 (202-632-7792).

By the Chief, Broadcast Bureau:

1. *Petitioner, Proposal and Comments:* (a) Notice of Proposed Rule Making is hereby issued concerning the amendments of the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) with regard to Palm Springs, California.

(b) A petition for rule making was filed by Joe F. Mackey ("petitioner") proposing the assignment of Channel 291 (Class B) to Palm Springs, California. No oppositions have been received.

2. *Community Data:* (a) *Location:* Palm Springs is located in south central California, approximately 173 kilometers (108 miles) east of Los Angeles.

(b) *Population:* Palm Springs, 20,936; Riverside County, 459,074.[1]

(c) *Present aural services:* Local service is provided by three full-time AM stations—KCMJ (Class III); KDES (Class III); KPSI (Class IV) and one FM station—KDES-FM (Channel 284). In addition to the educational FM channel (202D) which is assigned to Palm Springs,[2] commercial FM Channel 265A is also assigned. There are three applications pending.[3]

(d) *Economic Considerations:* Petitioner states that Palm Springs has long been noted as one of the nation's leading resort areas. It is the retail and financial center of Coachella Valley with 34% of its employed citizens engaged in services and 22% in retail trade. Petitioner notes that, in addition to hotel and retail employment, there are approximately 20 manufacturing plants in the area which employ about 300 people. Petitioner claims that the population of Palm Springs has increased from 20,936 to 29,132 persons between 1970 and 1975.

3. *Preclusion Study and Coverage:* Preclusion would occur on the proposed Channel 291 and adjacent Channels 290 and 292A. Nine communities,[4] ranging in population from 1,948 to 125,784 (eight of which have over 2,500 persons), would be precluded as a result of the assignment of Channel 291 to Palm Springs. Eight of the nine communities have at least one commercial FM channel assignment and at least one AM station. The remaining one, Boulder City, Nevada, has neither; however, there is a petition pending (RM-2804—Docket 21118) for the assignment of Channel 288A to that community. In order to meet the minimum distance separation requirements, petitioner shows that a proposed transmitter site would have to be located 24 kilometers (15 miles) east of Palm Springs. Petitioner's engineering study indicates that first and second FM service would be provided to a small areas to the southeast, but much of this is over water with mountains to each side, and contains little or no population. Thus it appears that the proposal would not provide significant first or second FM or nighttime aural service.

4. *Additional Considerations:* Petitioner asserts that very little radio service is received from stations located outside the immediate Palm Springs area due to unusually low ground conductivity for AM signal transmission and mountainous terrain which blocks FM signals. He argues that, since the public depends almost entirely upon local area signals, it is even more important than usual to provide a choice of aural services. Petitioner states that, if the channel is assigned to Palm Springs, he intends to apply for a construction permit and will, upon grant, build a station.

5. The request for a third FM assignment to a community of 20,936 persons exceeds the FM population guidelines. However, the proposal is being advanced for the purpose of determining whether such an assignment is warranted and whether the public interest would be served by making the additional assignment. From petitioner's showing it appears that the influx of tourists increases Palm Springs' population to a figure well in excess of 50,000. For this reason and because of the relative isolation of the community we are willing to consider the proposal even though it is in excess of the population criteria we employ. Also, since the community is already intermixed by the assignment of a Class B and a Class A channel, we are willing to consider a second Class B assignment. Petitioner should provide further information directed to these two issues.

6. Since Palm Springs is located within 320 kilometers (199 miles of the United States-Mexico border, the proposed assignment of Channel 291 of that community is subject to concurrence by the Mexican authorities.

7. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) with regard to Palm Springs, California, as follows:

City	Channel No.	
	Present	Proposed
Palm Springs, Calif.	265A, 284	265A, 284, 291

8. Authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

9. Interested parties may file comments on or before May 2, 1977, and reply comments on or before May 23, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial coments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and

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

[2] Application filed by Palm Springs Unified School District (BPED-2275).

[3] Applications filed by Gray-Schwartz Broadcasting (BPH-9903); KPSI Radio Corporation (BPH-10069); and Westminster Broadcasting Corp. (BPH-10266).

[4] Arizona: Parker (pop. 1,948); California: Coachella (8,353); Indio (14,459); Needles (4,051); Ridgecrest (7,629); Twentynine Palms (5,667); Nevada: Boulder City (5,223); Henderson (16,395); Las Vegas (125,784).

(c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc.77-9160 Filed 3-25-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[49 CFR Part 391]

[Docket No. MC-76; Notice No. 77-3]

MEDICAL QUALIFICATIONS OF DRIVERS

Standards for Insulin-Dependent Diabetics; Solicitation of Comments

PURPOSE: The purpose of this Advance Notice is to solicit comments and information from interested persons concerning possible changes in the medical standard which prevents insulin-dependent diabetics from operating commercial motor vehicles in interstate or foreign commerce.

The complete revision of the driver qualification requirements which included the minimum medical requirements was proposed on June 2, 1969 (34 FR 9080). After reviewing comments by respondents, it was decided, in the public interest with respect to highway safety, that requirements to upgrade driver qualifications were necessary. To insure that only medically qualified drivers operate in interstate or foreign commerce, defined minimum medical standards were published on April 22, 1970 (35 FR 6458). Although this represented the first time the Federal Highway Administration (FHWA) specifically mentioned diabetes as a disqualifying medical condition, diabetics had been regarded as medically disqualified for many years under more general provisions of the Regulations. The initial version of the Federal Motor Carrier Safety Regulations, issued by the Interstate Commerce Commission (ICC) in 1936 (1 MCC 1), provided that a driver would not be qualified unless he possessed "good physical and mental health." In 1939, the Commission revised the rule to require that a driver must have "no mental, nervous, organic, or functional disease, likely to interfere with safe driving" (4 FR 2295). Under this general rubric, the Commission, until 1967, and the FHWA thereafter, until the promulgation of the new qualification rules in 1971, had frequently given informal rulings to the affect that a driver afflicted with diabetes who must take insulin to control his condition was disqualified. The current rule states that, "a person is physically qualified to drive a motor vehicle if he . . . has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control."

It has been 6 years since the promulgation of the minimum medical standards which restricts insulin-dependent diabetics from driving. During this time, a better understanding of diabetes mellitus and its complications has evolved. At the urgings of the Juvenile Diabetes Foundation (JDF) and other interested persons, the present rule is being reviewed for possible regulatory changes.

The proponents for relaxing the present minimum standards contend that § 391.41(b) (3) blanketly prohibits the operation of regulated vehicles by insulin-dependent diabetics; is discriminatory, arbitrary, and capricious; and, lacks extensive and comprehensive data on the impact of diabetes on motor vehicle operations. The JDF specifically requests that, at the least, a limited exception to the minimum rule be considered for diagnosed "stable" diabetics who are currently taking insulin to control their condition. The evidence set forth in this Advance Notice is believed to support the present rule. In order to perform a thorough analysis, it is requested that the public, especially physicians and medical experts on diabetes, submit their comments on the issues set forth in the following paragraph. Wherever possible, these comments should contain specific reference to the studies identified in this Advance Notice and any other studies relevant to the issues.

The issues to be determined are clear and concise: (1) Should the diabetic who requires insulin be allowed to drive in interstate or foreign commerce? (2) Should the diabetic who requires diet and an oral hypoglycemic agent be allowed to drive in interstate or foreign commerce? and, (3) Should exemptions be considered for insulin-dependent diabetics? Thus, the intent of this Advance Notice is to provide interested persons the opportunity to submit their comments and documentations on the issues, and exercise their rights inherent in the rulemaking procedures.

DIABETES MELLITUS

I. ETIOLOGY

With the discovery of insulin in the early 1920's, scientists and researchers thought they had a simple answer to diabetes. Today researcers admit diabetes is a complex puzzle still to be solved, and no responsible authority believes that we have the answers—or even close. In fact, the more diabetes is studied, the more apparent the complexities, and the more theories are developed as to its cause, nature, and cure.[1]

Generally, medical books define diabetes mellitus as an inborn error of metabolism in which the body is unable to utilize sugar completely. Manifestations may appear in youth or later in life. In some instances, the diabetic clinical manifestations may remain latent even though the inherent pattern can be demonstrated through laboratory studies. The critical diabetic syndrome is characterized by an impaired ability to metabolize carbohydrates, an increased concentration of glucose in the circulating blood (hyperglycemia), and the excretion of varying amounts of glucose in the urine (glycosuria). While etiological development of diabetes mellitus is unknown, it is fairly well established that the entire endocrine system is involved, particularly the pancreas. The pancreas has microscopic islet cells scattered throughout, known as the islands of Langerhans, which secrete the hormone insulin, necessary in the utilization of carbohydrates.[2]

In lay terms, diabetes mellitus is a disease in which the body does not produce enough insulin, or in which the body's insulin is incapable of performing its action. Insulin, a substance that comes from a gland called the pancreas, helps turn the food we eat into energy or store it for future use. Normally, the sugars and starches from the food are changed by the digestive juices into sugar called glucose. This is absorbed by the blood and, with the help of insulin, is used to nourish the body. In a person with diabetes, however, this process is defective. Either the body does not produce enough insulin or does not make proper use of the insulin that is produced. As a result, the blood sugar level increases and sugar may appear in the urine in large quantities. High blood sugar levels after a period of no food intake and sugar in the urine are signs of diabetes.[3]

There are two types of diabetes—juvenile diabetes and maturity-onset diabetes. These differ in prognosis, treatment, and causation mechanisms. In the severe type, juvenile diabetes, the onset of the disease occurs most frequently in childhood and adolescence. The disease progresses rapidly with serious complications. Maturity-onset diabetes usually has its clinical start after the age of 40 and is generally less severe than that seen in youth patients. The disease does not progress as rapidly as juvenile diabetes and the threat of chronic complications developing are less severe.

II. POPULATION

It is estimated that there are 10 million diabetics in the United States.

For every diagonsed diabetic there are 2 cases not yet detected.

Diabetes is the fourth leading cause of death in the United States (many deaths attributed to heart or kidney failure are primarily caused by diabetes).

Diabetes is the second leading cause of blindness in the United States.

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[1] Ronald W. Lamont-Havers, M.D., "Surprising Findings About Diabetes" (The American Medical Association, 1968), pp. 1-3, citing "Today's Health," April 1968.

[2] Paul B. Beeson and Walsh McDermott, M.D.'s, "Textbook of Medicine, Volume II" (fourteenth edition; Philadelphia: W. B. Saunders, Co., 1975), p. 1602.

[3] "Diabetes: Washington Health Report," U.S. Department of Health, Education, and Welfare, Public Health Service Publication No. 1733 (Washington, 1968).

Fifty percent of all diabetics die prematurely of myocardial infarction.

Peripheral arteries are more severely affected by diabetes and gangrene of the feet caused by ischemia is 70-fold more frequent than in non-diabetics.

There are approximately 10 percent, or 1 million, juvenile insulin-dependent diabetics in the United States.

Juvenile diabetics face an abbreviated average life expectancy of 27 years after the first appearance of the diabetes.

According to the World Health Organization, studies conducted in England, Israel, the Soviet Union, and other countries, as well as in the United States, show that the incidence of diabetes is dramatically on the rise. This may be due, in part, to inherited factors. As the increasing number of young diabetics live long enough to produce children, the risk of transmitting the disease increases.[4] Thus, the impact of Federal Regulations which imposes employment restrictions on the general population of individuals who have diabetes becomes increasingly important.

III. MANIFESTATIONS OF DIABETES

Chronic complications of diabetes mellitus are hypotension, essential hypertension, cardiac arrhythmias, atherosclerosis, heterophoria, retinopathy, chronic renal insufficiency, susceptibility to infection, obesity, gross underweight, phlebitis, gangrene, neuropathy and drug-induced hypoglycemia.

With respect to highway safety, these chronic complications cannot be overlooked, and should not be underestimated. But, the more serious manifestations of diabetes, hypoglycemia and hyperglycemia, which may result in insulin shock and diabetic coma (acidosis), pose the greatest threat of potential accident involvement because of sudden driver incapacitation. When the blood glucose level is sufficiently elevated, the metabolism of fats may be altered so that the person produces ketones (incomplete products of fat metabolism) and may go into diabetic coma. If the blood sugar level drops below normal (80 mg./100 cc. of serum the person may go into insulin shock. The latter condition tends to occur very rapidly, whereas coma takes several hours or even days to occur. The person usually has prior warning symptoms, but it is quite possible that the warning symptoms may not appear at all, or the early warning sensations may be attributed to other things—infection, acute anxiety, or emotional stress. Thus, the slower developing diabetic coma may be as dangerous to highway safety as the more spontaneous hypoglycemic reactions.[5] The following comparison chart views the differences of the two conditions.[6]

Differences between reaction and coma

Characteristics	Insulin shock	Acidosis or coma
Onset	Sudden	Gradual.
Skin	Pale, moist	Flushed, dry.
Behavior	Often excited	Drowsy.
Breath	Normal	Fruity odor of acetone.
Breathing	Normal to rapid, shallow.	Deep, labored.
Vomiting	Usually absent	Present.
Tongue	Moist	Dry.
Hunger	Present	Absent.
Thirst	Absent	Present.
Urine sugar	do	Do.
Blood sugar	Low	High.

A. *Clinical Manifestations of Hypoglycemia.* Attacks of hypoglycemia are manifested by intense hunger, a craving for sugar, nervousness, anxiety, irritability, headache, sweating, partial disorientation, and profound weakness (e.g. "draining of my strength," "sapping of my energy," "late morning slump," "afternoon let-down.").[7] As hypoglycemia intensifies, difficulties in speech, thought, and action increase.

A number of neurologic and psychiatric features may develop which include tremor, vertigo, ataxia, and diplopia in varying combinations and degrees of severity. Concomitantly, the person may develop paresthesias, twitching, rigor, muscular weakness, or paralysis involving one or more limbs. If unchecked, severe or prolonged cerebral glycopenia (decreased glucose to the brain) could result in total confusion, disorientation, overt psychotic behavior (e.g. mania, paranoia, depression), delirium, epileptic type seizures, or unconsciousness. Any one of these conditions could have adverse effects on the operation of a commercial motor vehicle in interstate or foreign commerce.[8]

B. *Clinical Manifestations of Diabetic Coma (Acidosis).* If diabetes is not controlled satisfactorily, severe dehydration and acidosis may result leading to diabetic coma. The hyperglycemic symptoms include: thirst and dry mouth, flushed face, progressive drowsiness, nausea, vomiting, abdominal pain, cold and dry skin, fruity breath odor, rapid and deep breathing, headache, dizziness, back and leg pain, extreme weakness, and finally unconsciousness.[9] Coma caused by acidosis may prove fatal if not treated promptly and efficiently.

IV. TREATMENT OF DIABETES

Aside from the serious consequences of chronic complications and dangerous manifestations (hyperglycemic and hypoglycemic reactions) of diabetes, there appears to be a third factor which is critical in determining whether diabetics should be employed in hazardous employment positions. That is, how well the metabolic disorder can be maintained in a balanced state, since failure to do so through treatment may result in diabetic coma or insulin shock.

Treatment by prescribed diet, exercise, and insulin injections or certain oral medications are the basic essentials for controlling diabetes and will be discussed separately.[10]

A. *Diet.* A proper diet will assist in the regulation of the body's blood sugar and reduce the chance of diabetic coma and insulin shock.

The role of the diet in controlling diabetes is (1) to adjust the diet to the available insulin, allowing (a) small amounts or no sugar to spill into the urine, and permitting (b) the blood glucose to rise slightly above normal; and (2) to furnish an adequate diet for good health and normal activity. Among 60% of the diabetics, the diet alone is capable of controlling the abnorality. The standard diet as recommended by the American Diabetes Association (ADA) derives 40% of its total calories from carbohydrate, 20% from protein, and 40% from fat. Atherosclerotic complications are a source of significant morbidity for the diabetic, and these should be minimized whenever possible. Since epidemiologic evidence correlates serum cholesterol values with atherosclerotic vascular events, it is logical to recommend less animal fat in the diet. As a rule, the older the diabetic, the smaller the proportion of fat in the diet.[11]

The diabetic patient should consume his food at regular intervals throughout the day, with this being crucial for the diabetic on diet and drug therapy. Recent studies on body metabolism in experimental animals show an increase in the severity of diabetes from the consumption of three large meals a day, as contrasted to frequent small feedings.[12] If this is true, eating habits (frequent feedings) will play a major role in the treatment of diabetes.

B. *Exercise.* It is essential that a diabetic keep active to help the body use its excess sugar and to reduce insulin need. A physician should plan an exercise routine, which needs to be followed regularly and religiously. Strenuous exercise should be conducted when glucose levels are highest after meals. Vigorous exercise just before meals is not advised unless snacks are taken because exercise frequently alters the required insulin dosage and may result in hypoglycemia.[13]

C. *Drug Therapy.* Maintenance of juvenile diabetes is accomplished through regular injections of insulin. This insulin, obtained commercially from the pancreas of animals, is vital to the juvenile diabetic to maintain a relatively normal

[4] G. Donald Whedon, M.D., and William Cole, "Winning the War Against Childhood Diabetes" (The Parents' Institute a division of Parents' Magazine Enterprises, Inc., 1973), p. 2, citing Parents' Magazine, November 1973.

[5] "Hypoglycemic Reactions from Insulin or Oral Compounds" (American Diabetes Association, Inc. Copyright 1967), pp. 4–5, citing ADA Forecast.

[6] Ibid., p. 3.

[7] H. J. Roberts, M.D., "The Causes, Ecology and Prevention of Traffic Accidents With Emphasis Upon Traffic Medicine, Epidemiology, Sociology and Logistics" (Springfield, Illinois: Charles C. Thomas, Publisher, 1971), pp. 233–4.

[8] Ibid.

[9] Arthur C. Guyton, M.D., "Textbook of Medical Physiology" (third edition; Philadelphia: W. B. Saunders Co., 1970), pp. 1096–7.

[10] "Basic Information about Diabetes," Joslin Diabetes Foundation, Inc. (Boston, Massachusetts, 1975), p. 6.

[11] Howard F. Conn, M.D., *"Current Therapy 1976"* (Philadelphia: W. B. Saunders Co., 1976), p. 421.

[12] Marie V. Krause, B.S., M.S., *"Food, Nutrition and Diet Therapy"* (fourth edition; Philadelphia: W. B. Saunders Co., 1968), pp. 301–5.

lifestyle. Some adult-onset diabetics must take regular insulin injections and a few juvenile diabetics can be controlled by oral compounds. Each person's need must be determined by a physician before treatment is begun, and insulin should be taken *only* as the doctor prescribes.[14]

1. *Insulin Therapy.* In addition to appropriate diet and exercise therapy, optimal insulin therapy is necessary in the treatment of (1) acutely decompensated diabetics in acidotic states, (2) persons who present with symptomatic diabetes, (3) adults with renal or hepatic disease who cannot be managed by diet alone, (4) primary and secondary control failures after the use of oral hypolycemic agents, and (5) diabetes complicated by infections or other stress. The prime therapeutic objective when insulin is used is to attain normal blood glucose levels and prevent hypoglycemia. Insulin therapy when optimally used is safe and almost universally effective in lowering the blood glucose level.[15]

Insulin, a protein secreted from the pancreas, controls the storing of glucose in the body and acts as a catalyst to convert the glucose into energy. Without insulin, the glucose remains in the glood stream and, as the level of concentration rises above normal, is excreted in the urine. A diabetic secretes either insufficient insulin or none. In either case, he frequently has to resort to a supply of artificial insulin and must inject a fixed amount of this insulin into his body each day. Because the amount of the daily injection is fixed and constant, the diabetic cannot have the same freedom in the intake of food, especially carbohydrates, as the non-diabetic. A balance must be maintained between the insulin and the sugar value received from foods. The physician determines the amount of insulin the diabetic's body requires each day based upon the person's condition, diet, laboratory findings of the blood and urine, and his activities of daily living.[16]

Available insulins are classified by their duration of action as short-acting, intermediate-acting, and long-acting. The regular, unmodified insulin works immediately and is effective for a period of 4 to 6 hours. Regular insulin is administered in divided doses and given 1 to 6 times daily when used alone. It is important in treating emergency acidosis and coma, and in prevention of acute hypoglycemic reactions in the non-stable diabetic. The long-acting insulin begins to work in about 4 hours and continues to keep the blood glucose low for a period varying from 18 to 72 hours. Occasionally, both short and long-acting insulins are administered in combination for best control of the unstable diabetic. The longer acting insulin is generally recommended because (1) the entire dose required for the day can be given at one time, and (2) the danger of acidosis resulting from acute complications is lessened.[17]

a. *Insulin Shock.* Insulin shock occasionally experienced by diabetics results from the sudden decline of the level of sugar in the blood (hypoglycemia). Insulin shock may be the result of an overdose of insulin, too frequent injections, too long an interval between the time of injection and food intake, hypersensitivity to insulin, increased exercise or muscular activity, or sudden reduction of blood sugar when it is very high. Symptoms appear when the blood sugar has dropped too low, usually below 70 mg.%. As the blood sugar level falls, the central nervous system becomes quite excitable and the person experiences extreme nervousness. It may result only in a sense or uneasiness or it can bring unconsciousness, depending upon the extent and rate of the fall of blood sugar.[18]

2. *Oral Hypoglycemic Agents.* Oral drugs are used only for control of stable, adult-onset diabetes mellitus. The adult-onset diabetic usually has residual endogenous insulin. When it is clearly apparent that diet therapy has achieved its maximal effect and hyperglycemia persists, oral hypoglycemic agents may be prescribed. These drugs are most successful with persons over 40 years old, and in those with mild diabetes. Since these drugs are effective only when the person's pancreas still has the ability to produce some insulin, they are not advisable for most juvenile diabetics, problems cases, or any case where the body is not producing insulin. These oral hypoglycemic agents are not insulin tablets, but chemical compounds that (1) stimulate the utilization of the body's own insulin, or (2) stimulate the pancreas to produce more insulin.[19]

There are currently five different oral hypoglycemic agents used in the United States, four are derivatives of the sulfonylureas (Orinase, Tolinase, Dymelor, and Diabinese), and one is a derivative of the biguanide (DBI). All are absorbed rapidly in the blood stream and have a long-acting effect on lowering the blood glucose. Hypoglycemia, although not a true side-effect, is an exaggeration of the expected therapeutic action of hypoglycemic drugs. Hypoglycemic reactions are rare when DBI is used alone. However, this drug is frequently used in conjunction with other oral agents and insulin, and in this case, hypoglycemic reactions may develop as with any hypoglycemic drug. Since the development of hypoglycemia is a function of many factors including diet, this effect is at times seen in persons on the usual recommended dosage. The adverse and toxic reactions of the sulfonylureas and biguanide are presented in the following chart.[20]

Symptoms	Sulfonylurea	Biguanide
Gastro-intestinal	Nausea	Anorexia.
	Vomiting	Nausea.
	Epigastric distress.	Vomiting.
	Jaundice	Diarrhea.
Skin	Rash	Rash.
	Pruritis	
	Photosensitivity	
Nervous system	Nervousness	Weakness.
	Headache	Lassitude.
	Vertigo	Fever.
	Amblyopia	
	Tingling	
	Weakness	
Metabolic	Hypoglycemia	Lactic acidosis.

Also, hypoglycemia can be precipitated or aggravated by many drugs other than insulin and oral hypoglycemic drugs in persons having diabetes mellitus. There are a number of drugs taken for conditions other than diabetes that interact with insulin and oral hypoglycemic agents to throw a diabetic out of control by raising or lowering the blood sugar level. Drugs that raise blood sugar (e.g. cortisone-like drugs, adrenalin, chlorothiazides) increase the possibility of diabetic coma and drugs that lower blood sugar (e.g. caffeine, aspirin, alcohol) increase the possibility of a hypoglycemic reaction.[21]

Work Environment of Commercial Motor Vehicle Drivers

Before any relationships between diabetes and the work environment can be developed, it is necessary to have an understanding of what these duties encompass.

Few people outside of the motor carrier industry fully appreciate the mental and physical demands placed on commercial drivers, and examining physicians should not apply automobile driving experience to evaluate fitness of commercial driver applicants. Familiarity with the specific work requirements is necessary to evaluate whether any discovered physical or mental conditions could be aggravated by job demands and environmental stresses. For example, consider the seriousness of the relationship when a juvenile diabetic, who must take insulin to manage his diabetes, adhere to a controlled diet, and follow a regimented exercise program, is placed in a work environment which may demand working long consecutive hours, withstanding constant physical and mental stresses, working sporadic work schedules, and eating at irregular intervals during the day. These relationships are the phenomenon to be addressed. To aid interested persons in evaluating the job demands placed on the diabetic commercial driver and evaluate his ability to meet these demands, the following microcosm of the work environment is presented:[22]

[14] Supra n. 3.

[15] Howard F. Conn, M.D., supra n. 11, pp. 428–30.

[16] Marie V. Krause, supra n. 12, pp. 297–300.

[17] Marie V. Krause, B.S., M.S., supra n. 11.

[18] Paul B. Beeson and Walsh McDermott, M.D.'s, supra n. 2, pp. 1616–17.

[19] Don James, "Folk and Modern Medicine" (Derby, Connecticut: Monarch Books, Inc., 1968), pp. 88–90.

[20] "Diabetes in Review: Clinical Conference 1969," American Diabetes Association in cooperation with University of Colorado Medical Center and Colorado Diabetes Association (sixteenth postgraduate course, January 22, 23, and 24, 1969), pp. 33–36.

[21] Holbrooke S. Seltzer, M.D., "Drugs That Raise or Lower Blood Sugar" (The American Medical Association, 1967), citing "ADA Forecast," March–April, 1967, Vol. 20, No. 2, pp. 1–7.

[22] George J. Gruber, Ph.D., "Establishment of Guidelines to Aid Examining Physicians", U.S. Department of Transportation; Federal Highway Administration Final Report No. DOT–FH–11–8274 (Washington, November 1976), pp. 2:1–29.

I. WORK PATTERNS

The two major types of commercial drivers are truck drivers and bus drivers.

A. *Truck Drivers.* More than 4 million truck drivers are engaged in the transportation of interstate freight in the United States. The vehicles these drivers use are generally referred to as straight trucks or tractor-trailer trucks. Straight trucks may have up to 4 axles and 14 wheels with van, flat bed, tank, dump or other bodies. The tractor-trailer comprises a front power unit "tractor" and one or more back unit "semitrailers." A multiple trailer unit may exceed 100 feet and 40 tons gross weight. A tractor-trailer may cost in excess of $50,000. The cargo frequently exceeds $500,000 in value. The work-pattern parameters involve work day duration, annual mileage, on-duty/off-duty cycles, sleeping habits, eating habits, and non-driving duties.

There are 4 types of long haul driver duties: (1) short-relay drivers, (2) long-relay drivers, (3) straight-through drivers, and (4) sleeper-drivers. In short-relay duty, a driver leaves his home terminal at a regularly scheduled time and drives 4 to 5 hours. At a pre-determined place and time, he meets another driver, exchanges trucks and returns to his home terminal. In long-relay duty, a driver travels about twice as far as a short-relay driver from the home terminal accumulating about 10 hours of driving on each day. Upon arrival at the turn-around point, the driver takes an 8-hour rest and subsequently drives another vehicle to his home base. If there are several consecutive runs, off-duty time usually is extended. A straight-through driver may take several days to reach his final destination, as in a coast-to-coast run. The driver works 10 hours, sleeps 8 hours in a motel, drives 10 hours and this pattern continues until the destination has been reached. An owner-operator may have a sleeper berth mounted in the tractor cab behind the seats. At his destination, the driver may or may not be required to load the truck. New cargo destination may or may not coincide with his home terminal. Several weeks of "moving on" may occur before receiving a cargo destined for his home terminal which will unite him with his family. Sleeper berth operations equate with straight-through operations with the exception that there is a "co-driver" who may sleep in the berth while the other is driving and vice-versa. This usually implies a rigid "4-hour driving" and "4-hour resting" schedule in their "rolling home" between terminals. Irregular stops are made to eat, shower, purchase fuel, and carry out other commercial motor vehicle driving functions. At their destination, they may uncouple the trailer(s), hook up to another loaded trailer(s) and immediately begin another trip. They may also have to unload cargo and divert to another terminal to take on a new cargo for transport to a new destination. It is not unusual for sleeper drivers to be away from home and families for several weeks at a time.

B. *Bus Drivers.* Almost 40,000 bus drivers engage in the interstate transportation of the public in the United States. Intercity buses are usually powered by rear mounted diesel engines, have 2 or 3 axles, may be up to 40 feet long, and may cost in excess of $70,000. No dollar value, obviously, can be established for the lives of people riding on an intercity bus, which also carries baggage and cargo loads. Interstate bus drivers generally drive fewer overall hours than truck drivers and rest/meal breaks occur somewhat more frequently. A break may occur after about 5 hours of driving. Bus runs typically terminate within 7 hours. For example, bus drivers may depart from their home terminals, drive several hundred miles to another terminal, and lay over, or, return to their home terminals where they go off-duty. This work/rest cycle is repeated. A relay driver's non-driving duties may include acting as a public relation's representative by answering inquiries, collecting fares, managing passenger comfort and safety, and loading or unloading baggage or general commodity freight. The charter-duty driver is assigned to transport a group of people to special destinations. This driver becomes a private chauffeur for the duration of the charter, possibly touring the country for several weeks. The group usually wants to get an early start, stop for sightseeing during the day, and travel toward the next destination during the light afternoon or evening hours.

C. *Job Demands.* Driving and related task requirements impose many physical and mental demands on commercial drivers. Certain demands relate to partly forced and partly voluntary distribution of work and rest periods which interact with both physical and mental functional potentials of commercial drivers. These "operational" demands are:

1. *Abrupt duty hour changes.* Abrupt changes in duty hours may disrupt a driver's established circadian cycle (biological cycle of sleep and wakefulness), metabolic clock patterns, and create difficulties in adjusting diet. Diurnal or circadian variations in arousal levels are lowest in early morning hours. The time of day when beginning to drive, therefore, appears to be extremely important. Physiological cycles associated with the physical day-and-night cycle cannot be eliminated, but may be artificially shifted or adjusted to produce imbalance between metabolic and local times. Commercial relay drivers are frequently required to operate irregular work/rest schedules or cycles. Departure time for overnight deliveries could be after midnight and would significantly interfere with established diurnal cycles. Many drivers lacking seniority for regularly assigned runs are almost always on call. They frequently do not know when they will be driving, where they will be going, or when they will return home.

2. *Sleep deprivation.* Lack of sleep may bring about degrees of forced wakefulness, drowsiness, hallucinations, or nervousness. Long driving without sleep can interfere with a driver's ability to selectively attend to relevant information in the driving situation. Morning runs may well involve significant loss of sleep which sets the stage for fatigue problems. Partial sleep loss compounded by environmental stress adversely affect drive performance.

3. *Unbalanced work/rest cycle.* An unbalanced work/cycle has fatigue-producing effects. Frequent starts and stops may interfere with driver rest in a sleeper berth.

4. *Long driving without eating.* Tight driving schedules frequently influence drivers to bypass rest stops at regular meal times with marked adverse effects on driver performance. Continuous driving without eating may add incapacitating hypoglycemic reactions to existing states of mental and physical fatigue.

5. *Short notice of assignment to run.* Short notice makes it difficult for drivers to plan for off-duty hours. As a result, they may start a trip in a run-down condition.

6. *Delivery schedules.* Local pickup-and-delivery drivers often have tight delivery schedules to meet. The pressure of meeting delivery schedules causes drivers to speed and skip scheduled meal stops.

7. ***Delays after scheduled departure time.*** Delays in departure time invite early onset of operational fatigue. Hanging around terminals for prolonged periods waiting for loads, provides ample time to become apprehensive. In some cases, drivers must stay with the load due to the nature of the cargo (e.g. hazardous materials) and may have to skip meals.

8. *Delays enroute.* A delay enroute may become the reason for hurried loading in an effort to make up lost time. Diversions and unanticipated delays frequently encountered due to adverse weather, road or traffic conditions are, of course, at the expense of personal needs.

9. *Warning letters.* Threatening letters to drivers who could cause the company to lose business if they fail to arrive at the scheduled time for pickup or delivery, frequently mandate that drivers keep "appointments" at the sacrifice of personal needs. Under pressure, drivers may skip meal/rest stops, drive faster than posted speed limits, and/or take stimulating drugs to ensure punctual arrival times. Insufficient time to complete these trips compounded by other factors causes emotional and physical strain on the driver.

10. *Economic pressures.* Economic pressures are important factors which may foment unsafe practices in the trucking industry. Financial compensation in direct proportions to miles driven, may influence some drivers to drive "too fast," "too many long hours," and ignore personal mental and physical health.

11. *Physical and mental demands.* Perceptional and manipulative skills are needed to turn the steering wheel, apply the brakes, shift the gears, and carry out the many other driving tasks that are associated with operating a commercial motor vehicle. Some of the mental and physical demands imposed on commercial drivers in carrying out these

driving functions are: constant visual and auditory monitoring; maintaining upright posture which may result in discomfort and postural fatigue; constant attention to details; "living" away from home; poor lay-over facilities; excessive administrative requirements; vibration, noise, and other environmental stresses; and those physiosocial stresses as monotony and lack of social support.

RELATIONSHIP OF DIABETES MELLITUS TO THE WORK ENVIRONMENT OF COMMERCIAL MOTOR VEHICLE DRIVERS

The relationships of chronic complications, clinical manifestations, and management of diabetes mellitus to the work environment of commercial motor vehicle drivers are critical to highway safety. The diabetic who is subject to sudden loss of consciousness or medical incapacitation and whose occupation demands continual operation of a motor vehicle on the public highway presents a danger to himself as well as the motoring public.

I. CHRONIC COMPLICATIONS OF DIABETES MELLITUS AND THE WORK ENVIRONMENT

Chronic complications of diabetes, already noted (e.g., atherosclerosis, retinopathy, etc.) may interfere with a driver's ability to operate a commercial motor vehicle safely and disqualify a driver under the minimum medical standards of the Federal Motor Carrier Safety Regulations.

Diabetes is associated with accelerated atherosclerosis. Fifty percent of all diabetics die prematurely from myocardial infarction.[23] Thus, medical incapacitation from a sudden cardiovascular occurrence, which in some cases may not have been diagnosed, poses as great a risk to highway safety as the hypoglycemic or hyperglycemic reactions inherent in diabetes itself.

Diabetic retinopathy, another complication, is a disorder of the blood vessels of the retina (the light sensitive tissue at the back of the eye which transmits visual impulses via the optic nerve to the brain). Although the immediate cause is unknown, diabetic retinopathy involves progressive impairment of the retina's blood circulation.[24] Motor Carrier Accident Investigation Report No. 75–1, March 1975, is illustrative of the driver-disease-work environment and the potential dangers to highway safety. The accident investigation revealed that the driver was previously hospitalized for his diabetic condition and was "controlling" his diabetes with oral medication and diet. Prior to the accident he was advised that his diminished vision was due to diabetic retinopathy. On October 18, 1974, the driver had an eye examination and was informed that his vision without corrective lenses was 20/100 in each eye. Corrective lenses which included bifocals were prescribed to correct the driver's vision to 20/40 in each eye. The catastrophic accident resulted in the death of 4 students and injured 7 others. The recordings of a subsequent eye examination on March 5, 1975, showed the driver's visual acuity to be 20/200 o.d., 20/100 o.s., and 20/100 o.u. without corrective lenses, and 20/100 o.d., 20/80 o.s., and 20/70 o.u. with corrective lenses. This examination revealed a rapid deterioration in the driver's vision. The causative factors of the accident were attributed to driving errors associated with diabetic retinopathy.[25]

II. CLINICAL MANIFESTATIONS OF DIABETES MELLITUS AND THE WORK ENVIRONMENT

Sugar metabolism abnormalities rank with circulatory and mental disorders as the three most common types of disqualifying conditions for the general driving public.[26] Hypoglycemic and hyperglycemic reactions have been medically discussed earlier, now the adverse relationship to the work environment will be developed.

A. *Hypoglycemic Reactions and Decreased Driver Efficiency.* The effects of abnormally low blood sugar levels associated with spontaneous hypoglycemia or inappropriate treatment of diabetes mellitus by drug therapy (therapeutic misadventure) have been cited in studies of preventable traffic accidents.[27] Hypoglycemia from metabolic disorders can produce sudden loss of consciousness if severe enough. Also, blood sugar status can result in a temporary impairment of the driver's neuropsychiatric and neuromuscular functions with degradation of implicit perceptual, decisionmaking, and manipulative skills. Thus, spontaneous states of hypoglycemia can be a direct cause of traffic accidents due to unconsciousness or errors in perception, attention, or coordination. This poses a particularly dangerous problem for a person entrusted to drive a bus loaded with passengers or a truck carrying hazardous materials through a community.[28]

B. *Hypoglycemic Reactions and Functional Driving Tasks.* Possible associations with hypoglycemic reactions and driving a commercial motor vehicle follows:

(1) Improper starting—failure to look around when starting motor vehicle. (2) Improper stopping—failure to signal properly, slow down, or check rear traffic adequately. (3) Improper turning—failure to look out of the window to signal properly. (4) Difficulty in backing—uncertain steering; failure to look behind properly. (5) Parking difficulties—repeated climbing onto the curb or parking too far from the curb. (6) Difficulty in proceeding or interpreting traffic signals—prolonged delay in starting on a green light; running through a red light; apparent failure to notice other signals. (7) Improper perception—lack of response to signs and apparent failure to see or observe a stop sign, warning sign, or directional sign. (8) Improper responses in traffic—excessively slow reaction in a potentially hazardous situation. (9) Improper passing—poor judgment of the distance required for safe clearing. (10) Inappropriate speed—hindering traffic by driving too slowly, particularly in the center of the main street. (11) Defective attention—reduce awareness of potentially dangerous areas notably at busy intersection.[29]

Since human failure overshadows all other factors in the production of highway accidents, the human mechanism must be in good mental and physical condition to cope with the split second timing needed to maneuver responsive high speed, heavy-duty commercial motor vehicles. There is no doubt that poor judgment, impaired reaction time, faulty attitudes, emotional disturbances and other physical disabilities, are responsible for many accidents. Thus, the key to ultimate success in accident prevention lies in the driver—his mental and physical health, his intelligence, his sense of personal and social responsibility, his reactions to various stimuli under normal conditions and during times of stress, and his driving ability.[30]

C. *Hyperglycemic Reactions and Decreased Driver Efficiency.* While hyperglycemic reactions differ in symptoms somewhat from hypoglycemic reactions, the adverse effect on driving remains. The symptoms of hyperglycemia (progressive drowsiness, nausea, vomiting, abdominal pain, headaches, dizziness, and extreme weakness) generally have the same effect on the functional driving tasks as the symptoms of hypoglycemia, and a discussion of these relationships would be redundant. However, the fact remains that hyperglycemic reactions can also be a direct cause of traffic accidents due to unconsciousness or error in perception, attention, or coordination, particularly in those cases where the symptoms of diabetic coma are suppressed or misinterpreted by the driver.

III. CONTROL OF DIABETES AND THE WORK ENVIRONMENT

Despite the substantial progress that has been made in the medical care of diabetics, the primary goal of prevention, cure, or absolute control of the disease has not been achieved. Control of diabetes is a lifelong proposition, both for the physician and for the patient. The treatment of very few illnesses requires as much cooperation from the patient and support from the doctor, employer and family, as does the management of diabetes.[31]

The "controlled diabetic," to remain symptom free, must carry out the drug therapy; dietary and exercise programs;

[23] Paul B. Beeson and Walsh McDermott, M.D.'s, supra n. 2, pp. 1610–11.

[24] Diabetic Retinopathy, U.S. Department of Health, Education and Welfare, National Institutes of Health, No. (NIH) 75–406 Washington, D.C., 1975).

[25] Motor Carrier Accident Investigation Report No. 75–1, U.S. Department of Transportation; Federal Highway Administration; GPO No. 1975–631–815/974 3–1 (Washington, D.C., 1975), pp. 1–13.

[26] George J. Gruber, Ph.D., supra n. 22, p. 3:5.

[27] H. J. Roberts, M.D., supra n. 7, pp. 263–65.

[28] George J. Gruber, Ph.D., supra n. 22, pp. 3:5–7.

[29] H. J. Roberts, M.D., supra n. 7, pp. 639–40.

[30] Physician's Guide for Determining Driver Limitation, American Medical Association (Chicago, Illinois 1973), pp. 1–2.

and urine testing on his own volition. Few "well-controlled diabetics" who have been on insulin for a length of time can truthfully say they have never had an insulin reaction. This may be due to missing a meal at the regular time, an acute stomach upset where one vomits his food before it can be digested, unaccustomed or excessive exercise, or it may result from an overdose of insulin, or oral hypoglycemic agent taken for control.[32]

There appear to be certain situations in the working environment of the commercial motor vehicle driver which contraindicate treatment and control of diabetes and the following discussion will envolve around these driver-disease-work environment-factors.

A. *Diet.* Blood sugar levels are known to be directly affected by the amounts and kinds of foods ingested, the time interval elapsed after eating, and the ability to produce insulin for conversion of glucose to glycogen. Blood sugar levels may be functional in origin rather than, or in addition to, the disease condition.

A diabetic needs much more than a diet prescription. He needs definite direction as to the amount and type of food to be taken at each meal, as well as the two or three between meal snacks. Time of eating is as important as what is eaten.[33]

The diabetic dietary needs become significant when considered with these facts: [34,35]

Commercial drivers are notoriously improper eaters.

Commercial drivers have more diet-related health and safety problems than workers in any other occupation.

There appears to be a relationship between unusual work schedules and unusual eating habits.

Long distance drivers eat with less regularity than local drivers.

Fifty percent of a sample group of drivers interviewed about their dietary habits were found to have eaten inadequately during the preceding 24 hours.

The catastrophic consequences of "a missing candy bar" is illustrated in Motor Carrier Accident Investigation Report No. 11, December 23, 1954, which detailed the facts of an accident that resulted in the injury of 12 persons. The driver administered the customary 80 units of globin insulin, and ate breakfast at his home. He ate lunch in a restaurant at about 1:30 p.m. and then checked in at the shipper's loading gate. At about 4:00 p.m., he became aware of his need for food. There was none in the tractor, as it was not his usual vehicle, so he asked permission from the guard to leave the plant and obtain some candy. Since it was almost time to load his trailer, the guard instructed him to remain by his vehicle and not leave the gate. The driver did not explain why he needed the candy. He later stated that he did not recall anything that happened after he left the plant gate until he regained consciousness in the hospital.[36]

B. *Administration of Insulin.* Special care is required in the handling, storage, and administration of insulin.

Insulin is only effective when injected either under the skin or into a stomach. The physician prescribes the strength and number of units of insulin for each diabetic. Most diabetics use a syringe and needle to administer their insulin. Dosage errors may be cause by the "dead space" (the void in the syringe tip, needle hub, and needle lumen that retains insulin after an injection) in the hypodermic needle, air bubbles, use of double scale syringes, mixing multiple types of insulin, and miscalculations due to periods of stress, illness, or dose adjustments, and human error.[37]

If both needle and syringe are not disposable, proper sterilization techniques are required. This means that they must be scrupulously cleaned by either soaking in alcohol or boiling them each time they are used. Even if the syringe is stored in alcohol, it still should be boiled at least once a week for 5 minutes.[38]

When kept at room temperature, insulin remains stable for about one month. The bottle currently in use should be at room temperature when administered, and any extra bottles, if stored for longer than one month, should be refrigerated but not frozen. When storing insulin, extreme temperatures should be avoided. When driving, it is not necessary to refrigerate insulin except in very hot or very cold climates.[39] This could present a problem to an over-the-road driver involved in a transcontinental operation where he might encounter different temperature zones during his sojourn.

Even with insulin therapy, a diabetic's blood sugar level does not always remain constant. Daily changes in exercise, diet or stress can cause fluctuations that need to be corrected. Failure to do so may result in insulin reaction, and the following illustration, Motor Carrier Accident Investigation Report No. 72-2, February 1972, demonstrates the effect of diabetes on the driver-disease-work environment.

The driver stated that he was under his family physician's care at the time of the accident and that he visited his office once every two or three weeks. The physician stated that the driver was a "well regulated" diabetic on 40 units of insulin. The day of the accident, the driver admittedly drove 45 miles past his home and, according to "State Troopers," the driver was incoherent for a period of one hour after the accident and was not even aware he had been involved in an accident. As a result of this driver's diabetic semiconscious state, two persons were injured and $12,000 property damage was incurred.[40]

C. *Exercise.* The physician usually prescribes a planned exercise routine which needs to be followed regularly. For a diabetic, exercise helps the body metabolize glucose and reduce the need for insulin. As previously noted, the work environment of a commercial driver may require excessive and unexpected exercise during emergency situations or in the course of every day work activities. For example, a driver would be expected to change a 100 pound tire in certain situations, possibly walk a long distance to a service station for help, unload freight, or perform a myriad of other job-related tasks which would necessitate strenuous physical effort. Strenuous exercise, of course, may contribute to hypoglycemic reactions.

The effect of strenuous exercise is so definite that many diabetic drivers would find they must either take a slightly smaller dose of insulin or a smaller amount of food before and during the exercise in order to avoid insulin reactions due to low blood sugar.[41] No one is inferring that the diabetic-exercise-insulin relationship cannot be properly managed, but likewise, no one can assure that the driver-diabetic-exercise-insulin relationship will be managed to a point that insulin reaction will not occur.

D. *Oral Hypoglycemic Agents.* Maturity-onset diabetes, which accounts for at least 75 percent of all cases, is generally less severe in nature than juvenile diabetes. Most "adult" diabetics do not require insulin injections and can maintain a balanced blood sugar level by controlling their weight, adhering strictly to a low-carbohydrate diet, and using oral hypoglycemic agents. The milder, maturity-onset diabetic may be asymptomatic, and since diabetes tends to remain at the severity at which the original diagnosis was made, this condition is not likely to rapidly deteriorate.[42] This, along with the fact that the pancreas still has some degree of function to produce insulin, makes management of the adult diabetic easier and reduces the likelihood of insulin reaction. However, adverse reactions can, and do, occur due to dosage errors or breakdown of the exercise-diet-drug therapy which is mandatory in maintaining body homeostasis. There are other drugs which, when administered with hypoglycemic agents, interfere with blood glucose

[32] Ronald W. Lamont-Havers, M.D., supra n. 1.

[33] "Hypoglycemic Reactions from Insulin and Oral Compounds," supra n. 5, pp. 2-3.

[34] "Diet and Exercise," Joslin Diabetes Foundation, Inc. (Boston, Massachusetts 1975), pp. 1-11.

[35] George J. Gruber and H. H. Ziperman, "Relationship Between Wholebody Vibration and Morbidity Patterns Among Interstate Bus Drivers", Department of Health, Education, and Welfare; Center for Disease Control; Publication No. 75-104 (1974).

[36] George J. Gruber, Ph.D., supra n. 22, 3:6.

[37] Motor Carrier Investigation Report No. 11, Interstate Commerce Commission; Bureau of Motor Carriers Section of Safety (Washington, D.C., 1955), pp. 1-6.

[38] "An Illustrated Step-by-Step Introduction to Properly Understanding U-100 Insulin," Published by Becton, Dickinson and Company (Hillside, New Jersey, 1976).

[39] "Insulin and Diabetes," Joslin Diabetes Foundation, Inc. (Boston, Massachusetts, 1975), pp. 1-12.

[40] Ibid.

[41] Motor Carrier Accident Investigation Report No. 72-2, U.S. Department of Transportation; Federal Highway Administration (Washington, D.C., 1972), pp. 1-10.

[42] "Diet and Exercise," supra n. 33, p 10.

[43] Paul B. Beeson and Walsh McDermott, M.D.'s, supra n. 2, p. 1605.

maintenance and may lead to insulin reaction. Also, some hypoglycemic agents have been reported as contributing to the progression of cardiovascular disease. The University Group Diabetes Project (UGDP) has suggested that a fixed dose of one of the sulfonylureas, Tolbutamide, may increase the incidence of sudden death, presumably resulting from myocardiial infarction or arrhythmia.[43] This is a controversial area that has been refuted by other medical authorities, but bears mentioning.[44]

The work environmental factors of commercial drivers previously identified as contraindicating the treatment of juvenile diabetics, similarly effect maturity-onset diabetics, but the likelihood of insulin reaction appears to be reduced. While the prevalence of insulin reaction is reduced, when it does occur, the severity and results of the reaction (driver unconsciousness) are the same. Thus, the question remains, should diabetics who must use hypoglycemic agents and a diet to manage their condition and must operate in a work environment not conducive to the control of their conditions, be allowed to operate a commercial vehicle in interstate or foreign commerce?

IV. OTHER OCCUPATIONAL INFLUENCES

The following are other factors which may contribute to insulin reactions associated with driving a commercial motor vehicle.

A. *Occupational Exposure to Stress.* Adverse weather and traffic conditions necessitating increased physical and mental demands (physiological and emotional strains) may have an adverse effect on diabetic drivers. Severe emotional stimuli—whether in the nature of anger, anxiety, or fright—can precipitate or aggravate hypoglycemia.[45] [46]

B. *Occupational Exposure to Heat.* Temperature extremes and ambient temperature changes are associated with driving a large commercial vehicle. Prolonged exposure to heat may cause increased metabolic demands which may cause hypoglycemia. Also, the total amount of insulin released in response to comparable glucose stimuli is dramatically temperature-dependent.[47]

C. *Occupational Exposure to Carbon Monoxide.* Engine exhaust is a source of carbon monoxide which may enter a truck cab or bus through leaks in the exhaust or ventilation systems. Another source of carbon monoxide is cigarette smoke. Nicotine and carbon monoxide may aggravate reactive hypoglycemia.[48]

[43] "Report of the Committee for the Assessment of Biometric Aspects of Controlled Trials of Hypoglycemic Agents" (American Medical Association, Copyright 1975), pp. 583–608, citing JAMA, February 10, 1975, Volume 231.

[44] Alvan R. Feinstein, M.D., "Clinical Biostatistics, XXXV, The Persistent Clinical Failures and Fallacies of the UGDP Study," Clinical Pharmacology and Therapeutics, Volume 19 No. 1, 1975, pp. 78–93.

[45] "Diabetes in Review: Clinical Conference 1969," supra n. 20, p. 32.

[46] H. J. Roberts, M.D., supra n. 7, p. 253.

[47] Ibid. pp. 253–4.

[48] Ibid. pp. 545–55.

EMPLOYMENT OF DIABETICS IN HAZARDOUS OCCUPATIONS

The Federal Aviation Regulations disqualify any person who has an established medical history or clinical diagnosis of diabetes mellitus that requires insulin or any other hypoglycemic drug for control from holding a pilot's license of any sort."

The Committee on Medical Aspects of Automotive Safety of the American Medical Association stated in its "Physician's Guide for Determining Driver Limitation" that patients having diabetes well-controlled by insulin may drive private vehicles but should be advised against driving commercial or passenger transport vehicles because of the possibility of an episode of hypoglycemia.[49]

The Industrial Medical Association in its report entitled, "Medical Evaluation of the Commercial Vehicle Driver," states that if a diabetic employee requires insulin, he should not be permitted to drive a commercial vehicle.[50]

Commercial Car Journal in its September 1964, article entitled, "Medical Program," identifies the need for insulin as the real danger of a driving diabetic.[51]

The Committee on Employment, American Diabetes Association, in its "Job Guidelines for People with Diabetes" advises a diabetic controlling his condition with insulin, not to apply for a position in which an insulin reaction might result in injury to others or himself; such as work at heights, around dangerous moving machinery or work involving the operation of vehicles.[52]

The U.S. Civil Service Commission's guidelines, "Employment of Diabetics in Federal Service," states that diabetics who require substantial amounts of insulin should not be placed in positions in which a sudden loss of consciousness would endanger themselves or others, and not hold positions which involve working at heights, around power driven machines, or the operation of motor vehicles.[53]

TENDENCY OF DIABETICS TO BE INVOLVED IN HIGHWAY ACCIDENTS

Several accident epidemiological studies have compared the safety records of diabetic drivers to those of the general driving public. In each of these studies, there was a significantly higher accident risk associated with the diabetic drivers:

The "Physical Condition Report" of the Department of Transportation reports that diabetic conditions were found to be the leading cause of "driver-blackout" accidents in interstate and foreign commerce.[54]

In a report entitled "Accident and Violation Rates—Accident and Violation Rates of Washington Drivers with Medical Licensing and Driving Restrictions," it was revealed that drivers with diabetes, epilepsy, and fainting spells have statistically higher accident rates than the population of Washington drivers.[55]

The State of California's Department of Motor Vehicles compared the records of 2,672 people with known chronic medical conditions to 922 California drivers renewing their licenses who were not known to have chronic medical conditions, finding that drivers with diabetes, epilepsy, cardiovascular disease, alcoholism, and mental illness averaged twice as many accidents per one million miles of driving as did drivers in the comparison group on an age-adjusted basis.[56]

The Oklahoma Medical Advisory Committee in 1969, compared accident rates of drivers with known chronic medical conditions with Oklahoma's 1.65 million licensed drivers according to age, sex, and years of driving exposure, finding that diabetics, epileptics, and persons with other neurological conditions have higher accident and violation rates.[57]

The province of Prince Edward Island, which operates a Diabetic Aid Program identified licensed drivers among diabetics and compared the accident experience to a selected random group of controls matched as closely as possible from among all licensed drivers in the province. They have found that diabetic drivers appear to be involved in 1.72 as many accidents, 2.5 as many major convictions, 1.2 as many minor convictions, and 1.7 as many combined convictions as their age matched non-diabetic controls. Also noted was that the type of drug therapy used did not bear any sig-

[49] "Guide for Aviation Medical Examiners," U.S. Department of Transportation: Federal Aviation Administration (June 1970), p. 35.

[50] H. J. Roberts, M.D., supra n. 7, p. 632.

[51] "Industrial Medical Association Gives Driver Selection Advice," Motor Truck News of New York (December 1966), p. 24, citing The Industrial Medical Association's report "Medical Evaluation of the Commercial Vehicle Driver."

[52] "Medical Program: A Measure of Safety," Commercial Car Journal (September 1964), p. 107.

[53] Committee on Employment, "Job Guidelines for People With Diabetes" (American Diabetes Association, Copyright 1965), pp. 1–4, citing ADA Forecast, January-February, 1965, Vol. 18, No. 1.

[54] "Employment of Diabetics in the Federal Service," U.S. Civil Service Commission, GPO 919–862 (Washington, D.C., January 1971), pp. 1–4.

[54] "Physical Condition Report of Commercial Drivers Involved in Accidents for Year 1970," U.S. Department of Transportation: Federal Highway Administration (Washington, D.C., 1972), p. 8.

[55] Alfred Crancer, Jr., and Lucille McMurray, "Accident and Violation Rates of Washington Drivers with Medical Licensing and Driving Restrictions," Department of Motor Vehicles, State of Washington, Report No. 007 (December 1967), p. 4.

[56] Julian A. Waller, M.D., "Chronic Medical Conditions and Traffic Safety, Review of the California Experience," The New England Journal of Medicine, December 23, 1965, Vol. 273 No. 26, pp. 1413–20.

[57] T. G. Davis and E. H. Wehling, "Accident and Violation Experience of Oklahoma Drivers with Selected Chronic Medical Conditions." Oklahoma Department of Public Safety (1973).

nificance to the involvement of diabetics in any particular type of incident."

SUMMARY

There is sufficient information available to support the present rule which prohibits insulin-dependent diabetics from operating a commercial motor vehicle in interstate or foreign commerce.

Written data, views, and comments with documentation are solicited on the following questions:

(1) Should insulin-dependent diabetics be restricted from driving commercial motor vehicles in interstate or foreign commerce?

Emanating from the preceding discussion on diabetes mellitus are several other questions germane to the driver-disease-work-environment relationships:

(2) Should all diabetics be restricted from driving commercial motor vehicles in interstate or foreign commerce?

(3) Should diabetics who are controlling their condition through use of hypoglycemic agents and diet be restricted from driving commercial motor vehicles in interstate or foreign commerce?

More specific questions to be resolved are:

(4) If exemptions are granted to insulin-dependent diabetics, or the rule changed to relax the present standard, what dosage level of insulin can be documented as a cut-off for establishing a minimum medical standard acceptable to highway safety?

(5) Since sulfonylureas (Orinase, Tolinase, Dymelor, and Diabinese) are more prevalent to "hypoglycemic reactions: "Should diabetics using these specific hypoglycemic drugs be restricted from driving commercial motor vehicles in interstate or foreign commerce?

All comments should refer to the docket number and notice number that appear at the top of this document. Comments should be submitted in triplicate to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590. Comments received before the close of business on May 23, 1977, will be considered before further action is taken. Comments received and documents cited in this Advance Notice will be available for examination by any interested person in the docket room of the Bureau of Motor Carrier Safety, Room 3404, 400 Seventh Street, SW., Washington, D.C., both before and after the closing date for comments.

This advance notice of proposed rulemaking is issued under the authority of 49 U.S.C. 304, 49 U.S.C. 1655(e)(f) and delegations of authority in 49 CFR 1.48 and 301.60.

Issued on March 22, 1977.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc.77-9098 Filed 3-25-77;8:45 am]

[a] E. O'F. Campbell and K. G. Ellis, M.D.'s, "Chronic Medical Conditions and Traffic Violation and Accident Experience of Diabetic Drivers," Modern Medicine of Canada, November 1969, Vol. 24 No. 11, pp. 29-31.

Materials Transportation Bureau
Office of Hazardous Materials Operations

[49 CFR Parts 172, 175]

[Docket No. HM-149; Notice 77-2]

AIR TRANSPORTATION OF SMALL QUANTITIES OF MATERIALS EXHIBITING VERY LOW LEVELS OF RADIATION

Proposed Exemption Renewal

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of proposed exemption renewal.

SUMMARY: The Materials Transportation Bureau (MTB) proposes to renew for two years the limited exemption, which is now found at 49 CFR 175.10(a)(6), for air transportation of small quantities of materials exhibiting very low levels of radiation, and to except from shipping paper and shippers' certification requirements only those materials shipped as a component part of an instrument or a manufactured article.

DATES: Comments must be received on or before April 22, 1977.

ADDRESSES: Comments must be submitted to the Docket Section, Office of Hazardous Materials Operations, Department of Transportation, 2100 2nd Street SW., Washington, D.C. 20590, where they will be available for public viewing both before and after the closing date.

FOR FURTHER INFORMATION CONTACT:

Director, Office of Hazardous Materials Operations, 2100 2nd Street SW., Washington, D.C. 20590 (phone 202-426-0656). Primary drafters of this proposal are Douglas A. Crockett and Alfred W. Grella.

SUPPLEMENTARY INFORMATION: Effective until May 3, 1977, small quantities of radioactive materials otherwise qualifying for marking, labeling and packaging exceptions under 49 CFR 173.391 are excepted by § 175.10(a)(6) from the remaining requirements of Subchapter C when transported by air.

The § 175.10(a)(6) exception was published two years ago (49 FR 5168, February 4, 1975; 40 FR 17141, April 17, 1975) as 14 CFR 103.1(c)(4), excepting such small quantities from application of Part 103. It was republished on April 15, 1976 (41 FR 15972) as an exception only to requirements of 49 CFR Part 175. On December 30, 1976 (41 FR 57018), the exception was modified to except such air shipments from all of the requirements of Subchapter C. That amendment was made necessary by uncertainty over the effect on the exception of other parts of Subchapter C of 49 CFR, uncertainty which arose as a result of the transfer of the exception from 14 CFR to 49 CFR.

Conforming with § 107 of the Act (49 U.S.C. 1806) governing exemptions, the § 175.10(a)(6) exception, like its predecessor 14 CFR 103.1(c)(4), is limited to a two-year life unless reexamined and renewed. As was the case with 14 CFR 103.1(c)(4) which became effective on May 3, 1975, § 173.10(a)(6) will terminate unless renewed on May 3, 1977. The MTB proposes to renew it on a finding that renewal is consistent with the public interest and the policy of the Act. Renewal is proposed with the following modifications.

Upon renewal, the text of the exception for radioactive materials qualifying under § 173.391(a) will appear as a new paragraph designated § 175.10(b). The The effect of this change will be to require shipping papers and shippers' certifications for air shipment of materials which are not a component part of an instrument or manufactured article. Air shipments of instruments and manufactured articles containing small amounts of radioactive materials will continue to be excepted by § 175.10(a)(6) from the requirements of the subchapter, including shipping paper requirements. The difference in proposed treatment of such materials reflects the fact that low-level radioactive materials incorporated in instruments (timepieces, electronic tubes, smoke detectors, and similar devices) are component parts of those items and are in a nondispersible form.

The text of proposed § 175.10 (a)(6) and (b) is updated to reference § 173.391 as of the effective date of renewal, because that section has remained essentially unchanged since the exception was first published in 1975. The reference to § 175.10(a)(6) in § 172.204(c)(4), concerning certification as to intended use, is proposed to be changed to read "§ 175.10(b)", and the parallel reference to § 175.10(a)(8) is proposed for deletion, since articles addressed in § 175.10 (a) are presently not subject to Subchapter C.

Comments received through April 22 will be considered prior to final issuance. The effective date of the final amendment will be May 3, 1977, which due to the lateness of this notice will be less than 30 days after final publication. However, because the proposed requirement for shipping papers and shippers' certification for § 173.391(a) materials is new, mandatory compliance with that requirement will be delayed for at least six weeks beyond May 3.

In accordance with the foregoing, it is proposed to amend Parts 172 and 175, Title 49, Code of Federal Regulations, as follows:

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATION REGULATIONS

§ 172.204 [Amended]

1. In § 172.204, paragraph (c)(4) is amended by changing the last sentence to read, "* * * This requirement does not apply to materials excepted under the provisions of § 175.10(b) of this subchapter."

PART 175—CARRIAGE BY AIRCRAFT

2. In § 175.10, paragraph (a)(6) is revised and paragraph (b) added to read as follows:

§ 175.10 Exceptions.

(a) * * *

(6) Prior to May 3, 1979, radioactive materials which meet the requirements of § 173.391(b) or (c) of this subchapter, in effect on May 3, 1977.

* * * * *

(b) Prior to May 3, 1979, this part does not apply to radioactive materials which meet the requirements of § 173.391(a) of this subchapter, in effect on May 3, 1977.

(49 U.S.C. 1803, 1804, 1806, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., on March 23, 1977.

ALFRED W. GRELLA,
Acting Director, Office of Hazardous Materials Operations.

[FR Doc.77-9207 Filed 3-25-77;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.

DEPARTMENT OF AGRICULTURE

Forest Service

MARY'S PEAK PLANNING UNIT

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Mary's Peak Planning Unit Land Use Plan, USDA–FS–R6–FES(Adm)–76–9.

The environmental statement concerns long-range resource allocation of lands that involve two separate municipal supply watersheds. One provides a source of water for Corvallis, and Philomath, Oregon; the other watershed provides the source of water for Dallas, Oregon.

This final environmental statement was transmitted to CEQ on March 21, 1977.

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

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, Pacific Northwest Region, 319 SW. Pine Street, Portland, Oreg. 97204.
USDA, Forest Service, Siuslaw National Forest, 545 SW. 2nd Street, Corvallis, Oreg. 97330.
USDA, Forest Service, Alsea Ranger District, Alsea, Oreg. 97224.

A limited number of single copies are available upon request to:

Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, Oreg. 97330.

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

H. W. PARKER,
Acting Director, Planning, Programing and Budgeting.

MARCH 21, 1977.

[FR Doc.77-9084 Filed 3-25-77;8:45 am]

Soil Conservation Service

BELLWOOD WATERSHED PROJECT, NEBRASKA

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the floodwater retarding structures No. 2C, 6G, 4N, and 13.1 miles of channel improvement in the Bellwood Watershed Project, Butler County, Nebraska.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Benny Martin, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement, as described in the negative declaration, include conservation land treatment supplemented by three single-purpose floodwater retarding structures No. 2C, 6G, 4N, and 13.1 miles of channel work. The channel work includes 3 miles of new channels and 10.1 miles of debris removal, clearing, and snagging on manmade channels with ephemeral or intermittent flow.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, Federal Building, U.S. Courthouse, Room 345, Lincoln, Nebraska 68508. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal will be taken until April 12, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: March 21, 1977.

JAMES W. MITCHELL,
Director, Watersheds Division, Soil Conservation Service.

[FR Doc.77-9085 Filed 3-25-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 30616; Order 77-3-80 [1]]

AMERICAN AIRLINES, INC.

"Super-Saver" Discount Fares; Order of Investigation; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 15th day of March, 1977.

[1] Published at 42 FR (15113) 3-18-77.

Ordering paragraphs 2 and 4 of Board Order 77-3-80 are amended as follows:

Paragraph 2: Docket 30430469 should be 30469.

Paragraph 4: Add, Northwest Airlines, Inc., and Trans World Airlines, Inc.

By the Civil Aeronautics Board:

Dated: March 16, 1977.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-9117 Filed 3-25-77;8:45 am]

[Docket 27573; Agreement C.A.B. 26514, R-1 and R-2; Order 77-3-125]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement on Specific Commodity Rates; Order

Issued under delegated authority March 22, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names an additional specific commodity rate under existing specific commodity descriptions and adds one new rate with a new specific commodity description, reflecting reductions from general cargo rates as set forth below; and was adopted pursuant to unprotested notice to the carriers and promulgated in an IATA letter dated March 8, 1977.

Agreement CAB	Specific commodity item No.	Description and rate
26514:		
R-1	8166	Plastic bags for medical use, namely colostomy bags, 102 c/kg, [1] minimum weight 500 kg. From Copenhagen to New York.
R-2	7039	Adhesive tape and dispensers, 149 c/kg, [2] minimum weight 100 kg. 133 c/kg, [1] minimum weight 300 kg. From New York to Helsinki.

[1] Expires Dec. 31, 1977.
[2] Expires June 30, 1978.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, *it is ordered*, That: Agreement C.A.B. 26514, R-1 and R-2,

is approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

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

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-9118 Filed 3-25-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

FOREIGN AVAILABILITY SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed 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 that a meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, April 12, 1977, at 9 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist block countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

The Subcommittee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion of future role of the Subcommittee.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, P.L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: March 24, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.77-9309 Filed 3-25-77;8:45 am]

LICENSING PROCEDURES SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Open 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 that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, April 12, 1977, at 1:30 p.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was initially established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer sytems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export license applications within the Office of Export Administration and recommend areas where improvements can be made.

The agenda for the meeting is:

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Review of Subcommittee recommendations to the Computer Systems Technical Advisory Committee.

(4) Discussion of possible revision of computer systems performance characteristics and of eligible destinations under a Distribution License.

(5) Suggested change for Country Groups eligible for GLR.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

Dated: March 24, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.77-9313 Filed 3-25-77;8:45 am]

Economic Development Administration

HY-GRADE SPORTSWEAR COMPANY, INC.

Notice of Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Hy-Grade Sportswear Company, Inc., 85 Fifth Avenue, New York, New York 1003, a producer of men's suits and coats, was accepted for filing on March 21, 1977, pursuant to Section 251 of the Trade Act of 1974 (P.L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of April 7, 1977.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-9038 Filed 3-25-77;8:45 am]

Maritime Administration

[Docket No. S-554]

WATERMAN STEAMSHIP CORP.

Application

Notice is hereby given that Waterman Steamship Corporation has filed an application dated March 3, 1977, to amend its present Operating-Differential Subsidy Agreement, Contract No. MA/MSB-115, so as to modify its subsidized service on Trade Route No. 18 (U.S. Gulf and Atlantic/Red Sea, Persian Gulf, India, Pakistan) to include ports in the Arab Republic of Egypt on the Mediterranean Sea.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, by the close of business on April 8, 1977.

The Maritime Subsidy Board will consider these views and comments and take such actions with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistant Program No. 11.504 Operating-Differential Subsidies (ODS).)

By order of the Maritime Administration.

Dated: March 23, 1977.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.77-9150 Filed 3-25-77;8:45 am]

National Oceanic and Atmospheric Administration

CARIBBEAN FISHERY MANAGEMENT COUNCIL AND SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL

Public Meetings

Notice is hereby given of a meeting of the Caribbean Fishery Management Council and its Scientific and Statistical Committee and Advisory Panel.

The Council was established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). The Council has authority over fisheries within the fishery conservation zone adjacent to Puerto Rico and the Virgin Islands. The Councils will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

This is one of a series of organizational meetings of the Council. The meeting will be held Monday through Thursday, April 18 to April 21, 1977, at The Reef, Teague Bay, Star Route 00864, Christiansted, St. Croix, U.S. Virgin Islands. The meeting will convene at 1 p.m. on April 18 and adjourn at about noon on April 21. Daily sessions will normally start at 9 a.m. and adjourn at 5 p.m., except as otherwise noted. The meeting may be extended or shortened depending upon progress on the agenda.

Proposed agenda:

1. Council Organization and Administrative Procedures.
2. Technical Organization and Procedures.
3. Working groups of the Scientific and Statistical Committee and Advisory Panel may meet in conjunction with the Council.
4. Review of foreign fishing applications, if any.
5. Fishing relationships with the British Virgin Islands.
6. Domestic fishery in foreign zones.
7. Other management business.

Meeting concurrently, and perhaps in conjunction with the Council at times, will be the Council's Scientific and Statistical Committee and Advisory Panel. These are established pursuant to Section 302(g) of the Act. The Scientific and Statistical Committee will assist the Council in the Development, collection, and evaluation of such statistical, biological, economic, social and other scientific information as is relevant to the Council's development and amendment of any fishery management plan. The Advisory Panel contains broad representation from interests affected by Council activities in order to assist the Council in carrying out its functions under the Act.

Pursuant to the Federal Advsory Committee Act (Pub. L. 92-463), the Scientific and Statistical Committee and the Advisory Panel must each be legally chartered before either may meet or take any action.

At this time neither the Scientific and Statistical Committee nor the Advisory Panel has an approved charter. This notice is being given with the condition that a charter for each of these bodies will be in effect by the meeting date. Each of these bodies will meet only if its charter is in effect at the scheduled time for the meeting. In order to determine whether the charters will be in effect in time for the meetings to take place, any interested person should contact the Council official listed below. The Council itself will meet regardless of whether the Scientific and Statistical Committee and/or Advisory Panel meet.

The Committee and the Panel will meet separately but will utilize the same agenda.

Proposed agenda:

1. Consideration of internal program matters.
2. Review of fishery management plan issues.
3. Appropriate recommendations to the Council.
4. Other management business.

All of these meetings will be open to the public, and there will be seating for a limited number of public members available on a first come, first served basis. Members of the public having an

interest in specific items for discussion are also advised that agenda changes are at times made prior to the meetings. To receive information on changes, if any, made to the agendas, interested members of the public should contact, on or about April 15, 1977:

Mr. Robert Cummins, Jr., Special Assistant to the Regional Director, National Marine Fisheries Service, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702, Telephone: (813) 893-3383.

At the discretion of the Council, the Committee, or the Panel, as appropriate, interested members of the public may be permitted to speak at times which will allow the orderly conduct of official business. Interested members of the public who wish to submit written comments should do so by addressing the Special Assistant to the Regional Director at the above address. To receive due consideration and to facilitate inclusion of these comments in the record of the meetings, typewritten statements should be received within 10 days after the close of the meetings.

Dated: March 23, 1977.

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

[FR Doc.77-9130 Filed 3-25-77;8:45 am]

Office of the Secretary

PRIVACY ACT OF 1974

Adoption of New Routine Use

The purpose of this notice is to adopt a new routine use for three existing systems of records.

On January 12, 1977, the Department of Commerce gave notice (42 FR 2521-22) that it proposed to add a routine use to each of three existing systems of records. Commerce/Dept.-12, Investigative Records—Contract and Grant Frauds and Employee Criminal Misconduct; Commerce/Dept.-13, Investigative Records—Persons Within the Investigative Jurisdiction of the Department; and Commerce/Dept.-18, Employee Personnel Files Not Covered by U.S. Civil Service Commission. Interested persons were invited to submit written data, views, or arguments on or before February 11, 1977.

No comments were received in response to the notice.

Therefore, the Department adopts the new routine use for each of the 3 systems effective February 11, 1977.

Because the text of each of the three systems, incorporating the new routine use, was published in the FEDERAL REGISTER on January 12, 1977, pages 2521 through 2522, and the routine use for each system is adopted without change, there is no need to republish at this time.

Dated: March 15, 1977.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.77-9082 Filed 3-25-77;8:45 am]

PRIVACY ACT OF 1974

Proposed New System of Records, Proposed Routine Uses for Existing Systems, Miscellaneous Changes

The purposes of this Notice are: 1. to propose a new system of records for the Patent and Trademark Office, 2. to propose additional or revised routine uses for existing systems of records, and 3. to make two changes of a non-substantive nature in existing systems.

Pursuant to 5 U.S.C. 552a(e)(4) and (11), Section 3 of the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896), the Department of Commerce hereby:

1. Proposes to adopt a new system of records for the Patent and Trademark Office, Users of Public Search Room of the Patent and Trademark Office, Commerce/PAT-TM-14. The purpose of this system is to enable the Patent and Trademark Office to operate a new security system in the public search room. The new security system is intended to protect patent documents from unauthorized removal from the search room, which is used by the general public, by employees, and by representatives of commercial firms offering patent search services to the public.

A new system report, data March 17, 1977, was submitted to the Congress, the Office of Management and Budget, and the Privacy Protection Study Commission, as required by the Privacy Act.

The proposed new system is printed below.

2. Proposes to add or revise routine uses for existing systems of records described below. The added or revised routine uses are compatible with the purposes for which the systems are maintained.

A. Add a new general routine use to the Prefatory Statement of General Routine Uses (41 FR 38953-54, September 13, 1976) which would permit access by GSA to records covered by the Privacy Act in connection with GSA's records management functions. Such disclosure would not be used to make determinations about individuals.

The new general routine use would read:

No. 13. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

B. Revise the routine uses for the Commerce/Dept.-1 system of records, Attendance, Leave, and Payroll Records of Employees and Certain Other Persons, to include the Department of Labor as a potential recipient of employment, wage, and separation information. The Department of Labor might request this data pursuant to 5 U.S.C. 8506 to determine eligibility for unemployment compensation.

The routine uses, as revised, would read: *Routine uses of records maintained in the system, including categories of users and the purpose of such uses:*

Transmittal of data to U.S. Treasury to effect issuance of paycheck to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes.

Reporting: tax withholding to Internal Revenue Service and appropriate State and local taxing authorities; FICA deductions to the Social Security Administration; dues deductions to labor unions; withholdings for health and life insurance to the insurance carriers and the U.S. Civil Service Commission; charity contribution deductions to agents of charitable institutions; annual W-2 statements to taxing authorities and the individual; wage, employment, and separation information to state unemployment compensation agencies, to the Department of Labor to determine eligibility for unemployment compensation and to housing authorities for low-cost housing applications; and NOAA Corps data to U.S. Civil Service Commission for preparation of statistical materials. Also, see routine use paragraphs of Prefatory Statement.

C. Revise the routine uses for the Commerce/Census-3 system of records, Individual and Household Statistical Surveys and Special Studies Records, to provide notice that the Social Security Administration may receive certain identifiable data which the Bureau of the Census collects from State and local units of government responsible for administering Comprehensive Employment and Training Act (CETA) funds and from individual respondents of the Longitudinal Manpower Survey. The data provided to the Social Security Administration is used for matching purposes and is subsequently returned to the Census Bureau along with additional information supplied by the Social Security Administration. The survey is conducted for the Employment and Training Administration, U.S. Department of Labor which receives no individually identifiable data.

The routine uses, as revised, would read: *Routine uses of records maintained in the system, including categories of users and the purpose of such uses:*

(1) Identifiable data from records not protected by 13 U.S.C. 9, received from State and local units of government responsible for administering Comprehensive Employment and Training Act funds and from individual respondents pursuant to the Longitudinal Manpower Survey authorized by 29 U.S.C. §§ 881(c) and 883, may be furnished to the Social Security Administration solely for the purpose of obtaining further identifiable data for statistical use in the Survey. The data provided are: social security number, name, month and year of birth.

race and sex. No determinations affecting individual respondents are made as a result of this routine use.

(2) Publications resulting from the use of the records in this system do not contain information that could identify any particular establishment or individual.

3. Makes two changes of a non-substantive nature described below.

A. In the Commerce/Census–3 system of records, described above, add an introductory phrase to the paragraph entitled "Categories of Records" to clarify that the information collected varies among the surveys, and that information other than what is precisely listed may also be collected. The paragraph, as revised, would read: *Categories of records in the system:* The information varies among the separate surveys, but generally includes age, sex, race, education, marital status, residence, family income, birth expectations, employment, ethnic origin, relationship to head of household, mobility status, and similar social, economic, and demographic characteristics of individuals.

B. In the Commerce/NOAA–10 system of records, Employee Production Records, add "automated records" to the paragraph entitled "Storage" to reflect current storage practice. The paragraph, as revised, would read:

Storage: Paper records in file folders, and automated records.

Although the Act requires the opportunity for public comment only as to the proposed new or revised "routine uses", comments regarding any portion of this Notice will be given due consideration before final publication.

Any interested person may submit written data, views or arguments to the Assistant Secretary for Administration (Attn: Information Management Division, Room 5026), U.S. Department of Commerce, 14th and E Streets NW., Washington, D.C. 20230, any time on or before April 27, 1977. The comments received will be available, as received, for public inspection at the above address between the hours of 9 A.M. and 4 P.M. Monday through Friday (except holidays).

Dated: March 17, 1977.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

COMMERCE/PAT–TM–14

System name:

Users of Public Search Room of the Patent and Trademark Office, Commerce/PAT–TM–14.

System location:

Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system:

Federal employees other than employees of the Patent and Trademark Office; employees and other representatives of commercial firms offering patent search services to the public; registered agents before the Patent and Trademark Office; and any member of the general public who uses the search room.

Categories of records in the system:

Name; home address; business firm or other organizations with which affiliated, as appropriate; user pass number; registration number, if a registered agent before the Patent and Trademark Office; violations of regulations governing use of the search room; and the signature of recipients of user passes, indicating that the recipient has read the regulations governing the use of the search room.

Authority for maintenance of the system:

5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses:

Information may be disclosed to law enforcement authorities, employers of violators of regulations governing use of the search room, and organizations with which recipients of user passes claim affiliation. Information such as home address or business affiliation, on individuals who have removed, with proper authority, patent documents from the search room but have failed to return such documents, may be used in retrieving such documents.

Also, see general routine uses No. 1–6, No. 8–10 and No. 12 noticed in the FEDERAL REGISTER. See Prefatory Statement of General Routine Uses, September 13, 1976, 41 FR 38953–54.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Alphabetically by name and sequentially by user pass number.

Safeguards:

Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal:

Retained pursuant to Records Control Schedule, with periodic updating or posting of information, when appropriate and necessary.

System manager:

Director, Office of Patent and Trademark Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure:

Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requesters should provide name and address and date of visit to the search room, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures:

Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories:

Subject individual; employers; and those authorized by individual.

[FR Doc.77–9083 Filed 3–25–77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

PRIVACY ACT OF 1974

Notice of an Amendment of a Record System

Correction

In FR Doc. 77–6614 appearing at page 12899, in the issue of Monday, March 7, 1977 on page 12901, third column, the first boldface heading now reading, "Categories of individuals covered by the system:" should be corrected to read, "Categories of individuals covered by the system: all Air Force active duty military personnel."

Department of the Army

PRIVACY ACT OF 1974

Amendment to System of Records

In FR Doc. 76–21185 published in the FEDERAL REGISTER (41 FR 31011) of July 26, 1976 and also in Privacy Act Issuances, 1976 Comp. Vol. I, p. 55, the Department of the Army set forth a record system as prescribed by subsections 3(e) (4) and (11) of the Privacy Act of 1974 (Pub. L. 93–579, 5 U.S.C. 552a) within the Department of the Army. This record system is identified as A0305.10a-DACA, entitled "305.10, Joint Uniform Military Pay System—Active Army (JUMPS–AA)."

Notice is hereby given that the Department of the Army is amending this record system. The proposed changes therein are not deemed to fall within the provisions of Office of Management and Budget (OMB) Circular No. A–108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974. This OMB guidance was set forth in FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

Following a brief identification of the record system and the changes made therein, the complete revised records system as amended, is published in its entirety.

Interested persons are invited to submit comments, including written data,

views or arguments, concerning the proposed changes to The Adjutant General, Department of the Army, ATTN: DAAG-AMR-R, Forrestal Building, 1000 Independence Avenue S.W., Washington, DC 20314 on or before April 27, 1977. The record system will be effective as proposed without further notice, on or before April 27, 1977, unless comments are received which result in a contrary determination and requiring republication for further comments.

A0305.10aDACA

System name: 305.10 Joint Uniform Military Pay System—Active Army (JUMPS-AA)

Changes:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To sentence beginning "Veterans Administration" delete the period and add: "and to transfer contributions to Post-Vietnam Era Veterans Education Account."

A0305.10aDACA

System name:

305.10 Joint Uniform Military Pay System—Active Army (JUMPS-AA)

System location:

Primary System—United States Army Finance and Accounting Center (USAFAC), Indianapolis, IN 46249.

Decentralized Segments—Approximately 122 Army Finance Offices and Finance and Accounting Offices (FAO) world-wide.

Categories of individuals covered by the system:

All active duty military personnel.

Categories of records in the system:

Records include individual military pay records, casual payment receipts, substantiating documents, temporary pay records, transmittal letters, locator files, financial data record folders (FDRF), miscellaneous military pay files, and personal financial records (PFR).

Authority for maintenance of the system:

Title 37 U.S.C., Section 101 and following (Pay and Allowances of the Uniformed Services).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

USAFAC—Purpose is to provide a basis for establishment of computation of each active member's military pay entitlement, to provide a history of pay transactions, and to answer inquiries or claims pertaining to such entitlements. This information is also used to provide necessary data to the Treasury Department, the Social Security Administration, the US Army Military Personnel Center, the Veterans Administration, and those states and cities which have an agreement with the Department of the Army to receive taxable earnings information.

Treasury Department—To record check and bond issue data and to record taxable earnings and taxes withheld from military personnel.

Social Security Administration—To record earned wages by member under the Federal Insurance Contributions Act (FICA).

U.S. Army Military Personnel Center (MILPERCEN)—To compare military personnel identification with the Social Security Administration for purpose of correction and to compare and correct common data elements with USAFAC.

Veterans Administration—To record the collection of premiums for National Service Life Insurance and to transfer contributions to Post-Vietnam Era Veterans Education Account.

States and Cities—To verify tax liability against members' state and city income tax returns.

American Red Cross—To assist military personnel and their dependents in determining the status of monthly pay, dependents allotments, loans, and related financial transactions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders and in bulk storage, card files, computer magnetic tapes, computer paper printout, and microfiche.

Retrievability:

Filed by social security number, alphabetically by name, and substantiating document number. Conventional indexing is used to retrieve data.

Safeguards:

USAFAC—Buildings employ security guards. An employee badge and visitor registration system is utilized. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained. Access to computer magnetic tape files is restricted to the members' servicing finance and accounting officer. Computer equipment and files are located in a separate secured area.

World-wide Finance and Accounting Offices—Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Individual military pay records—Records are converted to microfiche which are retained for 56 years. Destruction is by shredding.

Other records—Retention periods vary according to category of record but total retention periods do not exceed 56 years. Disposition is to federal records centers and destruction thereafter is by burning or salvage as waste paper.

System manager(s) and address:

Commander, USAFAC, Indianapolis, Indiana 46249.

Finance and Accounting Officer, United States Army Finance and Accounting Offices, world-wide.

Notification procedure:

Information may be obtained from: Commander, USAFAC, Attention: FINCP, Indianapolis, Indiana 46249.

Individuals may also contact Finance and Accounting Officers at United States Army Finance and Accounting Offices, world-wide.

Individual must provide full name, social security number and military status.

Record access procedures:

Requests from individuals should be addressed to: Commander, USAFAC, Attention: FINCP, Indianapolis, Indiana 46249; or Finance and Accounting Officers at United States Army Finance and Accounting Offices, world-wide.

Written requests for information should also contain full name, social security number, military status and current address.

Information may be obtained by telephone: Area Code 317/542-2891.

Contesting record procedures:

The Army's rules for access to records, contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Information is received from Department of Defense staff and field installations, Social Security Administration, Financing organizations, Treasury Department and automated system interface.

Systems exempted from certain provisions of the act:

None.

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

MARCH 23, 1977.

[FR Doc.77-9080 Filed 3-25-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

RETRANSFER AND REPROCESSING OF SPECIAL NUCLEAR MATERIAL OF U.S. ORIGIN

Receipt of Petition for Rulemaking

Pursuant to its established rules, ERDA gives notice herewith that it has received a Petition for Rulemaking which is styled as follows: "In the Matter of Approvals for Retransfer and Reprocessing of Special Nuclear Material of United States Origin." The petitioners are Natural Resources Defense Council, Inc.; Union of Concerned Scientists; Friends of the Earth (United Kingdom), Ltd.; and Les Amis de la Terre. The retransfers which are the subject of this Petition are those involving transfers from one nation or international organization to another nation or international organization of special nuclear material previously exported from the United States under agreements for cooperation in the civil uses of atomic energy, concluded by the United States pursuant to Section 123 of the Atomic

Energy Act of 1954, as amended (42 U.S.C. 2153). Copies of the Petition are available for inspection at ERDA's Public Document Room, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545.

In the Petition, petitioners ask that ERDA "addopt certain rules and regulations, of both a procedural and substantive nature, relating to approvals for retransfer and/or reprocessing under agreements for cooperation with foreign governments of special nuclear material of United States origin." Petitioners also request that ERDA rescind certain approvals given on December 30, 1976, suspend consideration of all pending requests for approval, and issue no further approvals until final resolution of the issues raised by this petition.

In concert with other Government departments and agencies involved in these matters, ERDA will evaluate the issues raised by the Petition and will respond to it on a timely basis.

HUDSON B. RAGAN,
Acting General Counsel.

MARCH 23, 1977.

[FR Doc.77-9384 Filed 3-25-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 705-8]

ADVISORY COMMITTEES

Annual Comprehensive Review

In the matter of the annual comprehensive review of Federal advisory committees, the President asked, in his February 25, 1977 memorandum, that each agency "provide for open and public participation in its review process to the maximum extent consistent with an expeditious review." The purpose of this notice is to seek public advice regarding EPA advisory committees, listed as follows:

1. Administrator's Pesticide Policy Advisory Committee.
2. Administrator's Toxic Substances Advisory Committee.
3. Ecology Advisory Committee.
4. Effluent Standards and Water Quality Information Advisory Committee.
5. Environmental Health Advisory Committee.
6. Environmental Measurements Advisory Committee.
7. Environmental Pollutant Movement and Transformation Advisory Committee.
8. Environmental Radiation Exposure Advisory Committee.
9. FIFRA Scientific Advisory Panel.
10. Management Advisory Group to the Municipal Construction Division.
11. National Air Pollution Control Techniques Advisory Committee.
12. National Drinking Water Advisory Council.
13. Science Advisory Board—Executive Committee.
14. State-Federal FIFRA Implementation Advisory Committee.
15. State-Federal Water Programs Advisory Committee.
16. Technology Assessment and Pollution Control Advisory Committee.

In conducting the annual comprehensive review, a determination must be made regarding each committee as to whether: (1) the Agency has a compelling need for it; (2) the Committee's membership is truly balanced; and (3) the Committee has conducted its business as openly as possible consistent with the law and their mandate. In consideration of these three items, we hereby invite comments from interested members of the public on the need for and performance of EPA's advisory committees.

It is requested that individuals wishing to comment should submit their responses by April 6, 1977 to: Mrs. Mary Anne Beatty, Committee Management Officer, U.S. Environmental Protection Agency, Room 405-B Waterside Mall West (PM-213), 401 M Street SW., Washington, D.C. 20460. Telephone (202) 755-0866.

Dated: March 29, 1977.

RICHARD REDENIUS,
Acting Assistant Administrator for Planning and Management.

[FR Doc.77-9155 Filed 3-25-77;8:45 am]

[FRL 705-5; OPP-42038A]

STATE OF LOUISIANA

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 January 27, 1977 notice was published in the FEDERAL REGISTER (42 FR 5121) of the intent of the Regional Administrator, Environmental Protection Agency (EPA) Region VI, to approve, on a contingency basis, the Louisiana State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides (Louisiana State Plan). Contingency approval was requested by the State of Louisiana pending promulgation of proposed regulations.

Complete copies of the Louisiana State Plan (except for sample examinations) were made available for public inspection at the following locations: Louisiana Department of Agriculture, Harry D. Wilson Lab—Room 223, LSU Campus, Baton Rouge, Louisiana; U.S. Environmental Protection Agency, Region VI, Pesticides & Hazardous Materials Branch, First International Building, 1201 Elm Street, Dallas, Texas; and the U.S. Environmental Protection Agency, Office of Pesticide Programs, Federal Register Section, Room 401 East Tower, 401 M. Street, S.W., Washington, D.C.

No comments were received concerning the Louisiana State Plan during the 30 day comment period. Therefore, it has been determined that the Louisiana State Plan will satisfy the requirements of section 4(a)(2) of the amended FIFRA and 40 CFR Part 171, if the proposed regulations are promulgated.

The Louisiana State Plan will remain available for public inspection at the Louisiana Department of Agriculture, Harry D. Wilson Lab—Room 223, LSU Campus, Baton Rouge, Louisiana.

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 Louisiana 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 Louisiana State Plan shall be effective upon signature of this notice. Neither the Louisiana 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 Louisiana. 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 contingency shall become effective immediately.

Dated: March 14, 1977.

JOHN C. WHITE,
Regional Administrator, Environmental Protection Agency, Region VI.

[FR Doc.77-9152 Filed 3-25-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Doc. No. 21130]

HOWARD IKEN

Suspension of Radiotelephone First Class Operator License

Adopted: March 18, 1977.

Released: March 22, 1977.

1. The Commission, by the Chief, Field Operations Bureau, has under consideration the suspension of the Radiotelephone First Class Operator License, P1-2-35645, of Howard Iken, 29-51 Falcon Avenue, Far Rockaway, New York 11691. The license will expire on August 27, 1980.

2. Based on allegations contained in Orders adopted by the Chief, Safety and Special Radio Services Bureau on February 2, 1977, it appears that on November 11, 1975, Howard Iken apparently attempted to assist Howard L. Levine to fraudulently obtain an Advanced Class Amateur operator license by taking the Advanced Class Amateur license

examination for Levine, in Levine's name, and by signing Levine's name to the examination answer sheets and to the examination sign-in sheet.

3. Information in the possession of the Commission requires the specification of an issue to determine whether Iken did fraudulently take the Advanced Class Amateur Radio Operator examination for Levine and sign Levine's name to the examination answer sheets and to the examination sign-in sheet.

4. The licensee's conduct described herein appears to be contrary to the Commission's public interest, convenience, and necessity standards and had the same been a new application, it would have been designated for hearing.

5. *Accordingly, it is ordered,* pursuant to Sections 303(l)(1) and 303(m)(1)(F) of the Communications Act of 1934, as amended, and §§ 0.311 and 1.84 of the Commission's Rules, That the captioned application is designated for hearing, at a time and place to be specified by subsequent order upon the following issues:

(1) To determine the facts and circumstances surrounding the examination for and filing of Levine's application for an Advanced Class operator and Amateur radio station licenses on November 11, 1975.

(2) To determine whether Howard Iken took the examination for Levine, and signed Levine's name to the examination answer sheets and sign-in sheet.

(3) To determine, in light of facts adduced under issues (1) and (2), whether Howard Iken possesses the requisite qualifications to be a licensee of the Commission.

It is further ordered, That the Secretary shall send a copy of this Order by certified mail, return receipt requested, to Howard Iken at the address above given, and that Iken's request for hearing and intention to appear pursuant to the Orders adopted by the Safety and Special Radio Services Bureau shall be considered a request for hearing in this proceeding and an intention to appear herein.

FEDERAL COMMUNICATIONS COMMISSION,
C. PHYLL HORNE,
Chief, Field Operations Bureau.

[FR Doc.77-9159 Filed 3-25-77;8:45 am]

FEDERAL MEDIATION AND CONCILIATION SERVICE

ARBITRATION SERVICES ADVISORY COMMITTEE

Meeting

Notice is hereby given that the Federal Mediation and Conciliation Service Arbitration Services Advisory Committee, in accordance with Section 10 of the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776), will meet on Saturday, April 16, 1977 at 9:30 a.m. in the New Brunswick Room of the Royal York Hotel, 100 Front Street West, Toronto, Ontario, Canada.

The agenda is as follows: (1) Public Sector interest arbitration. (2) Arbitrator development problems and possible solutions. (3) Arbitrator development program prospectus. (4) Report on age of roster members and distribution of the caseload. (5) Arbitrator symposium report. (6) Report on recertification project. (7) Status of regional awards library.

This meeting shall be open to the public.

Communications regarding this meeting should be addressed to:

Mr. John Canestraight, Assistant Director, Office of Arbitration Services, Federal Mediation and Conciliation Service, Washington, D.C. 20427.

Signed at Washington, D.C. this twenty-second day of March 1977.

JAMES F. SCEARCE,
National Director.

[FR Doc.77-9064 Filed 3-25-77;8:45 am]

FEDERAL ELECTION COMMISSION

[Notice 1977-18]

FEDERAL ADVISORY COMMITTEES

Announcement of Annual Comprehensive Review

AGENCY: Federal Election Commission.

ACTION: Notice.

SUMMARY: This announces a review of the Clearinghouse Advisory Panel of the Federal Election Commission and invites the public to comment on the need for the Panel, the balance of its membership, and openness of Panel proceedings.

DATES: Comments due by April 8, 1977.

ADDRESS: Mr. Orlando Potter, Staff Director, Federal Election Commission, 1325 K Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary Greenhalgh, Chief of Clearinghouse—202-523-4183 (Same address as above).

SUPPLEMENTARY INFORMATION: The President in his letter of February 25, 1977 published in the FEDERAL REGISTER, ordered a governmentwide, zerobase review of all Federal advisory committees, with the presumption that all committees should be abolished except those (1) for which there is a compelling need; (2) which have truly balanced membership; and (3) which conduct their business as openly as possible consistent with the law and its mandate. Further, the President's message urges agency heads to make appropriate recommendations on administrative committees and to confer with Congress about abolishing statutory committees which do not meet the above standards.

Pursuant to this directive and in accordance with the Federal Advisory Committee Act, the Director of the Office of Management and Budget has begun a review to determine whether each committee is carrying out its purpose; whether, consistent with the provisions of applicable statutes, the responsibilities assigned to the committee should be revised; whether the committee should be merged with other advisory committees; or whether the committee should be abolished.

The Federal Election Commission is now conducting its review and invites the public to comment on the need for the Clearinghouse Advisory Panel, and how the Panel's goals can best be achieved. In addition, the public is asked to comment on whether the Panel's membership represents a balance in points of view and to recommend changes in membership if needed. Finally, comment is welcome on the Panel's record of encouraging public participation and any changes needed.

The President has set April 15, 1977 as the date for submission of recommendations by the Commission. This deadline requires that comments be received by April 8, 1977 to be included in this review. Comments received after that date will be incorporated in the Commission's continuing review of the utility and the operation of the Clearinghouse Advisory Panel directed by the President.

Dated: March 23, 1977.

VERNON W. THOMSON,
Chairman for the Federal Election Commission.

[FR Doc.77-9140 Filed 3-25-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP77-295]

TEXAS EASTERN TRANSMISSION CORP.

Application

MARCH 23, 1977.

Take notice that on March 15, 1977, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP77-295 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Consumers Gas Company (Consumers), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 1,000 dekatherms per day for Consumers, which gas Consumers has purchased from Egyptian Gas Storage Corporation (Egyptian), to be produced from the No. 1 Wiseman Community Well, Saline County, Illinois. It is stated that Egyptian would deliver such gas to Applicant at Raleigh, Illinois, through existing pipeline facilities.

Applicant proposes to provide such transportation service pursuant to its Rate Schedule TS-1 under which it would provide a combination of firm and interruptible transportation service. It states that it would transport such quantities, less 3.0 percent retained for fuel and company use, on a firm basis, not to exceed the total quantities of firm sales being curtailed by Applicant; such quantities designated basic transportation gas. Applicant further states that in addition, it would transport, on an interrupible basis, quantities in excess of the firm quantities. It is stated that the basic transportation gas rate is based on the applicable demand contract quantity commodity rate, less gas purchase cost and fuel cost; and the rate for excess transportation gas is based on the applicable demand contract quantity 100 percent load factor rate for all additional quantities up to the maximum daily transportaion quantity, which quantity to be agreed upon be service agreement.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission, Washington, D.C. 20426, a peti- (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.-10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9147 Filed 3-25-77;8:45 am]

[Docket No. CP77-294]

TEXAS GAS TRANSMISSION CORP.

Application

MARCH 22, 1977.

Take notice that on March 14, 1977, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed an application, pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of three lateral gathering lines comprised of:

Approximately 2.80 miles of 16-inch pipeline and appurtenant facilities extending from Union Oil Company of California, et al.'s (Union) "A" Platform in the High Island East Addition South Extension (HIEASE) Block A-334 (Block A-334) to an underwater tap on the High Island Offshore System (HIOS) 30-inch Eastern Trunk in HIEASE Block A-345;

Approximately 1.19 miles of 12¾-inch pipeline and appurtenant facilities extending from Union's "A" platform in HIEASE Block A-302 (Block A-302) to an underwater tap on the HIOS 30-inch Central Trunk in HIEASE Block A-303 (Block A-303); and

Approximately 0.68 mile of 16-inch pipeline and appurtenant facilities extending from Mobil Oil Corporation, et al.'s (Mobil) "B" Platform in High Island South Addition Block A-573 (Block A-573) to the HIOS A-573 Manifold Platform which is the terminus of the HIOS 30-inch Central Trunk.

The facilities proposed by Applicant are to provide a connection between the reserves to be produced in Blocks A-302, A-303, A-334, A-335, A-572, A-573 and A-382 in the High Island Area, Offshore Texas, and the HIOS system for further transportation by HIOS.

Applicant shows that the total estimated cost of the proposed facilities is $10,914,290. Applicant states that the additional volumes to be made available to Applicant from the blocks to be connected will help to alleviate expected future curtailments.

Any person desiring to be heard or to make any protest with reference to said application, on or before April 15, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, purusant 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9145 Filed 3-25-77;8:45 am]

[Docket No. CP76-529]

UNITED GAS PIPE LINE CO.

Petition To Amend

MARCH 22, 1977.

Take notice that on March 11, 1977, United Gas Pipe Line Company (Petitioner), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP77-232 a petition to amend the Commission's order of December 3, 1976 (56 FPC —), issued in the instant docket pursuant to section 7(c) of the Natural Gas Act to authorize the transportation of additional volumes of natural gas for New Jersey Zinc Company (Zinc), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that pursuant to the Commission's order of December 3, 1976, it is authorized to transport gas for Zinc from a point of receipt on Petitioner's 30-inch north-south pipeline in Caldwell Parish, Louisiana, to various points of interconnection with Transcontinental Gas Pipe Line Corporation (Transco), for ultimate redelivery to Zinc for high priority use in its Palmerton, Pennsylvania, plant. It is stated that Zince has purchased the gas attributable to the interest of Trident Oil and Gas Corporation (Trident) in two additional Winn Parish, Louisiana, wells, the Louisiana-Pacific "C" No. 2 and the Pardee "A" No. 1 wells. Petitioner proposes to transport gas for Zinc from the two additional wells. The delivery point to Petitioner of gas from the additional wells would be the same as previously authorized in this docket and the redelivery points to Transco would also remain the same. Petitioner states that the total of all transportation service on behalf of Zinc would

not exceed the 3,500 Mcf daily delivery authorized by the Commission.

Petitioner states that Zinc would pay a base price of $1.4688 per Mcf at 15.025 psia for the period ending on March 31, 1977, for the base price per Mcf and said price would increase 1.02¢ each April 1, July 1, October 1, from such date. Said rate is subject to Btu adjustment and 100 percent tax reimbursement.[1] Zinc would also pay 1.02¢ per Mcf for gathering if the producer gathers the gas or has the gas gathered prior to delivery to for Zinc.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 to 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9143 Filed 3-25-77;8:45 am]

[Docket No. E77-73]

TEXAS GAS TRANSMISSION CORP.

Emergency Natural Gas Act of 1977; Emergency Order Pursuant to Section 6 of Pub. L. 95-2

On March 23, 1977, Texas Gas Transmission Corporation (Texas Gas), as agent for certain of its customers,[2] filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to transport natural gas which it is purchasing for certain of its customers and to construct the facilities necessary to receive the gas into its pipeline system.

Texas Gas, as agent, executed a contract on February 18, 1977, with Edwin L. Cox (Cox) for the purchase of approximately 1,500 Mcfd from the R.S. & I.W. Sagrera No. 1 well, Vermillion Parish, Louisiana. The total price to be paid by Texas Gas, as agent, is $2.25 per MMBtu. Thus, the proposed price is fair and equitable in accordance with Order No. 2.

Texas Gas will construct a meter station, side valve and related facilities adjacent to Texas Gas' pipeline in Vermillion Parish, Louisiana, at an estimated cost of $12,825. These costs will be paid on a pro-rata basis by Texas Gas' customers which receive these volumes. In addition, Texas Gas' proposed transportation rates are based upon the cost data supporting the settlement rates in Texas Gas' most recent Federal Power Commission rate case in Docket No. RP76-17 and the retention of a percent of the transported volumes for compressor fuel and company use and loss. I find no basis on which to fix other charges since the parties have agreed upon the transportation charges and payment of the construction costs.

Based upon the foregoing, Texas Gas is authorized to purchase gas, as agent, from Cox, to construct facilities to receive such gas and to transport such gas for certain of its customers. This authorization is conditioned on (i) Texas Gas' submission of the names of the customers for which it is acting as agent, (ii) those customers agreeing to submit reports as required by Order No. 4 and (iii) such customers certifying that they are entitled to purchase gas under the provisions of Order No. 6.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Texas Gas and Cox. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 23, 1977.

[FR Doc.77-9191 Filed 3-25-77;8:45 am]

[Project No. 2146]

ALABAMA POWER CO.

Staff Meeting

Notice of Federal Power Commission Staff Meeting With Alabama Power Company Staff Regarding The Safety And Adequacy Of Logan Martin Dam.

Notice is hereby given that a meeting between Federal Power Commission Staff and Alabama Power Company Staff regarding the safety and adequacy of Logan Martin Dam will be held on April 1, 1977, at 2 p.m. in Room 5200, 825 North Capitol Street, Washington, D.C. The meeting will be open to the public.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9138 Filed 3-23-77;5:08 am]

[Docket No. RP77-34]

COLUMBIA GAS TRANSMISSION CORPORATION, ET AL.

Notice of Petition for Temporary and Permanent Extraordinary Relief

MARCH 23, 1977.

Take notice that on February 8, 1977, as amended February 10, 1977, Blaw-Knox Foundry and Mill Machinery, Inc. (Blaw-Knox), Pittsburgh, Pennsylvania, filed a petition, pursuant to § 1.7(b) of the Commission's rules of practice and procedure and § 2.78 of the Commission's Statements of General Policy and Interpretations, for certificates of public convenience and necessity, for temporary and permanent extraordinary relief from the curtailment of natural gas deliveries, and an emergency allocation of natural gas for its plants at East Chicago, Indiana and Wheeling, West Virginia. On March 16, 1977, Columbia Gas of West Virginia, Inc. (Columbia West Virginia) filed a petition of joinder to provide Blaw-Knox the necessary standing for its petition regarding the Wheeling plant.

Blaw-Knox, a manufacturer of steel mill machinery and steel castings, claims that it is the sole source supplier for castings for the Medium Combat Tank required for national defense at its East Chicago and Wheeling plants under various subcontracts with Chrysler Corporation (Chrysler). Pending restoration of normal service to the two plants, Blaw-Knox requests for plant protection and process gas requirements temporary and permanent authorizations as follows: East Chicago—minimum daily quantity of 3,250 Mcf, 3,750 Mcf on a peak day, and 97,500 Mcf per 30-day month; Wheeling—minimum daily quantity of 411 Mcf and 12,330 Mcf per 30-day month. On February 11, 1977, Chrysler filed a petition in support of Blaw-Knox's request.

In support of its petition for extraordinary relief, Blaw-Knox asserts inter alia that: (1) Natural gas is essential for the production of castings for the M-60 tank, particularly for plant protection and process needs, at both plants, which have no immediately available alternate fuels for those purposes; (2) the sources of gas supply for Northern Indiana Public Service Company (Nipsco), the distributor for the East Chicago plant, are Natural Gas Pipeline Company of America, Panhandle Eastern Pipeline Company, Michigan-Wisconsin Pipeline Company, Trunkline Gas Company, and Midwestern Gas Transmission Company; (3) since January 27, 1977,

[1] In an affidavit of Zinc included in the application it is stated that the Louisiana severance tax is 7 cents per Mcf.

[2] These customers are local distribution companies and interstate pipelines as defined in §§ 2 (1), (5) of the Act (91 Stat. 4).

(Nipsco) has limited the East Chicago plant to 1,050 Mcf daily of gas for plant protection purposes, and consequently production of tank castings has ceased and 2,100 employees laid off; (4) on January 24, 1977, Columbia West Virginia, the distributor for the Wheeling plant that is supplied by Columbia Gas Transmission Corporation, notified the Wheeling plant of an impending 100 percent curtailment of process gas and 60 percent curtailment of plant protection gas below allocations made in June, 1976; and (5) production at the Wheeling facility has decreased substantially as a result of the natural gas curtailment.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said petition should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before April 1, 1977. All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9141 Filed 3-25-77;8:45 am]

[Docket No. CP77-244]

EL PASO NATURAL GAS CO.

Notice of Application

MARCH 23, 1977.

Take notice that on March 14, 1977, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP77-244 an application pursuant to Section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation and delivery of natural gas for Wheeling-Pittsburgh Steel Corporation ("Wheeling") for a primary term of 6 months, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant herein seeks authorization to transport natural gas received from Northern Natural Gas Company (Northern) at an existing point of interconnection of facilities located near Plains, Texas, to an existing point of redelivery to Northern at the outlet of Mobil Oil Corporation's Coyanosa Plant located in Pecos County, Texas, for the account of Wheeling.

Applicant states it filed a telegraphic request for temporary certificate authorization to permit the transportation of up to 5,000 Mcf of gas per day for the account of Wheeling from a point of receipt from Northern on Applicant's interstate pipeline system near Plains, Texas, to a point of delivery to Northern at the outlet of Mobil Oil Corporation's Coyanosa Plant in Pecos County, Texas. Applicant further states that this request was in recognition of an emergency warranting the delivery of the abovementioned volumes of gas on a temporary basis.

Applicant states that its transportation service provided for the account of Wheeling commenced on March 5, 1977, pursuant to the temporary authorization granted by the Commission in its letter order of February 24, 1977 as clarified on March 2, 1977. Applicant states that it would transport up to 1,500 Mcf per day of natural gas for the primary term of 6 months by using its existing interstate system.

Wheeling is engaged in the primary steel-making process for the manufacture of household appliances, automobiles, food and beverage container, and for highway, building and defense construction, it is stated. It is further stated that Wheeling has negotiated a contract with Elk Oil Company to purchase gas for a period from the date of first delivery until approximately August 10, 1977, with provision for renewal to March 31, 1977, and that the initial contract quantity is 3,000 Mcf per day plus 60,000 Mcf which can be delivered at a rate of 5,000 Mcf per day for 12 days and commencing no later than March 5, 1977, the contract quantity would increase by 3,000 Mcf per day, but total daily deliveries would not exceed 5,000 Mcf per day. Such gas would be used by Wheeling for Priority 2 industrial proposed in order to avoid idling its facilities, it is said.

Wheeling has agreed to pay Applicant a transportation rate of 5.50 cents for each Mcf delivered by El Paso to Northern for Wheeling's account during the period ending May 31, 1977, and thereafter, a rate of 6.20 cents per each Mcf delivered by Applicant for the remaining term of the arrangement, it is said. Applicant states that it has sufficient capacity on its system to make the proposed deliveries.

It is stated that the proposed authorization will provide Wheeling with quantities of gas necessary to protect Wheeling's high priority requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9139 Filed 3-25-77;8:45 am]

[Docket No. RP76-10]

ARKANSAS LOUISIANA GAS CO.

Rate Settlement Proposal

MARCH 21, 1977.

Take notice that on February 17, 1977, Arkansas Louisiana Gas Company (Arkla) filed with the Commission in the above-captioned proceeding a settlement proposal which, if approved, would resolve all issues in the proceeding.

Arkla states the settlement proposal was served on the Commission Staff and Cities Service Gas Company, the only other parties to the proceeding.

Any person wishing to do so may submit comments in writing concerning Arkla's settlement proposal. All comments should be addressed to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 and should be mailed or filed on or before April 4, 1977. Reply comments should be mailed or filed on or before April 18, 1977. Arkla's settlement proposal is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9106 Filed 3-25-77;8:45 am]

[Docket No. CP77-258]

COLUMBIA GAS TRANSMISSION CORP.

Application

MARCH 21, 1977.

Take notice that on February 25, 1977, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP77-258 an application pursuant to section 7(c) of

the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Fruehauf Coroation (Fruehauf), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas for Fruehauf from naturally agreeable points of receipt from FrueKel, Inc. (FrueKel) and for delivery to Columbia Gas of Pennsylvania, Inc. (Columbia, Pa.), a wholesale customer of Applicant, at existing points of delivery in Fayette and Greene Counties, Pennsylvania.

It is stated that the transportation service is required by Fruehauf to offset curtailments from its supplier, Columbia Pa. which has advised Fruehauf that industrial customers would be curtailed 40 percent of their allocated volumes in the winter of 1976–77, and that if the winter was a severe one, the levels of curtailment might be greater than the 40 percent announced curtailment. Applicant further states that at the 40 percent curtailment level Fruehauf's Uniontown plant would receive 180 Mcf per day out of a base allocation of 300 Mcf per day, and that the clean burning fuel requirements for this plant on a daily basis vary between 100 Mcf and 400 Mcf.

Applicant states that the gas to be transported would be produced from wells wholly-owned by FrueKel, the energy subsidiary of Fruehauf, under an operating agreement with Appalachian Exploration, Inc. (Appalachian), and that FrueKel plans to construct a gathering line of approximately 25,000 feet in length at an approximate cost of $100,000 to deliver gas from its wells to Columbia.

Columbia agreed to transport up to 200 Mcf per day for a period of two years, it is said. It is stated that Applicant would receive the volumes of gas to be transported for the account of Fruehauf into its Line 0–1460, in Tuscarawas County, Ohio, and Line FO–1618 in Guernsey County, Ohio, at points to be agreed upon and deliver such volumes to Columbia Pa. in Fayette and Greene Counties, Pennsylvania, and that Columbia Pa. would make the gas to be transported available to Fruehauf through existing distribution facilities.

It is stated that severe curtailment of gas supplies would have a detrimental effect on economic well-being of Uniontown, and also on the 500 people it employs. It is indicated that the subject gas would be used for Priority 2 purposes on those Priority 3 uses that would have been in Priority 2 had the gas been provided on a firm basis.

It is further stated that Columbia's transportation charge for all volumes delivered into its Line 0–1460 would be 22.21 cents per Mcf, and 24.75 cents for all volumes delivered into its Line FO–1618. Applicant states it would retain for company-use and unaccounted-for gas a percentage of the total volumes received for the account of Fruehauf, which percentage is currently 3.1%, effective November 1, 1976.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9108 Filed 3-25-77;8:45 am]

[Docket Nos. CP75-96, et al.; Docket No. RM77-6; Order No. 558-D]

EL PASO ALASKA CO., ET AL.

Order Setting Oral Argument

MARCH 17, 1977.

Numerous briefs on exceptions were filed to the Presiding Administrative Law Judge's Initial Decision in Docket Nos. CP75-96, et al., issued on February 1, 1977. Motions for oral argument and responses thereto have been filed by several parties.

Alaskan Arctic Gas Pipeline Company, Northern Border Pipeline Company, and Pacific Gas Transmission Company (Arctic Gas) request oral argument to provide a limited opportunity to respond to exceptions to the Initial Decision and suggest that participation therein be restricted to parties actively participating in the hearing; namely, the three principal applicants, Staff, the environmental intervenors, the States of Alaska, Arizona, California and New York, and if they so request, the principal Alaska producers as a group. El Paso Alaska Company supports Arctic Gas' motion, but the State of Alaska, Southern Natural Gas Company (Southern), and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., (Tennessee) oppose oral argument for the purpose of replying to exceptions. The State of Alaska and Southern propose that oral argument should be addressed to the larger issues presented by the choice of pipeline systems, especially those matters that particularly concern the Commission. Tennessee opposes restricting the number of parties as suggested by Arctic Gas and urges that oral argument be permitted on any issue by any party so requesting.

Alcan Pipeline Company, Northwest Pipeline Corporation, Foothills Pipe Lines (Yukon) Ltd., Westcoast Transmission Company Limited, The Alberta Gas Trunk Line Limited, and The Alberta Gas Trunk Line (Canada) Limited (Alcan) advocate five days of oral proceedings for the Commission to consider transportation systems supported by pending applications, as well as reasonable alternatives, including its own 48-inch express line alternative proposal, focusing on the route by which Alaska gas will be delivered to the lower 48 states. The first three days of oral argument would be reserved for applicants, the fourth day for non-applicant major parties, and the fifth day for all parties rebutting the initial presentations made during the first four days. The Commission staff supports Alaska's suggestion that oral argument be held on particular issues selected in advance by the Commission, but considers Alcan's proposal of a five-day continuous session too lengthy for adequate preparation.

We find that it will be most helpful to have the major portion of time allotted to argument be devoted to specified issues. A final session will be unrestricted so that the parties can conclude and summarize with emphasis upon the points that they respectively consider to be most relevant. We do not accept the proposal that only certain parties be allotted time for argument. However, in establishing the schedule and allocating the time, consideration will be given to the extent that the party participated actively in the hearing process. All parties are urged to participate to the extent possible through a group represenative. The argument will be scheduled for four days, April 4–8, 1977. The schedule and issues to be discussed shall be as follows:

Date	Time	Issues
Apr. 4, 1977	2 to 6 p.m.	Environmental and geotechnical issues.
Apr. 5, 1977	do.	Construction costs, scheduling and economics.
Apr. 6, 1977	9 to 11 a.m.	Financing and tariffs[1]
	1 to 3 p.m.	Gas supply and system expansibility.
	3:30 to 5:30 p.m.	Distribution in the lower 48 States, including the "Western Leg" issue.
Apr. 8, 1977	9 a.m. to 1 p.m.	Concluding arguments.

[1] In conjunction with this argument, the parties, in addition, should address the issues set forth in app. A hereto.

The Commission orders:

Requests for time for presentation of oral argument shall be filed with the Secretary of the Federal Power Commission on or before March 24, 1977.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

[Order 558-D]

Please comment in Oral Argument upon feasibility of a private financing under the following two finance-tariff packages:

A. Investor Risk-Bearing.

(1) Wellhead price (including conditioning) set equal to the higher of:

(i) The difference between market value of the gas at city-gate in lower 48 states and the transportation charges from wellhead to city-gate and

(ii) A minimum price set to allow recovery of the incremental costs associated with producing and delivering gas ready for shipment.[1]

(2) A higher than traditional rate of return on equity investment in the transportation system if the delivered cost of gas is equal to or less than the market value of the gas. If delivered cost would be greater than market value, the rate of return on equity investment would be systematically reduced by formula (based on projected vs. actual project capital costs, adjusted for inflation) to the point of allowing a zero rate of return on equity investment in the case of extreme cost overruns.[2]

(3) Project tariff based upon traditional cost of service with flow-through to gas distribution companies during normal operations; tariff would contain no guarantees for repayment of equity or debt capital in event of extended service interruption or noncompletion.

(4) Rolled-in pricing on gas sales between shippers (if interstate pipeline company) and their gas distribution company customers.

B. Consumer Risk-Bearing.

(1) Wellhead price (including conditioning) set equal to the higher of:

(i) The difference between the market value of the gas at city-gate in the lower 48 states and the sum of the transportation charges from wellhead to city-gate plus a consumer risk-bearing fee as determined in (3) below;

(ii) A minimum price as set in A(1)(ii) above.

(2) Traditional pipeline rate of return on equity investment in transportation system if wellhead price is above the minimum set in (1), if not, downward adjustment of rate of return on equity related to extent of cost overrun.

(3) Consumer risk-bearing fee used in (1) above set to approximately equal the difference in the transportation charge which results from allowing only normal pipeline rate of return rather than the higher than traditional rate in A(2) above.

(4) Project tariff based upon traditional cost of service with flow-through to gas distribution companies during normal operations; tariffs would guarantee payment of operating costs and debt service in event of extended service interruption or project noncompletion; equity capital remains at risk.

(5) Same as A(4) above.

(6) The FPC under conditions to be specified later, may terminate the tariff schedule guarantees on prospective expenditures if the project is deemed uneconomic to complete or make operative.

Also comment on:

C. Limitation on purchase of gas reserves so that no market area would be scheduled to receive Alaskan gas (directly or by displacement) in quantities exceeding 10% of its base year gas supply.

D. Need for and the feasibility of minimum guaranteed deliveries by producers.

E. The feasibility of direct sale on a guaranteed basis of a certain portion of Alaskan gas to high priority industrial consumer who, in turn, would guarantee the same portion of debt service.

F. Need for Federal legislation to bind future Federal or State regulatory authorities to any or all of the tariff provision in (A) through (E) above.

[FR Doc.77-9100 Filed 3-25-77;8:45 am]

[1] The exact determination of the market value indicator and the out-of-pocket calculation to be made by the Commission within 60 days following the passage of the joint resolution by Congress.

[2] The exact definition and formula to be determined by the Commission prior to August 1, 1977.

[Docket No. CP76-170]

MISSISSIPPI RIVER TRANSMISSION CORP.

Petition To Amend

MARCH 21, 1977.

Take notice that on March 9, 1977, Mississippi River Transmission Corporation (Petitioner), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP76-170 a petition to amend the Commission's order of February 27, 1976 (55 FPC ____), issued in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize Petitioner to sell natural gas to Laclede Gas Company (Laclede) for resale pursuant to a January 25, 1977, amendment to a special winter service contract, dated November 1, 1975 (Winter Service Contract) between Petitioner and Laclede, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that Petitioner sells natural gas to Laclede under the terms of the Winter Service Contract, Petitioner's FPC Rate Schedule SWS-1, as authorized by the Commission's order issued February 27, 1976, in the instant docket. It is said that such sales are made for a period of 100 days during the winter season, November 15 through March 15, and that Laclede resells the subject gas to meet high-priority winter requirements of its customers. The volume of natural gas Petitioner sells to Laclede each winter is equal to the volumes Laclede has sold to Petitioner during the prior year in accordance with a gas purchase contract between the parties, dated November 1, 1975 (1975 Gas Purchase Contract), less volumes which Petitioner is obligated to sell to Natural Gas Pipeline Company of America (Natural) pursuant to a transportation agreement between Petitioner and Natural. Petitioner states that the 1975 Gas Purchase Contract provides that Petitioner is entitled to purchase all of the production attributable to Laclede's interest in the Hunton Formation of the Mills Ranch Field, Wheeler County, Texas. The transportation agreement between Petitioner and Natural provides for the transportation and delivery by Natural of the gas produced from the Mills Ranch Field to Petitioner's main pipeline system, and, transportation under the agreement, it is stated, is authorized by the Commission's orders in Docket No. CP75-226 issued June 19, 1975, and August 15, 1975.

Petitioner seeks authorization to modify its sale obligation to Laclede pursuant to an amendment, dated January 25, 1977, to the Winter Service Contract. The amendment, it is stated, provides that the volume of its winter period sales to Laclede would be determined not only with respect to the 1975 Gas Purchase Contract and Petitioner's obligations to Natural under the aforementioned transportation agreement, but also with respect to the volume of sales made during the prior year by Laclede to Petitioner under a gas purchase contract dated January 25, 1977 (1977 Gas Purchase Contract). It is said that the 1977 Gas Purchase Contract gives Petitioner the right to purchase gas from Laclede attributable to Laclede's interest in production from recently discovered gas reserves in the Arbuckle Formation of the Mills Ranch Field. Pursuant to the recent amendment to the Winter Service Contract, the volume of winter sales by Petitioner to Laclede would be adjusted to reflect any future amendments to either or both of the gas purchase contracts but in no event would Petitioner's winter period sales volume exceed 25,000 Mcf of gas per day.

Petitioner indicates that the W. F. James No. 1 Well is presently the only Arbuckle well completed in the Mills Ranch Field, that the quantity of gas to be sold by Petitioner to Laclede would be approximately 187,000 Mcf of natural gas more in 1977-78 than is to be sold in 1976-77, and that no new facilities are required to implement the proposal. Charges to Laclede would reflect Petitioner's cost of purchasing the gas from Laclede during the year and of transporting the purchased gas from the Mills Ranch Field to its pipeline system. Also, there would be a charge of 60 cents per Mcf to reflect the costs incurred by Petitioner in gathering, transporting and storing the subject purchased gas for later winter sale to Laclede.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 12, 1977, file with the Federal Power Commission, Washingon, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party

in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9112 Filed 3-25-77;8:45 am]

[Docket Nos. CP76-285, CP77-289]

MOUNTAIN FUEL RESOURCES, INC. AND EL PASO NATURAL GAS CO.

Application and of Petition To Amend

MARCH 21, 1977.

Take notice that on March 10, 1977, Mountain Fuel Resources, Inc. (Resources), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP76-285 a petition to amend the Commission's order of July 19, 1976 (56 FPC _____), as amended February 10, 1977 (57 FPC _____), issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act, and on March 8, 1977, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP77-289 an application pursuant to Section 7(c) of the Natural Gas Act for a temporary certificate of public convenience and necessity authorizing the installation of certain facilities which are required to enable Resources to receive, transport and inject into its Clay Basin Storage Field quantities of gas to be made available by El Paso during the 1977 summer season, all as more fully set forth in the petition to amend and the application which are on file with the Commission and open to public inspection.

Resources states that pursuant to the Commission's order of July 19, 1976, it was authorized to develop and operate storage facilities in the Dakota formation of the Clay Basin field, Daggett County, Utah, and to render storage service for interested parties. It further states that storage service to Northwest Pipeline Corporation (Northwest) was commenced in accordance with a storage service agreement dated June 8, 1976.

El Paso now proposes to store gas in the Clay Basin field, and states that Resources and Northwest would assist, on a best-efforts basis, in preserving gas for the future protection of Priority 1 and 2 service in El Paso's East-of-California (EOC) market areas.

El Paso further states that commencing May 1, 1977, it would deliver or cause to be delivered to Northwest quantities of gas which would otherwise be sold and delivered by El Paso for EOC Priority 3, 4 and 5 requirements; Northwest would transport this gas for delivery to Resources at a point of interconnection in Daggett County, Utah, between Northwest's system and Resources' existing 20-inch O.D. Clay Basin Lateral pipeline where Resources would accept the gas for transportation and injection into the Clay Basin Field.

El Paso asserts that its gas would remain in storage until redelivered by Northwest through an exchange arrangement whereby Northwest would take title to El Pasos' gas in Clay Basin and would deliver equivalent quantities to El Paso at existing delivery points in the San Juan Basin in north western New Mexico, and all of El Paso's gas would be so redelivered by no later than December 31, 1979. El Paso further asserts that it intends to inject the redelivered gas into permanent storage facilities now projected to be available by late 1977 or early 1978.

It is stated that Northwest has also agreed to redeliver gas stored in Clay Basin for El Paso's account for immediate use in protecting EOC Priority 1 and 2 requirements during the 1977-78 winter season.

El Paso proposes to store some 18,000,000 Mcf to 26,000,000 Mcf of gas in the Clay Basin field during the 1977 summer season.

It is stated that the following transportation and injection facilities would be installed:

1. By El Paso, adjacent to the interconnection of Resources' 20-inch O.D. Clay Basin Lateral and Northwest's 22-inch O.D. Mainline in the vicinity of Dutch John, Daggett County, Utah, one 3830 horsepower gas turbin driven centrifugal compressor unit and one 1160 horsepower gas turbine driven centrifugal unit.

2. By Resources, at the Clay Basin Storage field in T. 3N., R.24E., S.L.M., Daggett County, Utah, 11 additional wells and associated laterals, metering and controls and dehydration facilities and 11 1,000 horsepower skid-mounted reciprocating compressor units to be leased for a period of 6 months from Production Operators, Inc.

It is asserted that the 11 additional wells and appurtenances are scheduled for installation in early 1978, but Resources has agreed to accelerate its schedule for the drilling of these wells. It is further stated that all of the other above-described facilities would be installed and operated on a temporary basis through October 31, 1977, and thereafter would be removed.

El Paso states that in the event the arrangements described herein are not otherwise authorized or for some other reason cannot be effectuated as planned, it would pay the out-of-pocket costs of both parties associated with the installation of the additional facilities, including Resources' carrying costs and depreciation and amortization expense associated with the one-year's acceleration of its drilling schedule for the 11 additional wells, cancellation fees on the 11 skid-mounted compressor units leased from Production Operators, Inc., and its own out-of-pocket costs associated with the installation of its temporary compressor units at the interconnection of Resources' Clay Basin Lateral and Northwest's Mainline. El Paso estimated such out-of-pocket costs to be $2,714,000.

Resources states that it and Northwest would benefit from the accelerated development of storage capacity in the Clay Basin field and El Paso would improve its ability to serve its existing high priority customers.

El Paso further states that the total estimated cost of installing the compressor facilities it proposes herein would be $1,186,359.

Any person desiring to be heard or to make any protest with reference to said application and petition should on or before April 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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 the application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9111 Filed 3-25-77;8:45 am]

[Docket No. ER76-221]

POTOMAC EDISON CO.

Order Accepting Settlement and Resolving Dispute

MARCH 21, 1977.

This proceeding arises from a rate increase filing by the Potomac Edison Company (Edison) for service to its various wholesale customers. Through an order issued March 12, 1976, the Commission suspended the rate and set the matter for hearing. Interventions were filed by Town of Front Royal, Virginia (Front Royal), the Old Dominion Electric Cooperative (Old Dominion), and later by the Boroughs of Chambersburg and Mont Alto, Pennsylvania, and the Cities of Hagerstown, Thurmont and Williamsport, Maryland (Cities). The Commission also determined that Front Royal and Chambersburg had fixed rate contracts which under the *Mobile-Sierra*

rule could not be increased under Section 205 of the Federal Power Act and must be heard under Section 206. As to all other parties the rates were allowed to go into effect on April 14, 1976.

While the Cities contested our finding as to the fixed rate status of their contracts the proceedings continued and several settlement conferences were held among the parties. On September 3, 1976, Edison, Front Royal and Old Dominion reached a settlement agreement which was certified to the Commission by the Presiding Administrative Law Judge on September 13, 1976. On September 21, 1976, the Cities filed a motion requesting that they be included on an equal basis in the settlement agreement reached between Edison, Front Royal and Old Dominion. The settlement based on Staff figures generally provided rates equal to about 70% of the increases as originally proposed and would become effective on April 14, 1976, as to Old Dominion but because of Front Royal's fixed rate contract would become effective as to Front Royal in two steps, one on June 1, 1977, and the other on May 31, 1978.

In a response to the motion of the Cities for inclusion in the settlement, Edison agreed to include the Cities but proposed an effective date of April 14, 1976 for all but Chambersburg on the basis that none of the Cities except Chambersburg had any status under the *Mobile-Sierra* fixed rate rule. As to Chambersburg, Edison proposed to make the rates effective on April 14, 1976, for any service above 25,000 Kw but for service up to 25,000 Kw which is the amount specified in the Chambersburg contract the rate should not be made effective until March 16, 1978, the date of the termination of the Chambersburg contract.

There seems to be no doubt in this proceeding that the actual rates as proposed in the settlement are just and reasonable and are supported by the parties and the Commission Staff. The rates are based on calculations made by the Commission Staff and apparently accepted by Edison and all of the parties. We have no doubts that the actual rates represent a fair and reasonable determination as to the proper level.

The one dispute remaining in this proceeding is as to when these rates should be applied to all the parties and specifically as to Chambersburg which did not have a full service contract. It is not clear from the pleadings whether in requesting settlement on an equal basis the Cities are asking for the dates agreed upon for Front Royal or are only asking such treatment for Chambersburg. If the Cities are only asking for equal treatment as others who do not have fixed rate contracts there is no dispute. If the Cities are requesting the same dates as Front Royal as effective dates then there is a dispute and this is not the type of dispute which it appears that any further hearings would aid in resolving and therefore we will resolve it in this order. The Cities appear to be contending that it would be unduly discriminatory not to give the same treatment to them as that accorded Front Royal because they are essentially the same type of customers receiving the same type of service. They argue that under the recent Supreme Court decision in *FPC* v. *Conway Corporation*, 426 U.S. ——— (1976) and the decision of this Commission in *Otter Tail Power Company* 2 FPC 134 (1940) all similarly situated customers must be charged the same rate and granted service under the same terms. This same argument was rejected by us earlier in this proceeding in our Order on Rehearing issued September 30, 1976. In that order we held that the rate increases filed for customers who had no fixed rate provisions in their contracts were accepted under Section 205 of the Act and could be made effective at the date fixed by the Commission. Insofar as the increases were sought to be applied to customers with fixed rate contracts we held that they had to be filed under Section 206 of the Federal Power Act and could not be made effective until either the contract terminated or a finding was made under the *Mobile-Sierra* rule that the rates were so low as to be contrary to the public interest.

It has never been held by this Commission nor the courts that customers who do not have fixed rate contracts are still entitled to the benefits of the *Mobile-Sierra* rule because a similar customer does have a fixed rate contract. This is consistent with the result reached by the Supreme Court in *United Gas Pipe Line Company* v. *Memphis Light Gas and Water Division*, 358 U.S. 103 (1958) wherein the court allowed unilateral filings for the customers who did not have fixed rate. The fact that one customer, Front Royal, has a fixed rate contract and the other customers do not is not an adequate basis for giving all of the other customers the benefits of Front Royal's contract.

The other issue raised by the Cities is in regard to whether Chambersburg should be entitled to full service under a fixed rate contract which provides currently for up to 25,000 Kw service. Chambersburg argues that since all the other customers get full service it is discriminatory against Chambersburg to limit it to 25,000 Kw until its contract expires on March 16, 1978. By order issued September 17, 1976, in Docket No. FR 76-788 we approved service in excess of 25,000 Kw for Chambersburg at rates subject to refund pending the outcome of this proceeding. Here again, we find that Chambersburg is only entitled to the benefits of its fixed rate as provided in the contract which limits service to 25,000 Kw. For anything above that Chambersburg is in the same position as the other parties with the exception of Front Royal and the settlement rates should apply to Chambersburg as of April 14, 1976, for service above its contract limitation.

The Commission finds: (1) The proposed settlement as filed by Potomac Edison Company in this proceeding for its rates and charges to Front Royal and Old Dominion are just and reasonable and the settlement should be approved.

(2) The proposed response filed by Potomac Edison Company in response to the motion of the Cities for inclusion in the settlement in this proceeding as modified by Potomac Edison provides for just and reasonable rates and the modified settlement should be approved.

The Commission orders: (A) The proposed settlement filed September 3, 1976, by Potomac Edison Company for its rates and charges to Front Royal and Old Dominion in this proceeding is hereby approved and Potomac Edison shall file new rates consistent with the settlement as approved.

(B) The proposed modified settlement filed by Potomac Edison Company on October 29, 1976, covering sales to the intervenors in this proceeding is approved and Edison shall file new rates consistent with the settlement.

(C) Within thirty days of the date of this order the company shall refund to its customers the excess of the amounts collected pursuant to the higher rates in effect since April 14, 1976, over the amounts collected under the rates provided in the settlement together with interest at a rate of 9%.

(D) Within fifteen days after making refunds the company shall submit a written report to the Commission setting forth the details of the computations and the method of repayment of the refunds.

(E) The acceptance of this settlement does not in any respect constitute a determination by the Commission as to the merits of any contentions made in the proceeding and is without prejudice to any contentions or allegations in any future proceedings.

(F) The Secretary of the Commission shall cause prompt publication in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9113 Filed 3-25-77;8:45 am]

[Docket No. CP77-301]

TEXAS GAS TRANSMISSION CORP.

Order Granting Request for Emergency Storage Service

MARCH 18, 1977.

On March 16, 1977, Texas Gas Transmission Corporation (Texas Gas) filed a request for an interpretation of Section 157.22 of the Commission's Rules and Regulations in order to participate in a Temporary Storage Agreement. In its filing, Texas Gas states that authorization is needed to transport and store natural gas on an interruptible basis for Dayton Power and Light Company, (Dayton), a distribution utility serving, Dayton, Ohio, and its surrounding communities. Dayton purchases its gas supply from Columbia Gas Transmission Corporation (Columbia), one of Texas Gas resale customers. As Dayton does not have any storage facilities, Dayton is currently being forced to elect whether to return gas excess to its high priority

requirements to the Columbia System or make it available to its lower priority customers. Dayton projects that its high priority customers will have a critical need for this gas supply on and after March 20, 1977.

Based thereon, Dayton entered into an agreement with Texas Gas whereby Dayton will deliver volumes up to 100,000 Mcf per day (which are in excess to its high priority requirements) to Texas Gas for storage by displacement at the existing delivery point between Texas Gas and Columbia.

The storage injection is to occur through March 19, 1977, whereas storage withdrawals will occur between March 20 and April 1, 1977. Under the terms of the agreement, Texas Gas proposes to charge Dayton 32.9¢/Mcf, which reflects the actual cost of these services on Texas Gas system and includes a "G & A charge" of approximately 2¢ per Mcf, based on the data established in the settlement of Texas Gas' most recent rate proceeding RP16-17. Existing tariff provisions will govern the transportation of this supply by Columbia. Additional facilities will not be required to accomplish this transaction.

In making this request, Texas Gas states that the temporary storage service herein proposed will alleviate unnecessary curtailment to Dayton's high priority customers, who otherwise would be curtailed during the past March 20 period. Texas Gas argues that this transaction falls within the provisions of § 157.22(a). We concur.

To find otherwise, would prevent Columbia and Texas Gas from responding to Dayton's current emergency. The public interest requires that pipelines should be allowed to act quickly to "assure maintenance of adequate natural gas service where interruption or serious curtailment of service exists * * * because of * * * curtailment of supply." (§ 157.22(a)).

In a prior Commission order, Transcontinental Gas Pipeline Corporation,[1] we found that the previously adopted restrictive interpretation of this section of the regulation in Cascade Natural Gas Co., 52 FPC 168 (1974) should not be found controlling on the facts presented in that transaction. Moreover, the Commission stated the following:

> Should distribution systems request emergency aid from other interstate pipelines, the pipelines should make an immediate request for authorization under Section 157.22(a). The Commission will act on these requests on an emergency basis after opportunity for review.

Consistent with that order, Texas Gas has made the instant filing. Our approval herein enables the potential emergency on Dayton's system to be met. After reviewing this transaction, we find that this transaction falls within § 157.22(a) of the Commission's Regulations.

The Commission finds: The temporary storage service which Texas Gas Transmission Corporation proposes to render for Dayton Power and Light Company should fall within Section 157.22(a) of the Commission's Regulations of the Natural Gas Act.

The Commission orders: The temporary storage service which Texas Gas Transmission Corporation proposes to render for Dayton Power and Light Company shall fall within Section 157.22(a) of the Commission's Regulations of the Natural Gas Act.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9114 Filed 3-25-77;8:45 am]

[1] Docket No. CP77-128, issued January 19, 1977.

[Docket No. CP74-145]

NORTHERN NATURAL GAS CO.

Petition To Amend

MARCH 21, 1977.

Take notice that on February 25, 1977, Northern Natural Gas Company (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP74-145 a petition to amend the Commission's order issued May 29, 1975, in said docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize additional points for the exchange of gas and an increase in the volume of gas exchanged with Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the order of May 29, 1975, authorized Petitioner inter alia to exchange up to 2,000 Mcf of natural gas per day with Natural pursuant to an agreement dated June 29, 1973.[1] It is stated that Petitioner currently delivers up to 2,000 Mcf of gas per day to Natural at exchange points in Wheeler and Carson Counties, Texas, and that Natural delivers equivalent volumes to Petitioner at exchange points in Hansford and Carson Counties, Texas, and in Beaver County, Oklahoma.

It is stated that Petitioner has gas available for delivery in Beckham County, Oklahoma and Natural has gas available for delivery in Woodward County, Oklahoma, which gas is in the proximity of each other's respective system. It is stated that Petitioner has a 20.8 percent dedication of the reserves underlying the Kirtley No. 1 Well in Beckham County, and that these reserves are some distance from Petitioner's existing gathering facilities while Natural has gathering facilities nearby. It is further stated that Mississippi River Transmission Corporation (MRT) has an interest in the gas produced by the Kirtley No. 1 Well and to facilitate presently authorized transportation and sales of gas with Panhandle Eastern Pipe Line Company and Trunkline Gas Company, MRT is presently operating facilities connecting these reserves to Natural's 8-inch gathering line in Beckham County, Oklahoma. It is indicated that Petitioner proposes to utilize MRT's facilities for the delivery of gas to Natural. Petitioner also proposes to utilize an existing interconnection with Natural located in Carson County, Texas, as an exchange point to deliver gas to Natural if required to eliminate the imbalance of exchange volumes owed to Natural.

Petitioner states that it has been advised by Natural that Natural has volumes of gas available to it from production from the Phillips Stricker No. A-1 Well in Woodward County, Oklahoma and that the well is some distance from Natural's gathering facilities. Petitioner states that it has facilities in proximity to the Stricker No. A-1 Well and Petitioner proposes to install and operate a side valve on its 6-inch gathering in order to receive the gas from Natural. It is stated that the estimated cost of the proposed facilities is $5,200.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9115 Filed 3-25-77;8:45 am]

[1] On file as Petitioner's Rate Schedule X-38.

[Docket No. CP77-262]

PANHANDLE EASTERN PIPE LINE CO. AND TRUNKLINE GAS CO.

Application

MARCH 21, 1977.

Take notice that on March 14, 1977, Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company (Trunkline) (Applicants), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77-262 a joint application pursuant to Section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), for a certificate of public convenience and necessity authorizing the operation of their existing facilities to transport natural gas for a limited term of 6 months on behalf of Wheeling-Pittsburgh Steel Corporation (Wheeling), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that Applicants and Wheeling have entered into a Transportation Agreement dated March 7, 1977, wherein Panhandle would receive gas delivered by Northern Natural Gas Company (Northern) to Panhandle at Kiowa County, Kansas, for the account of Wheeling, which gas Wheeling has pur-

chased in Lee County, New Mexico, from Elk Oil Company. Panhandle indicates that it would receive, transport and redeliver a part of such volumes for Wheeling's account to Columbia Gas Transmission Corporation (Columbia) at the existing point of redelivery from Panhandle to Columbia in Lucas County, Ohio, for further delivery through existing facilities of Columbia for the account of Wheeling. Trunkline indicates that it would transport and redeliver a part of the volumes received by Panhandle to Columbia Gulf Transmission Company (Transmission) at the existing interconnection of the facilities of Trunkline and Transmission. Panhandle and Trunkline would exchange the volumes redelivered by Trunkline at the existing point of interconnection in Douglas County, Illinois, it is said. Panhandle and Trunkline assert that they would receive, transport between the points of receipt and redelivery and redeliver for Wheeling's account, 3,000 Mcf of gas per day on a firm basis, less 9 percent reduction for fuel usage, applied to the volumes delivered at the point of receipt in Kiowa County, Kansas and that they agree to transport on a best efforts basis up to 2,000 Mcf of gas per day to Wheeling, less 9 percent reduction for fuel usage. Applicants state they do not need to construct any additional facilities for the subject proposal.

It is stated that for the transportation on a firm basis, Wheeling would pay a monthly charge of $21,210 based upon a daily volume level of 3,000 Mcf and 23.25 cents per Mcf for volumes transported on a best efforts basis. The applications showed that Wheeling would pay Elk Oil Company $2.25 per million Btu's of gas.

The initial term of this agreement is 6 months from date of first deliveries, and Wheeling has the option to extend the term of this agreement for an additional month period, it is said.

Panhandle and Trunkline state that they have sufficient capacity in their existing systems to transport the quantities of gas pursuant to the contract.

It is stated that Wheeling has made arrangements to purchase natural gas, which is unavailable to the interstate market from Elk Oil Company for Priority 2 use at its plants located in Ohio, West Virginia, and Pennsylvania and has represented to Columbia that because of the anticipated severe curtailments of Wheeling's Priority 2 requirements at these plants, the approximately 15,000 employees at these various locations face layoffs.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9107 Filed 3-25-77;8:45 am]

[Docket No. CP77-297]

TENNESSEE GAS PIPELINE CO. AND EAST TENNESSEE NATURAL GAS CO.

Application

MARCH 21, 1977.

Take notice that on March 15, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), Tenneco Building, Houston, Texas 77002, and East Tennessee Natural Gas Company (East Tennessee), 8200 Kingston Pike, Knoxville, Tennessee 37919. (Applicants), filed in Docket No. CP77-297 a joint application pursuant to Section 7(c) of the Natural Gas Act, and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of natural gas for two years for the William L. Bonnell Company (Bonnell), a customer of Middle Tennessee Natural Gas Utility District (MTUD), a resale customer of East Tennessee, all as more fully set forth in the application which is on file at the Commission and open for public inspection.

Applicants seeks authorization to render transportation services, to the extent their respective operating conditions permit, for Bonnell for a period of two years, through the utilization of their respective existing facilities. It is stated that such service would enable Bonnell to receive natural gas for its plant located in Carthage, Tennessee where Bonnell produces a variety of aluminum extrusion products which are used in the construction and transportation markets. It is further stated that Bonnell proposes to purchase such gas from McLain J. Forman, dba Forman Exploration Company, et al. (Forman) in order to mitigate the effects of curtailment being imposed on Bonnell by MTUD.

Tennessee herein requests authorization to receive for the account of Bonnell daily volumes of natural gas up to the maximum daily quantity of 1,200 Mcf, together with volumes for Tennessee's fuel and use requirements associated with this transportation service, and to transport and deliver to East Tennessee equivalent daily volumes of natural gas exclusive of the fuel and use volumes, up to 1,200 Mcf, to the extent its operating conditions permit, through the utilization of its existing facilities.

It is stated that Bonnell will arrange to have such volumes delivered into Tennessee's existing pipeline at Tennessee's Main Line Valve 46-4 plus 1.21 miles, located in Quachita Parish, Louisiana. From such point Tennessee proposes to transport and deliver volumes up to 1,200 Mcf to East Tennessee for the account of Bonnell at Tennessee existing Greenbrier Sales No. 2 Delivery Point to East Tennessee located in Robertson County, Tennessee at Tennessee's Main Line Valve No. 864-1 plus 10.31 miles, it is said.

East Tennessee herein proposes to receive from Tennessee at Greenbrier, for the account of Bonnell, daily volumes of natural gas up to 1,200 Mcf and to transport and deliver to MTUD, to the extent operating conditions permit, for the account of Bonnell daily volumes of natural gas up to 1,200 Mcf, with reductions for volumes to be used for East Tennessee's fuel and use requirements associated with this transportation service, through the utilization of its existing facilities.

Applicants state that Bonnell will pay Tennessee each month for transportation service: (1) a demand charge to be determined by multiplying $1.07 by the maximum daily quantity, less any demand charge credit provided therein, if applicable; and (2) a volume charge equal to 14.24 cents per Mcf multiplied by (a) the total of the daily volumes delivered during such month or (b) the number of days in said month multiplied by 66⅔ percent of the maximum daily quantity, whichever, is greater, less any applicable annual minimum bill credit as provided therein. It is further stated that Tennessee will receive each day for its fuel and use requirements a volume of natural gas equal to 3 percent of the volume transported for such day, and Bonnell will pay East Tennessee each month for the transportation service a charge to be determined by multiplying the rate of 20.74 cents per Mcf by the volume of natural gas actually transported and delivered by East Tennessee for the account of Bonnell. East Tennessee would retain each day for its fuel and use requirements a daily volume determined by multiplying 0.72 percent times the volume delivered by Tennessee to East Tennessee for the account of Bonnell for such day, it is said.

Applicants state that Bonnell would purchase the gas from Forman, at an initial price of $1.50 per Mcf. It is in-

dicated that the gas would be produced in the Cadeville Field, Ouachita Parish, Louisiana.

It is indicated that the subject gas would be used for Priority 2 uses or those Priority 3 uses that would have been in Priority 2 had the gas been provided on a firm basis. The applicant states that absent the present arrangements, Forman would sell the proposed gas herein to the intrastate market.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9109 Filed 3-25-77;8:45 am]

[Docket Nos. RI76-148—RI76-151]

BOWERS DRILLING CO.

Order Granting Petition for Special Relief

MARCH 21, 1977.

On September 3, 1976, Bowers Drilling Company, Inc. (Bowers) filed a petition for special relief pursuant to § 2.76[1] of the Commission's General Policy and Interpretations for the sale of gas to Cities Service Gas Company (Cities) from four wells located in Barber County, Kansas.[2] Bowers' petition covers all twenty-two working interest owners in these wells. Bowers is a small producer and was issued a small producer certificate in Docket No. CS71-81 on August 12, 1971.

In its petition Bowers states that in June, 1976, it entered into an agreement with Cities whereby Bowers would receive rates ranging from 50.65 cents per Mcf to 76.00 cents per Mcf for the subject gas in consideration for the performance of remedial work by Bowers on the wells.[3] Bowers completed the remedial work on two of the four wells, but halted work on the other two following the issuance by the Commission of Order No. 553 on July 27, 1976, which required small producers to reduce their rates to the applicable just and reasonable ceilings prescribed in Opinion No. 742-A.[4] Bowers herein seeks rates of $1.3220, $.9349, $.6915, and $.6498 per Mcf at 14.65 psia for gas produced from the Gilmore-Chapin No. 2, the Mee No. 1, the Binning No. 1, and the Durell No. 1 wells, respectively.

Notice of Bowers' petition was issued on September 21, 1976, and appeared in the FEDERAL REGISTER on September 27, 1976, at 41 FR 42241. A petition to intervene was filed by Cities on October 13, 1976.

Staff has reviewed the cost information supplied by Bowers and based thereon has determined that the proposed rates are cost justified.[5] Upon consideration of the data submitted and Staff's analysis thereof, we conclude that the petition should be granted.

The Commission finds: The petition for special relief filed by Bowers in Docket Nos. RI76-148, RI76-149, RI76-150, and RI76-151 meets the criteria set forth in § 2.76 of the Commission's General Policy and Interpretations.

The Commission orders: (A) For the above-stated reasons, the petition for special relief filed by Bowers in Docket Nos. RI76-148, RI76-149, RI76-150, and RI76-151 is hereby granted.

(B) Bowers is authorized to collect from Cities $1.3220 cents per Mcf at 14.65 psia for all gas produced from the Gilmore-Chapin No. 2 Well effective as of the date of issuance of this order.

(C) Bowers is authorized to collect from Cities $.6498 per Mcf at 14.65 psia for all gas produced from the Durell No. 1 Well effective as of the date of issuance of this order.

(D) Bowers is authorized to collect from Cities $.9349 per Mcf at 14.65 psia for all gas produced from the Mee No. 1 Well effective as of the date of completion of the proposed work or the date of issuance of this order (whichever is later), provided Bowers files with the Commission a statement signed by Cities setting forth the date the proposed work is completed to Cities' satisfaction within 30 days of such completion.

(E) Bowers is authorized to collect from Cities $.6915 per Mcf at 14.65 for all gas produced from the Binning No. 1 Well effective as of the date of completion of the proposed work or the date of issuance of this order (whichever is later), provided Bowers files with the Commission a statement signed by Cities setting forth the date the proposed work is completed to Cities' satisfaction within 30 days of such completion.

(F) The rates authorized in Paragraphs (B), (C), (D), and (E) above shall not become effective unless Bowers files with the Commission within 30 days hereof a copy of its contract amendment with Cities providing for the payment by Cities of such rates.

(G) Cities is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; *And provided, further,* That the admission of Cities in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding, and that Cities agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9101 Filed 3-25-77;8:45 am]

[Docket No. CP75-359]

COLUMBIA GULF TRANSMISSION CO. ET AL.

Petition To Amend

MARCH 22, 1977.

Take notice that on March 11, 1977, Columbia Gulf Transmission Company, P.O. Box 683, Houston, Texas, 77001, (Columbia Gulf); Northern Natural Gas Company, 2223 Dodge Street, Omaha, Nebraska, 68102 (Northern) and Tennessee Gas Pipeline Company, a Division of Tenneco Inc., P.O. Box 2511, Houston, Texas, 77001, (Tenneco Inc.), filed in Docket No. CP75-359 a petition to Amend the order issued in that docket on June 28, 1976 by granting to Tennessee a certificate of convenience and necessity to construct and operate their proportionate share of the 0.6 mile of 16-inch pipeline lateral Columbia Gulf and Northern are authorized to construct and operate by virtue of said order of June 28, 1976.

Any person desiring to be heard or to make any protest with reference to said application, on or before April 15, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing

[1] 18 CFR 2.76.

[2] Bowers filed an amendment to its petition on December 23, 1976.

[3] Under Order No. 428, 45 FPC 454, a small producer was permitted to collect his contract rate without refund liability.

[4] Opinion No. 742-A, "Opinion and Order Denying Rehearing and Reconsideration," issued July 27, 1976.

[5] See Appendix A, which is filed as part of the original document.

therein, must file a petition 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 this application if no petition to intervene is filed within the time required herein, if the Commisison on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9144 Filed 3-25-77;8:45 am]

[Docket No. CP77-292]

FLORIDA GAS TRANSMISSION CO.

Application

MARCH 22, 1977.

Take notice that on March 11, 1977, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP77-292 an application pursuant to section 7 of the Natural Gas Act, and §§ 157.7 (b) and 157.7(g) of the regulations thereunder (18 CFR 157.7(b) and 157.7 (g)), for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing July 1, 1977, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers on other similar sellers thereof, and authorizing the construction and for permission and approval to abandon for the same period and operation of new or additional field compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open for public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction of gas-purchase facilities to enable Applicant to connect its system with the facilities of an independent producer or other similar seller, authorized by the Commission to make a sale of gas to Applicant for resale in interstate commerce, or the system of another natural gas company authorized to transport gas for the account of, or for the exchange of gas with, Applicant, and to augment Applicant's ability to act with reasonable dispatch in the construction, relocation, and operation and abandonment of facilities which will not result in changing Applicant's system saleable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed gas-purchase facilities would not exceed $7,500,000 with no single offshore project expenditure to exceed $2,500,000 and no single onshore project to exceed $1,500,000 and that the total cost of its proposed construction, relocation, removal or abandonment of field compression facilities will not exceed $3,000,000 with no single project to exceed $500,000. Applicant states that these costs would be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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 this application if not petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if 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 Applicant to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9142 Filed 3-25-77;8:45 am]

[Docket No. RP76-140]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Renotice of Filing of Petition for Advance Approval of Accounting and Rate Treatment for Research and Development Expenditures

MARCH 23, 1977.

The notice set forth herein was previously issued on September 15, 1976; our records indicate, however, that it was not published in the FEDERAL REGISTER. We are, therefore, re-noticing the petition for FEDERAL REGISTER publication in order to afford an additional opportunity for comments, protests, and interventions.

Take notice that on August 17, 1976, Natural Gas Pipeline Company of America (Natural), pursuant to §§ 1.7 and 154.38(d)(5)(i) of the Commission's regulations, tendered a petition for advance approval from the Commission for rate base treatment of certain research and development costs. Such costs, according to Natural, would be those associated with a project (the Conoco project) involving the design, construction and testing of a demonstration plant for the conversion of coal into synthetic pipeline quality gas.

Natural states that the annual costs associated with the Conoco project would be charged to Account No. 188, Research and Development Expenditures, pursuant to the terms and provisions of section 24 of Natural's FPC Gas Tariff, Third Revised Volume No. 1. At the conclusion of the first year and each year thereafter, the annual costs charged to Account No. 188 would be amortized to Natural's cost of service over a five year period by charging the appropriate amount to Account No. 930.

Any person desiring to be heard or to protest said petition should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before April 13, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this petition are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-9146 Filed 3-25-77;8:45 am]

FEDERAL RESERVE SYSTEM

ASSOCIATED BANK CORP.

Order Approving Acquisition of Bank

Associated Bank Corporation, Mason City, Iowa, a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Cresco National Bank, Cresco, Iowa ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1042(c)).

Applicant, the 14th largest banking organization in Iowa, controls 5 banks with aggregate deposits of approximately $89.5 million, representing 0.8 percent of the total commercial bank deposits in

that State.[1] Acquisition of Bank ($12.2 million in deposits) would increase Applicant's share of commercial bank deposits by 0.1 percent and would change Applicant's State-wide ranking to the 11th largest banking organization in Iowa, but would not have a significant effect upon the concentration of banking resources in the State.

Bank is the fourth largest of the 12 banks in the relevant banking market[2] and controls 9.4 percent of the total deposits in commercial banks in the market. Applicant's subsidiary bank closest to Bank is located in Clear Lake, approximately 80 miles west-southwest of Bank in a separate banking market. Thus, no significant competition presently exists between Bank and any of Applicant's subsidiary banks, and it does not appear likely that consummation of the proposed transaction would foreclose the development of such competition in the future in view of the distances involved and Iowa's restrictive branch banking law. Moreover, the facts of record of this proposal indicate that the relevant banking market appears to be relatively unattractive for de novo entry. Accordingly, the Board concludes that consummation of the proposal would not have a significant adverse effect on existing or potential competition in any relevant area and that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, and Bank are regarded as satisfactory and consistent with approval of the application, especially in light of Applicant's commitment to provide additional capital to any of its subsidiary banks if the need arises during the period it is amortizing the debt it will incur in acquiring Bank. Although consummation of this proposal would not result in any immediate changes in the services offered by Bank, convenience and needs considerations are consistent with approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

[1] All banking data are as of June 30, 1976 and reflect the sale by Applicant of one of its subsidiary banks, which occurred on February 17, 1977.

[2] The relevant banking market is approximated by the eastern half of Howard County and all of Winneshiek County, Iowa, and a portion of southern Fillmore County, Minnesota, which includes the towns of Granger and Harmony.

By order of the Board of Governors,[3] effective March 21, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-9134 Filed 3-25-77;8:45 am]

KING RANCH, INC.

Order Approving Retention of Shares of Bank

King Ranch, Inc., Kingsville, Texas, a bank holding company within the meaning of the Bank Holding Company Act ("Act") has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. § 1842(a)(3)) to retain 1.5 percent of the outstanding voting shares of State Bank of Kingsville, Kingsville, Texas ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant,[1] a one-bank holding company by virtue of its ownership of approximately 35.6 percent of the outstanding voting shares of Kleberg First National Bank of Kingsville, Kingsville, Texas ("Kleberg Bank"), seeks Board approval to retain 337 shares of Bank (1.5 percent) acquired without the Board's prior approval as a result of Applicant's pro rata participation as of right in a 1973 increase in the number of outstanding shares of Bank's common stock.[2] Both prior to the offering and after its purchase, Applicant owned 16.02 percent of the total outstanding voting shares of Bank. Bank ($18.9 million in deposits) is among the smaller banks in the State of Texas, and controls less than one-tenth of one percent of the total deposits in commercial bank in the State.[3]

Kleberg Bank and Bank are both located in Kingsville, Texas, and rank first and second, respectively, among the three banks located in the Kleberg County banking market (the relevant market). Applicant does not control Bank's policies or activities nor does Applicant have any officers or directors in common with Bank. Moreover, it appears that Applicant's retention of 1.5 per cent of Bank's outstanding voting shares will not increase its ability to direct Bank's operations as Applicant's proportionate stock interest will remain unchanged. Retention of Bank's shares would involve neither an expansion of Applicant nor an increase in the banking resources controlled by it. It is the Board's judgment that retention of this stock would eliminate neither existing nor potential competition nor increase the concentration of banking resources in any relevant area. Thus, competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant are satisfactory, while such considerations in the case of Bank are generally satisfactory. Overall, banking factors are consistent with approval. There is no indication in the record that the convenience and needs of the community to be served are not currently being met; however, such considerations are consistent with approval. Therefore, it is the Board's judgment that the retention of the shares of Bank would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above.

By order of the Board of Governors,[4] effective March 21, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-9135 Filed 3-25-77;8:45 am]

[3] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson and Partee. Absent and not voting: Governor Lilly.

[1] Applicant is engaged in a variety of nonbanking activities including a worldwide cattle ranching operation. Applicant also holds various oil and mineral interests on its properties. These nonbanking activities are exempt from the prohibitions of section 4 of the Act by virtue of section 4(c)(11) of the Act (12 U.S.C. § 1843(c)(11)).

[2] ¶7050 of the Board's Interpretations (12 CFR § 225.103), which has been effective since 1957, states in part:

* * * [I]t is the Board's opinion that receipt of bank stock by means of a stock dividend or stock split, assuming no change in class of stock, does not require the Board's prior approval under the Act, but that purchase of bank stock by a bank holding company through the exercise of rights does require the Board's prior approval, unless one of the exceptions set forth in section 3(a) is applicable.

It appears from the facts of record that the acquisition of the shares of Bank was based on a misunderstanding of the applicable statutes and regulations relating to the acquisition of the voting stock of banks by bank holding companies. In accord with the Board's position with respect to violations of the Act, the Board has scrutinized the underlying facts surrounding the acquisition of the shares of Bank. Upon its examination of all the facts of record, including Applicant's undertaking to guard against violations in the future, the Board is of the view that the facts surrounding the violation are not such as would call for denial of the application.

[3] All banking data are as of December 31, 1975.

[4] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell and Partee. Present and Abstaining: Governor Jackson. Absent and not voting: Governor Lilly.

REPUBLIC OF TEXAS CORP.

Acquisition of Bank

Republic of Texas Corporation, Dallas, Texas, 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 Preston State Bank, Dallas, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 19, 1977.

Board of Governors of the Federal Reserve System, March 22, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-9136 Filed 3-25-77;8:45 am]

FEDERAL TRADE COMMISSION

[File No. 742 3205]

ALBANO ENTERPRISES, INC., ET AL.

Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Placement of Consent Agreement on Public Record for Comments.

SUMMARY: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34, 40 FR 15236, Apr. 4, 1975), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b) (14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14), 40 FR 15236, Apr. 4, 1975).

DATE: Comments must be received on or before May 23, 1977.

ADDRESS: Comments should be directed to Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580.

[File No. 742 3205]

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST.

In the matter of Albano Enterprises, Inc., a corporation, and Louis Albano, individually and as an officer of said corporation, and Joseph Albano, individually.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Albano Enterprises, Inc., a corporation, and Louis Albano, individually and as an officer of said corporation, and Joseph Albano, individually, and it now appearing that Albano Enterprises, Inc., a corporation, and Louis Albano, individually and as an officer of said corporation, and Joseph Albano, individually, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Albano Enterprises, Inc., by its duly authorized officer, and Louis Albano, individually and as an officer of said corporation, and Joseph Albano, individually, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Albano Enterprises, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 1570 E. Edinger, Santa Ana, California

Proposed respondent Louis Albano is an officer of said corporation, and proposed respondent Joseph Albano is the manager of said corporation. They formulate, direct and control the policies, acts and practices of said corporation and their address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive: (a) Any further procedural steps; (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

It is ordered, That respondents Albano Enterprises, Inc., a corporation, its successors and assigns, and its officers, and Louis Albano, individually and as an officer of said corporation, and Joseph Albano, individually, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the manufacturing, advertising, offering for sale, sale, or distribution of any products promoted as capable of causing a beneficial effect in the fuel economy, emission or other performance characteristics of any internal combustion engine in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from:

1. Making, directly or by implication, any statement or representation regarding the performance or effectiveness of said products unless such statement or representation is based upon and supported by prior, fully documented, adequate and well-controlled scientific studies or tests.

2. Failing to maintain copies of all documentation for the studies or tests referred to in subparagraph (1) of this paragraph.

3. Representing, directly or by implication, that repondents' products will fit all vehicles which are powered by gasoline engines.

4. Representing, directly or by implication, that the respondents' products have been approved, inspected, recommended or tested by the State of California or any other agency of government unless prior written approval is secured from the particular agency, or include in any public representation the name of any such agency without prior written authorization.

5. Representing, directly or by implication, that the respondents' products have been granted a patent unless there is in fact a current United States patent in force protecting those products.

It is further ordered, That any advertisement or other form of promotional representation respecting the efficacy or utility of respondents' products in the form of testimonials, must be based on fully documented, adequate, and well-controlled scientific studies or tests perfomed prior to the publishing or dissemination of said testimonials.

It is further ordered, That respondents shall forthwith cause the recall from all further use and destruction of all advertising copy, brochures and any other form of promotional representation, distributed to nonretail purchasers, which include statements or representations concerning the efficacy or utility of respondents' products that are inconsistent with any of the provisions set forth in this Order.

It is further ordered, That respondents refund to each retail purchaser of the product the purchase price paid, in the event that such purchaser is dissatisfied with the product for any reason, within a period of one year from the date of purchase. Furthermore, should the product have any defect in workmanship or materials, the respondents shall replace the defective part or the product, as necessary, free of charge, within a one-year period from the date of purchase. Respondents shall clearly and conspicuously disclose their refund policy pursuant to the exact provisions of this order, in all advertising, promotional literature, package insert materials and the like, pertaining to the product.

It is further ordered, That each respondent shall forthwith

1. Deliver a copy of this Order to cease and desist to all persons now engaged, or who become engaged in the advertising, offering for sale, sale, or distribution of respondents' products, as respondents' agent, salesman, franchisee, independent contractor, representative, or employee, and secure from each of said persons a signed statement acknowledging receipt of a copy thereof. For purposes of brevity, said persons shall be referred to hereinafter as "Distributors".

2. Inform all Distributors that the Respondents are obligated by the acts or practices prohibited by this Order, under the circumstances set forth in subparagraph 4 of this Paragraph.

3. Institute a program of continuing surveillance to reveal whether the business operations of each of said Distributors conform to the requirements of this Order.

4. Upon receiving actual knowledge from any source (including but not limited to Respondents' program of surveillance, and representatives of the Federal Trade Commission) of facts indicating a Violation of any provision of this Order by any Distributor, or by any of such Distributor's present and future dealers, franchisees, licensees, employees, salesmen, agents, solicitors, independent contractors, or other representatives, Respondents shall within 24 hours notify such Distributor by certified mail, return receipt requested, that such violation of this Order has occurred ("Notice"), and that Respondents will discontinue dealing with said Distributor upon receipt by Respondents of actual knowledge of one (1) or more further Violations of this Order by such Distributor, or by any of such Distributor's present and future dealers, franchisees, licensees, employees, salesmen, agents, solicitors, independent contractors or other representatives, within one hundred and eighty (180) days of receipt of said Notice by such Distributor. Respondents shall obtain from such Distributor written acknowledgement of receipt of such Notice, which acknowledgement shall indicate the date of receipt of such Notice.

Upon receiving actual knowledge from any source (including but not limited to Respondents' program of surveillance, and representatives of the Federal Trade Commission) of facts indicating one (1) or more Violations of any provision of this Order, within one hundred and eighty (180) days following a Distributor's receipt of the aforesaid "Notice," by a Distributor, or by any of such Distributor's present or future dealers, franchisees, licensees, employees, salesmen, agents, solicitors, independent contractors or other representatives, Respondents shall permanently discontinue dealing with such Distributor.

5. Maintain complete records for a period of no less than three years from the date of the incident, of any written or oral information received which indicates the possibility of a Violation of this Order by any Respondent or Distributor, or any of such Distributor's present and future dealers, franchisees, licensees, employees, salesmen, agents, solicitors, independent contractors, or other representatives; and maintain complete records of notifications of Violations as required by Subparagraph 4 of this Paragraph, and of Distributors' acknowledgments of receipt of such Notifications. Any oral information received indicating the possibility of a Violation of this Order shall be reduced to writing, and shall include the name, address and telephone number of the informant, the name and address of the Distributor involved, the date of the communication, and a brief summary of the information received. Such records shall be available upon request to representatives of the Federal Trade Commission, at normal business hours upon reasonable advance notice.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, 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 which may affect compliance obligations arising out of the Order.

It is further ordered, That each individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the manufacturing, advertising, offering for sale, sale, or distribution of any products promoted as capable of causing a beneficial effect in the fuel economy, emission or other performance characteristics of any internal combustion engine, or of his affiliation with a new business or employment in which his own duties and responsibilities involve the manufacturing, advertising, offering for sale, sale, or distribution of any products promoted as capable of causing a beneficial effect in the fuel economy, emission or other performance characteristics of any internal combustion engine. Such notice shall include the respondent's new business address and a statement as to the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligations arising under this order.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

[File No. 742 3205]

The Federal Trade Commission has accepted an agreement to a proposed consent order from Albano Enterprises, Inc., a corporation, Louis Albano, individually and as an officer of Albano Enterprises, Inc., and Joseph Albano, individually. The address of the proposed corporate and individual respondents is 1570 E. Edinger, Santa Ana, California.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested parties and the public. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges proposed respondents advertised that their "gas saver" devices, which are placed on internal combustion engines, will greatly improve gas mileage (up to 37% increase), will dramatically increase horsepower and reduce pollution, and will supercharge the engine. At the time these representations were made, the proposed respondents did not have adequate substantiation for these claims.

The proposed order prohibits future advertisements regarding the performance or effectiveness of proposed respondents' products unless such advertisements are based upon and supported by prior, fully-documented, adequate and well-controlled scientific studies or tests.

The proposed order also prohibits false representations of approval by any government agency, false patent claims, and a claim that the device will fit all vehicles powered by gasoline engines.

In addition to the above prohibitions, the proposed order requires proposed respondents to recall all prior advertising and discontinue dealing with noncomplying distributors who distribute proposed respondents' "gas saver" product.

The proposed order also contains a provision requiring the proposed respondents to refund the purchase price to dissatisfied consumers who notify proposed respondents of their desire for a refund within one year from the date of purchase. The refund policy would be required to be disclosed in all advertising and promotional literature. Proposed respondents' "gas saver" devices were and are sold under various trade names, including "Mini-Turbo Charger," "H. P. Air Injector," "Variable Combustion Meter," "V. C. Meter," "Air Jet," "Ram Jet," "Power-On-Gas-Saver," and "Air Master."

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-9043 Filed 3-25-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Intervention Notice No. 24]

RULEMAKING PROCEEDING ON FURNISHING OF DATA PROCESSING SERVICES BY COMMUNICATIONS CARRIERS

Proposed Intervention by GSA

The General Services Administration seeks to participate in a proceeding before the Federal Communications Commission concerning the proposed amendment of § 64.702 of the Commission's Rules and Regulations, respecting the furnishing of data processing services by communications common carriers. The GSA represents the interests of the executive agencies of the United States Government, as users of telecommunications services.

The Commission has proposed a change in the definitional structure to distinguish between regulated communications services and non-regulated data processing services. The proposed rule changes may have an effect on the Federal executive agencies' procurement of automated data processing equipment, as well as on such agencies' use of telecommunications services and facilities.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets, NW., Washington, DC, 20405, telephone (202) 566-0750, on or before April 27, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act (40 U.S.C. 481(a)(4)).)

Dated: March 17, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-9071 Filed 3-25-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 2914]

OREGON

Order Providing for Opening of Public Lands

Correction

In FR Doc. 77-5773, appearing on page 11057 in the issue for Friday, February 25, 1977, the fourth and fifth lines under the heading "Willamette Meridian" should read, "Sec. 7, lots 3 and 4, E½SW¼, and W½SE¼".

[M 141]

SOUTH DAKOTA

Transfer of Submarginal Lands to Lower Brule Indian Reservation

Correction

In FR Doc. 77-5740, appearing at page 11057 in the issue for Friday, February 25, 1977, the thirtieth line of the second column, now reading, "T. 107 N. R. 17WW.," should read, "T. 107 N. R. 76 W."

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: Abilene Zoological Society, P.O. Box 60, 1800 E.S. 11th Street, Abilene, Texas 79604.

OMB NO. 42-R1570

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: For captive, self-sustaining populations (for delivery, receipt, carriage, transportation or shipment in interstate commerce, in the course of a commercial activity, or sale or offer for sale, in interstate commerce of specimens of a captive, self-sustaining population)

Permit for Bengal Tigers, *Panthera tigris*

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)

Abilene Zoological Society
P. O. Box 60 - 1800 E.S. 11th Street
Abilene, Texas 79604

Phone: (915) 672-9771

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

☐ MR. ☐ MRS. ☐ MISS ☐ MS.

HEIGHT	WEIGHT
DATE OF BIRTH	COLOR HAIR / COLOR EYES
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER
OCCUPATION	

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

Public Zoological Gardens for education and recreation of public masses.

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, ~~OWNER~~ Marvin Sapaugh,
Drawer O, Clyde, TX 79510

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

Texas

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED

Abilene Zoological Gardens
1800 E.S. 11th Street
Abilene, Texas

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit numbers)
PRT 8-325-C
PRT 2-688 AQ

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE: 1 July 1976

11. DURATION NEEDED: indefinitely

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

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) Marvin W. Sapaugh — DATE 6-17-76

Application requirements: Bengal tiger, *panthera tigris;* purpose: for captive, self-sustaining population (for delivery, receipt, carriage, transportation or shipment in interstate commerce, in the course of a commercial activity, or sale or offer for sale, in interstate commerce of specimens of a captive, self-sustaining population).

(Slides enclosed for view of area and facilities where such wildlife are housed and cared for.)

Description of facility: large moated enclosure with circulator configuration, provided with a pool approximately 10 feet long, 5 feet wide, 2 feet deep, having island of 30-feet radius, plus 3 large dens, one of which is modified as a seclusion den. These dens measure 9 feet x 11 feet. This enclosure has formerly housed one male and two female Bengal tigers, (which group was reduced to a breeding pair in 1973 with the transfer of one of the females to a breeding compound in Florida) which over the past seven years have produced 29 cubs. The pair has continued to breed, and most recently their progeny were donated to a breeding compound in Georgia (two males and one female), and one female was donated to the zoo in Madrid, Spain under USDI Rare and Endangered Permit No. PRT 8-325-E. The female which was retained is a good mother, raises her young, the one that was transferred seldom cared for hers, and we had to hand-raise them, utilizing the members of the Zoo staff and Officers of the Zoological Society.

Daniel M. Watson, Director, has raised Siberian tigers (including hand-rearing) in St. Paul's Como Zoo, has raised Bengal tigers at the Kansas City and Madison, Wisconsin Zoos. Tom A. Buchanan, Curator, has hand-raised great cats at the World of Animals.

We are willing to participate in a captive breeding program and maintain data on a stud book.

Standard high-impact plastic air kennels will be used to transport young. (If necessary to transport adults, 6'x2'x3' steel carnivore crates with integral food and water containers filled before transport will be used.)

Out of 29 births of tigers, we have had 8 die, principally at birth or shortly thereafter, due to poor maternal care of the female tiger that was shipped to Florida on breeding loan in 1973.

(i) We have a history of successful tiger breeding, have successfully raised and moved tigers to other institutions. Details: breeding, exhibiting of the young with the mother, then transfer of maturing young to other institutions qualified to receive them by sale, trade, gift, or breeding loan arrangement, including brokerage through commercial animal dealers to foreign zoos. To continue this activity enhances the survival of the Bengal tiger as a species.

(ii) Should it ever become necessary to dispose of the tigers (should the zoo close and be converted to other activities) specimens would be donated to nearest qualified institution.

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, N. W., 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 2-275-25; please refer to this number when sub-

mitting comments. All relevant comments received on or before April 27, 1977, will be considered.

Dated: March 23, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-9065 Filed 3-25-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Cincinnati Zoo, 3400 Vine Street, Cincinnati, Ohio 45220, Edward J. Maruska, Director.

OMB NO. 42-R1870

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
[X] IMPORT OR EXPORT LICENSE [ ] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
To import two female Bengal tigers Panthera tigris tigris from Tierpark Berlin, Berlin, East Germany. The purpose of this import is to gain new blood line for breeding this rare species at the Cincinnati Zoo.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Cincinnati Zoo
3400 Vine Street
Cincinnati, Ohio U.S.A. 45220

Ph.: 513-281-4700

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[ ] MR. [ ] MRS. [ ] MISS [ ] MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
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
The Cincinnati Zoo is owned by the City of Cincinnati and managed and operated by the non-profit corporation known as the Zoological Society of Cincinnati. Purpose is for exhibition of animals for public and for conservation, education, and research of animals
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Edward J. Maruska, Dir. 513-281-4700
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
Ohio

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Zoological Society of Cincinnati Ohio, to import 2 Bengal Tiger Panthera tigris tigris from Tierpark Berlin, East Germany

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES [ ] NO
(If yes, list license or permit number(s))
End. Species Permit No. ES-85
End. Species Permit No. ES-105

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [ ] YES [ ] NO
(If yes, list jurisdictions and type of documents)
Animals are captive born.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ 50.00 - Cincinnati Zoo is exempt

10. DESIRED EFFECTIVE DATE: as soon as possible

11. DURATION NEEDED: Needed until completion of transaction.

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (see 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 13

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) Edward J. Maruska — Director — DATE: January 6, 1977

3-200
10-74

(3) A full statement of justification for the permit including details of the project or other plans for utilization of the wildlife in relation to zoological, educational, scientific, or propagational purposes as appropriate and the planned disposition of the wildlife upon termination of the project.

The Berlin Zoo in Berlin, East Germany is approximately 321 acres in size with 332 staff members and 5,019 specimens. It is a well-known zoological park, and the director, Prof. Dr. Heinrich Dathe, is renown and respected in his field. Der Zoologische Garten" is the highly acclaimed and widely read scientific journal published by the Berlin Zoo, and Dr. Dathe is the editor.

The Cincinnati Zoo is attempting to establish a line of pure Bengal stock *Panthera tigris tigris*. Much to our consternation, in our search for infusion of new blood to prevent inbreeding and to insure the vigor of our present stock, we could not verify or document any pure Bengal stock in this country other than the white tiger line at the National Zoo in Washington, D.C.

The Cincinnati Zoo has been successful in efforts to breed the Bengal Tiger. Three white and one normal orange phase Bengal Tigers were born here on June 20, 1974. Their parents were being housed here while the National Zoo in Washington, D.C. was constructing new large cat facilities. The agreement with the National Zoo was that the parents and, if bred while in Cincinnati, any of their progeny would remain the property of the National Zoo. With our renown success in breeding cats, it was not long until Ramana and Kesari, offspring of Mohini of the National Zoo, bred and produced four young, three of which were white. All these offspring were recalled to the National Zoo on April 5, 1976.

On June 27, 1976, four white and one normal orange phase cubs were born to Kesari. These cubs were sired by Tony, a white Bengal Tiger owned by the Hawthorn Circus Corporation. By agreement with the National Zoo and the Hawthorn Circus Corporation, the Cincinnati Zoo has been awarded one pair of the white Bengal cubs. Although the normal colored cub remains the property of the National Zoo, this female is currently housed here on breeding loan, giving us three Bengal Tigers.

Although we are not certain of the origin of the sire Tony of the cubs born on June 27, 1976, our inquiries at this date greatly substantiate the fact that he is quite probably also a descendent of Mohan, the white tiger which was wild caught in India. We are continuing our investgation and hope to document the origin of the sire.

The Cincinnati Zoo has made a commitment to the breeding of Bengal Tigers. We are interested in the preservation of the white mutant line, but more importantly we have made a commitment to the propagation of the normal color phase of *Panthera tigris tigris*.

As stated above, it is imperative to our commitment in the breeding of this rare subspecies to obtain an infusion of new blood. As surplus animals become available through our breeding program, specimens will be made available to qualified zoological parks that have professed interest in acquiring and propagating this subspecies.

In recent conversation and correspondence with Prof. Dathe of the Berlin Zoo, East Germany, who is also interested in seeing that this subspecies be preserved in its purity, he assured me that the Berlin Zoo has pure *Panthera tigris tigris*. While great emphasis has been on the captive breeding of some of the rarer subspecies of tigers, very little effort has been given to establishing purebred blood lines of Bengal Tigers, *Panthera tigris tigris*. This race has recently been declared an endangered subspecies with a total population considered to be around 3,000.

(4) A description and the address of the institution or other facility where the wildlife will be used or maintained.

The *Panthera tigris tigris* animals will be held at the Cincinnati Zoo. The Zoological Park is owned by the City of Cincinnati and operated by the non-profit corporation known as the Zoological Society of Cincinnati. The postal address is Cincinnati Zoo, 3400 Vine Street, Cincinnati, Ohio, U.S.A. 45220. The telephone number is 513-281-4700.

(5) A statement that at the time of application the wildlife to be imported is still in the wild, was born in captivity or has been removed from the wild.

As documented in Mr. Maruska's and Prof. Dathe's correspondence, these animals are captive born.

(6) A résumé of the applicant's attempts to obtain the wildlife to be imported from sources which would not cause the death or removal of additional animals from the wild.

These animals are zoo born and constitute no drain on the wild population.

(v) For the five years preceding the date of this application provide a detailed description of all mortalities involving the species covered in the application and held by the applicant, if any (or any other wildlife of the same genus or family held by the

applicant), including the causes of such mortalities and the steps taken to avoid or decrease such mortalities.

(7) (i) A complete description, including photographs or diagrams, of the area and facilities in which the wildlife will be housed.

Our tigers are maintained in two areas of the Zoo. Tigers occupy one of our older grottos (size, diagram, and photo enclosed for the Chairman of the Conservation/Management Wildlife Committee of the American Association of Zoological Parks and Aquariums, Mr. Dennis Meritt, Lincoln Park Zoo, 2200 N. Cannon Drive, Chicago, Illinois 60614) and a relatively new exhibit area constructed in 1975 which when including the public and buffer zone is one acre in size (photo, diagram, blueprints, and size enclosed for the Chairman of the Conservation/Management Wildlife Committee). Both exhibits have rearing dens and these dens are out of public view to ensure security and privacy for the mothers.

(ii) A brief resume of the technical expertise available, including any experience the applicant or his personnel have had in propagating the species or closely related species to be imported.

See enclosed resumes for the General Curator, Veterinarian, and Director of the Cincinnati Zoo.

(iii) A statement of willingness to participate in a cooperative breeding program and maintain or contribute data to a studbook.

We have stated above that we are interested in cooperating in a breeding program, and the Cincinnati Zoo already is a participant in the Internationales Tigerzuchtbuch (International Tiger Studbook published by Zoologischer Garten Leipzig, Germany), 1976. We are more than willing to cooperate to the fullest as we do with all studbook keepers.

(iv) A detailed description of the type, size and construction of the container: arrangements for feeding, watering, and otherwise caring for the wildlife in transit: and the arrangements for caring for the wildlife on importation into the United States.

The cats will be crated according to the International Air Transport Association (IATA) Live Animals Regulations, although the exact air routing has not been arranged. However, we have had recent experience in routing with the successful exchange of *Panthera pardis saricolor* with the Leipzig Zoo. The shipment will be coordinated by our brokers, Henry Wess and Associates, 602 Main Street, Cincinnati, Ohio 45202, phone number 513-721-6110. This firm has been associated with the Cincinnati Zoo for 25 years and is well experienced in handling animal shipments.

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, Title 50, and I further certify that the information submitted in this application for an import license is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Sincerely,

EDWARD J. MARUSKA,
Director.

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, N.W., 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 2-604-07; please refer to this number when submitting comments. All relevant comments received April 27, 1977, will be considered.

Dated: March 23, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-9066 Filed 3-25-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: D. E. Zold, 21260 260th SE., Maple Valley, Washington 98038.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Mark only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To purchase Palawan (polyplectron emphanum Pheasants for propagation to insure their survival.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
D.E.Zold
21260 260th S.E.
Maple Valley, Washington 98038
Phone: 206-432-0306

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT 5'7" WEIGHT 210
DATE OF BIRTH 6-11-34
COLOR HAIR Brown COLOR EYES Blue
PHONE NUMBER WHERE EMPLOYED 237 2890/9675
SOCIAL SECURITY NUMBER 531-34-4057
OCCUPATION
Supervisor-The Boeing Company
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
Does not apply

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Does not apply
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Does not apply
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
Does not apply

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Breeding endangered species of pheasants at my aviavies at 21260 260th S.E. Maple Valley, Washington 98038. The daying from Florida and selling throughout the U.S.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT ☐ YES ☒ NO
(If yes, list license or permit number)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N.A.

10. DESIRED EFFECTIVE DATE 1 October 1977

11. DURATION NEEDED Two (2) Years or as long as possible

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR Part 17.22 Permits for scientific purposes or for the enhancement of propagation or survival.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) D.E.Zold DATE 2-7-77

3-200
16-76

GPO 888-042

1. Pheasants: Palawan Peacock (Polyplectron emphanum) One (1) male and one (1) female. The age of the birds will be 1977 hatch available 1977 or early 1978. The purpose would be to buy and sell these birds for propagation purposes and get new blood to help keep the stock strong.

2. (iii) Wildlife—born in captivity.

3. By purchasing the above pheasants that were raised in captivity by breeders in the United States. By having the above shipped in padded crates to avoid any possible chance of injury.

4. The Polyplectron Emphanum pheasants I would like to purchase were raised in captivity by Dr. M. E. Dam Jr., P.O. Box 97, Haines City, Florida.

5. The pheasants are and will be housed in my aviaries at 21260 260th S.E., Maple Valley, Washington, 98038. These aviaries are planted with trees and shrubs to help insure the contentment of the birds, and a fence has been installed around the aviaries which are located on five acres.

6. (i) Our pheasantry consists of 16 pens. These are set in three enclosures built to house specialty pheasants. To house the polyplectrons the building consists of a completely insulated and wired building which is 10 x 12. Light is controlled with photoelectric

cells which supplement the natural daylight during inclement or cold weather. The housed building opens out into outside flights which are 15 x 12 heavily planted with ground cover to simulate native habitat. All pens are completely enclosed with netting (poultry). The smallest pen is 7 x 22 x 9 and the largest 16 x 23 x 8 for tragopan and lophophorus pheasants. All pheasant pens have enclosures to protect them from prevailing winds and inclement weather.

(ii) I have been raising pheasants and other birds for nine years. I also am a field assistant for the Woodland Park Zoological Park in Seattle. I'm also working on a study of Rhea nesting and temperature conditions for the San Diego Wildlife Parks Art Risser (California). I have raised progeny from Ellioti, Humiae, Impeyan, Mikado, Reeve Polyplectrons, to name a few.

(iii) I would be only to willing to cooperate in a breeding program and keep accurate records as I am convinced that the only reason some species exist today is because of the unselfish and dedicated efforts of breeders who hatched and raised them in captivity.

(iv) The containers used for shipping are 12" wide, 18" high and 24" long constructed of Masonite with the top on the inside lined with 1" foam rubber. Water and feed are placed in each shipping container to allow for extended shipping times (24 to 36 hours).

(v) Over the past nine years I lost but two (2) birds from parasites (intestinal per posting). These birds were on loan from local zoo. Individual losis resulted from natural causes such as shock during brood moving, heart seasure, chilling during the brooding and one adult copper from a broken neck. I've reduced my brooding losses from 35% in 1969 to 12% in 1976. Further reduction is assured with new blood received unrelated stock. Present problems occur in the 14 to 28 day period. Dietary programs are presently under study to isolate weak nesses. Deseases are controlled through sanitation on a weekly basis.

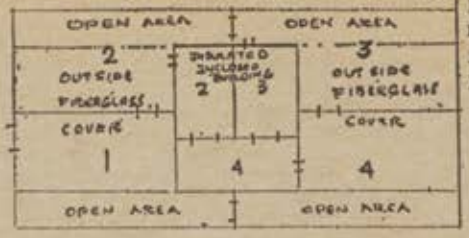
7. There are no contracts or binding agreements. As previously stated.

If I am issued the permit I plan to purchase a pair of Palawan Peacock pheasants from Dr. M. E. Dam Jr., P.O. Box 97, Haines City, Florida. I have purchased other type peacock pheasants from Dr. Dam and found them to be of excellent blood lines and heavy producers.

8. (i) I plan on keeping, breeding, buying and selling for propagation purposes only. (ii) & (iii) I will supply adequate pens, housing, feed and care to insure the birds contentment in captivity in order that they will breed to keep the species going. My children and theirs as well as your children will be able to appreciate the Palawan Pheasant and others and save the species from man's encroachment in its natural habitat. After raising enough to insure enough breeding stock as backup to maintain the species, then and only then will I release any progeny to other deserving breeders. The breeding of the Palawan is a long process involving three years from chick to adult breeder. This will account for six years efforts before any progeny could be released. More efforts are required of individual breeders or this species is going to be lost not only in the wild, but captivity.

Respectfully submitted,

D. E. Zold.



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 2-640-07; please refer to this number when submitting comments. All relevant comments received on or before April 27, 1977, will be considered.

Dated: March 23, 1977.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-9067 Filed 3-25-77;8:45 am]

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: Walter H. Frey, Millstone West, Road 2, Box 40, Wister, Oklahoma 74966.

OMB NO. 42-R1635

DEPARTM OF T INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR: [ ] IMPORT OR EXPORT LICENSE [✓] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
TO BE ABLE TO BUY AND SELL EDWARDS, MIKADO AND SNIN HOO PHEASANTS. THOSE I AM PRESENTLY RAISING.
TO BE ABLE TO BUY AND SELL WHITE EARED PHEASANT WHEN I RAISE TWO MORE
ALL THE ABOVE ARE CSSP

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
WALTER H. FREY
MILLSTONE WEST
RD 2 BOX 40
WISTER, OK. 74966
918-655-7966

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[✓] MR. [ ] MRS. [ ] MISS [ ] MS.
HEIGHT 6'4" WEIGHT 180
DATE OF BIRTH Sept 4, 1942
COLOR HAIR Blond COLOR EYES Blue
PHONE NUMBER WHERE EMPLOYED 918-655-7956
SOCIAL SECURITY NUMBER 157-32-9638
OCCUPATION FARMER + INSTRUCTOR OF BIOLOGY
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
NONE

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
DOES NOT APPLY
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
DOES NOT APPLY
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
DOES NOT APPLY

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
ON MY FARM 1 MILE WEST OFF HWY 271 WISTER, OKLA
RD 2 Box 40

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [✓] YES [ ] NO
(If yes, list license or permit number(s))
S-2331 MIGRATORY WATER FOWL

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITIES PROPOSE? [ ] YES [ ] NO
(If yes, list jurisdictions and type of document(s))
NOT REQUIRED
RECEIVED JAN 1077

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE: Summer 1977

11. DURATION NEEDED: AS LONG AS POSSIBLE

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR PART 17.22 PERMITS FOR SCIENTIFIC PURPOSES, OR FOR THE ENHANCEMENT OF PROPAGATION OR SURVIVAL

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Walter H. Frey
DATE JAN 6, 1977

3-200
(6/76)
GPO 895-042

Attachment: Section 10 (PL 93-205) Endangered Species Act 1973.

Applicant: Walter H. Frey, Millstone West, RD 2, Box 40, Wister, OK 74966.

(1) Pheasants: Buy and sell Edward's, Mikado, Swinhoe's and White-eared pheasants. I now have 4 pairs Edward's, 2 pairs Mikado and 4 pairs Swinhoe's. I will most likely produce surplus birds and will want some new blood for replacement pairs.

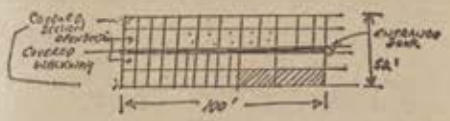
(2) (iii) Wildlife born in captivitity.

(3) By purchasing the above pheasants that were raised in captivity from breeders in the U.S.A., by having the above shipped or sent in padded crates to avoid any chance of injury.

(4) I have 3 of the species now and I am applying for a permit to get the White-eared pheasant.

(5) The birds will be kept in aviaries on my farm in Wister. The pens are 5' x 24' x 6'. The pens for the White-eared are 10' x 24' x 6'. They have grass bottoms and are planted with bushes.

(6) (i).



The back sections are solid. The rest of cage is made with 1" wire. The ends are 1 x 2 heavy turkey wire and sheet metal to discourage predators. The pens are located on a well drained site near the farm houses.

6 (ii) I have been raising assorted birds on my former farm (Canary Bird Farm, Oldbridge, N.J. 08857) since 1965. My thesis for a masters degree from the Wildlife Management section at Rutger University, New Brunswick, N.J., is on factors affecting breeding of Swinhoe's pheasants. I have raised young of the following pheasant species: Golden, Amherst, Silver, Reeves, Ringneck, Siamese Fireback, Edward's, Mikado, Swinhoe's Blude-eared, Grey Peacock, Germain's peacock, Impeyan.

(iii) I am willing to cooperate with a breeding program and will keep accurate records, even so the parentage of my stock is unknown to me.

(iv) Shipping containers are plywood about 12" x 24" x 18". Tops are padded with foam rubber. Feed and water cups are installed. Birds should not be underway more than 36 hours.

(v) I have lost birds in New Jersey to predators especially raccoons. I have also lost some young birds from cannibalism. Some birds have died of non specific infections (cause of death was not discernible at autopsy). Pen construction in Oklahoma does not admit predators. Young birds will be more spaced out in movable pens. Medicated water is given twice a month (Flox Aid full strength).

(7) There are no contracts or agreements at present.

(i) I plan on keeping, breeding, studying, buying and selling Edward's Mikado, Swinhoe's and White-eared pheasants. I know how to do the above and believe it most important that captive self sustaining populations be maintained in safety. Their wild habitat is ever shrinking and few of us will either be able to do much about that or ever go and see them there.

(ii) Should I stop keeping birds (a most unlikely event) I will dispose of my stock to other breeders and zoos.

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 2-610-25; please refer to this number when submitting comments. All relevant comments received on or before April 27, 1977, will be considered.

Dated: March 23, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office,
U.S. Fish and Wildlife Service.

[FR Doc. 77-9068 Filed 3-25-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: University of California, Santa Cruz, Applied Science Building, Santa Cruz, California 95064, James C. Roush II, D.V.M.

OMB NO. 42-R1215

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☒ IMPORT OR EXPORT LICENSE ☐ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
IMPORTATION OF EIGHT PEREGRINE FALCONS FROM MEXICO.
IMPORTATION OF FOUR APLOMADO FALCONS FROM MEXICO

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
JAMES CHARLES ROUSH II
APPLIED SCIENCES BLDG., D.V.M.
UNIVERSITY of CALIFORNIA
SANTA CRUZ, CALIF. Area code 408 425-4848

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS. DR.
HEIGHT 6'0 WEIGHT 210
DATE OF BIRTH 12-12-42 COLOR HAIR BRN COLOR EYES BRN
PHONE NUMBER WHERE EMPLOYED 475-4848 SOCIAL SECURITY NUMBER 449-46-3169
OCCUPATION VETERINARIAN - BIOLOGIST
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
UNIVERSITY of CALIFORNIA SANTA CRUZ
RESEARCH ASSOCIATE IN BIOLOGY

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
CAMPUS of UNIVERSITY of CALIFORNIA, SANTA CRUZ
IMPORT FROM MEXICO

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list licenses or permits number(s))
MIGRATORY BIRD PERMIT # 1-3P-2526

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of document(s))
WE INTEND TO APPLY FOR A COLLECTION PERMIT FROM THE MEXICAN GOVT.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE JAN. 1, 1977

11. DURATION NEEDED 3 YEARS

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

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) James C. Roush II DVM
DATE Sept. 27, 1976

3-200
10-74)
GPO 895-042

James Charles Roush II, D.V.M., January 6, 1977, License/Permit Application.

2. Description of activity for which requested license or permit is needed.

Application Requirements—Information:

1. Species covered by permit. Peregrine Falcon—*Falco peregrinus anatum.*

2. The wildlife are still in the wild at the time of application.

3. We propose to take the individual falcons from their nest scrapes as immature birds.

4. This wildlife has not been removed from the wild yet. We propose to take them from the Baja Penninsula in Mexico.

5. The falcons will be quarantined at Santa Cruz Veterinary Hospital for 90 days under a permit from the United States Department of Agriculture, 2585 Soquel Drive, Santa Cruz, California. Then they will be transferred to their permanent residence at the breeding facility at the University of California, Santa Cruz.

6. It is intended to keep these creatures alive for as long as possible.

I. A 16,000 cu. ft. breeding pen exists on campus consisting of four breeding chambers, with floor space of each pen being 20' x10' and each is 20' high. They are modeled after those being used successfully at Cornell University.

II. Personnel expertise: Program coordinator, Dr. James Roush, has ten years experience with raptor care, nutrition, medicine and surgery. Has attended Raptor Research Foundation Symposia in 1974 and 1975 collecting information on captive breeding of this species and has assembled as much printed technical material as possible on the same subject.

Student coordinator, Michelle McKenna, has had three years experience with care and captive maintenance of falcons and other raptorial species.

Facility coordinator, Russel Tucker, has had same experience as McKenna.

Students—There are five with over one year of experience.

James Charles Roush II, D.V.M., January 6, 1977, License/Permit Application.

Consultants—We have communication with Richard Fyfe of the Canadian Wildlife Service Raptor Breeding Program, the Cornell personnel have been helpful, and there are several private breeders in the western United States who have offered to advise our group.

III. This program was originally conceived to repopulate the habitat of the Pacific Coast with Peregrine Falcons and it is the intent of our group to support the Pacific Coast Peregrine Falcon Recovery Team. We are willing to contribute data to a studbook. Maintaining pedigrees, we feel, will allow us to prevent domestigation and subsequent genetic defects.

IV. These creatures will be transported in cardboard boxes with ventilation openings and will be under continuous surveillance by program personnel during the transport period. They will be fed whole coturnix quail during this period.

V. One male Peregrine Falcon which had crippled feet and two crippled wings was killed, while in our possession, by a large wild rat which had been inadvertently sealed into a temporary holding facility. If the wings had been functional, the falcon would have escaped. If the feet had been functional, it would have defended itself.

At this time, all our facilities are rodent proof and have baited rodent traps around the periphery. We feel this was a "freak" accident which cannot happen again.

7. Enclosed are copies of the California Fish and Game captive breeding permit. This permit specified Dr. Roush as coordinator. Other program personnel are Michelle McKenna, Russel Tucker, and Nora Gowb of Santa Cruz, California.

Dr. William Doyle is Director of the Coastal Marine Center, an organized research unit of the University of California. This program is part of the Ornithology section of the Coastal Marine Center.

8. Permit Justification: I. Activities sought under permit: a. Captive breeding of this species for restocking and wildlife management purposes. b. Scientific investigations of a nature which will support, but not interfere with captive breeding. c. Student education.

James Charles Roush II, D.V.M., January 6, 1977, License/Permit Application.

II. Details of how program will be carried out—See enclosure, "A Proposal for Funding in Support of _____" It explains the entire program.

III. Relationship to wildlife management objectives—See same enclosure as 8. II.

IV. Disposition—We intend for these creatures to remain within the program until they die from natural causes. If, for some reason, an individual is judged unsuitable for captive breeding or research, it will be disposed of at the discretion of the Pacific Coast Recovery Team.

14.32 Nondesignated Port—Importation to minimize loss.

1. Number and kinds: Four Peregrine Falcons—*Falco peregrinus anatum.* 2. Place of Origin—Baja Peninsula of Mexico. 3. Date—Mid-April to Mid-May. 4. Method of Shipment—Private automobile. 5. Port Requested—San Ysidro. 6. Purpose of Importation—Captive breeding for wildlife management purposes. 7. We request exception for a shipment in April-May of 1977 and perhaps the same period of 1978. 8. The individual specimens are sensitive to heat, therefore, an automobile route as close as possible to the coast would prevent mortality from overheating.

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, N.W., 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 2-517-07,12; please refer to this number when submitting comments. All relevant comments received on or before April 27, 1977, will be considered.

Dated: March 23, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-9069 Filed 3-25-77;8:45 am]

Office of the Assistant Secretary Land and Water Resources

WATER PROJECTS REVIEW

Public Hearings

Notice is hereby given that public hearings will be held for the purpose of receiving comments concerning three Bureau of Reclamation water development projects, subject to further review and analysis by the Water Projects Review Office.

Public hearings will be held at the following locations on the following dates, beginning at 9:00 a.m.

April 1, Dallas Creek Project, Elks Lodge, 415 Hillcrest Drive, Montrose, Colorado.
April 2, Lyman Project, Lyman High School Auditorium, Lyman, Wyoming.
April 2, Narrows Unit, Sterling Municipal Auditorium, South 4th Street, Sterling, Colorado.

The Department will review and reevaluate the projects and make recommendations on whether to continue each project, seek modification, or seek deauthorization by the Congress.

Public hearings offer opportunity for public involvement in the Department's work and will provide information that will be useful in evaluating the water projects. Because of time constraints involved in the water projects review process, the Department has waived its policy of giving 30 days' notice in the FEDERAL REGISTER that a public hearing will take place.

Individuals, representatives of organizations, and public officials who wish to make oral statements at one of the hearings should notify the Water Projects Review Office, Room 6616, Main Interior Building, U.S. Department of the Interior, Washington, D.C. 20240, telephone (202) 343-5413, no later than Wednesday, March 30, 1977. Proponents and opponents each will be allowed equal blocks of time to make oral statements.

Individual testimony will be limited to approximately ten minutes per person, unless an organized group or delegation wishes to present its own program within the block of time allotted them. If necessary, an hour will be added to the hearing schedules for rebuttal statements. This hour will be equally divided between proponents and opponents. Persons attending the hearings or those unable to be present may submit written comments to the Water Projects Review Office on or before April 2.

Dated: March 24, 1977.

CHRIS FARRAND,
Acting Assistant Secretary, Land and Water Resources.

[FR Doc.77-9206 Filed 3-25-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[AA1921-Inq.-6]

IMPRESSION FABRIC OF MAN-MADE FIBER FROM JAPAN

Place of New York Hearing

Notice is hereby given that the United States International Trade Commission's public hearing in connection with inquiry No. AA1921-Inq.-6, impression fabric of man-made fiber from Japan, under section 201(c)(2) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)(2)), will be held at 10 a.m., e.s.t., March 28, 1977, in conference room A, 6th floor, 6 World Trade Center, New York, N.Y. 22629.

Notice of institution of the inquiry and of the hearing was issued by the Commission on March 15, 1977.

By order of the Commission.

Issued: March 23, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-9121 Filed 3-25-77;8:45 am]

TELEVISION RECEIVERS

Report to the President

MARCH 22, 1977.

To the President: In accordance with section 201(d)(1) of the Trade Act of 1974 (Trade Act), the United States International Trade Commission herein reports the results of an investigation relating to television receivers.

The investigation (Inv. No. TA-201-19) was undertaken to determine whether television receivers, color and monochrome, assembled or not assembled, finished or not finished, and subassemblies thereof, provided for in item 685.20 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The Commission instituted the investigation, under the authority of section 201(b)(1) of the Trade Act, on October 21, 1976, following receipt, on September 22, 1976, of a petition for import relief under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) filed by the Industrial Union Department, AFL-CIO; American Flint Glass Workers Union of North America; Allied Industrial Workers of America; Communications Workers of America; Glass Bottle Blowers' Association of the United States and Canada; Independent Radionic Workers of America; International Association of Machinists; International Brotherhood of Electrical Workers; International Union of Electrical, Radio and Machine Workers; United Furniture Workers of America; United Steelworkers of America; Corning Glass Works; GTE Sylvania Inc.; Owens-Illinois, Inc.; Sprague Electric Co.; and Wells-Gardner Electronics Corp.

The Commission held public hearings on this matter in Chicago, Ill., on January 11 and 12, 1977, and in Washington, D.C., on January 18, 19, 21, and 22, 1977.

Notice of the institution of the investigation and hearings was published in the FEDERAL REGISTER of November 12, 1976 (41 FR 50076), and notice of the time and place of the Chicago hearing was published in the FEDERAL REGISTER of January 10, 1977 (42 FR 2138).

The information for this report was obtained from field work and interviews by members of the Commission's staff, from other Federal agencies, from responses to the Commission's questionnaires, from information presented at the public hearings, from briefs submitted by interested parties, and from the Commission's files.

A transcript of the hearings and copies of briefs submitted by interested parties in connection with the investigation are attached.[1]

DETERMINATIONS, FINDINGS, AND RECOMMENDATIONS OF THE COMMISSION

DETERMINATIONS

On the basis of the investigation: Chairman Minchew and Commissioners Leonard and Moore determine that television receivers, color and monochrome, assembled or not assembled, finished or not finished, and subassemblies thereof,[1a] provided for in item 685.20 of the TSUS, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles.

Vice Chairman Parker and Commissioner Bedell determine that color television receivers, complete and incomplete,[2] classifiable under item 685.20 of the TSUS, are being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to the domestic industry producing articles like or directly competitive with the imported articles.

Commissioner Ablondi determines that color television receivers, assembled or not assembled, finished or not finished, provided for in item 685.20 of the TSUS, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles.

FINDINGS AND RECOMMENDATIONS

Commissioners Minchew, Leonard, and Moore find that: (1) The imposition of rates of duty as follows, in addition to the existing rate of duty, is necessary to remedy such injury:

Television receivers, complete or incomplete as defined in (2), below, classifiable under item 685.20 of the TSUS:

Rates of duty in percent

1st year	2d year	3d year	4th year	5th year
20	20	15	15	10

(2) As used in (1): (a) The term "complete" refers to a television receiver, fully assembled, whether or not tested or packaged for distribution to the ultimate purchaser; and

(b) The term "incomplete" refers to a television receiver which, while not complete, is substantially complete, that is:

(i) At least assembled to the point where the picture tube is in place as a part thereof, or

(ii) If the picture tube is not in place, at least assembled to the point where no more remains to be done, prior to installation in its cabinet, than the incorporation of the picture tube, tuner, and incidental components.

Commissioners Parker and Bedell find that: (1) The imposition of rates of duty as follows, in addition to the existing rate of duty, is necessary to prevent the threatened serious injury:

Color television receivers, complete or incomplete as defined in (2), below, classifiable under item 685.20 of the TSUS:

Rates of duty in percent

1st year	2d year	3d year	4th year	5th year
20	20	15	15	10

(2) As used in (1): (a) The term "complete" refers to a television receiver, fully assembled, whether or not tested or packaged for distribution to the ultimate purchaser; and

(b) The term "incomplete" refers to a television receiver which, while not complete, is substantially complete, that is:

(i) At least assembled to the point where the picture tube is in place as a part thereof, or

(ii) If the picture tube is not in place, at least assembled to the point where no more remains to be be done, prior to installation in its cabinet, than the incorporation of the picture tube, tuner, and incidental components.

Commissioner Ablondi finds that to remedy the serious injury found to exist it is necessary to impose quantitative restrictions on imports of color television receivers, assembled or not assembled, finished or not finished, provided for in item 685.20 of the TSUS, in the sum of 1,272,000 units per annum on a global basis, with quarterly limitations; and further finds that the quota should be increased at a rate of 5 percent per annum for each additional year in which the quota is in effect.

Issued: March 23, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-9122 Filed 3-25-77;8:45 am]

[1] Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

[1a] This affirmative determination of Chairman Minchew and Commissioners Leonard Moore covers, among other aricles, "complete" and "incomplete" television receivers as defined in the "Findings and Recommendations" section immediately below.

[2] The terms "complete" and "incomplete" are defined in the "Findings and Recommendations" section immediately below.

OFFICE OF TELECOMMUNICATIONS POLICY

ADVISORY COMMITTEE REVIEW

Invitation for Comment

In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. I (1973 Supp.), Pub. L. 92-463 and OMB Circular No. A-63, Transmittal Memorandum No. 5, dated March 7, 1977, the Office of Telecommunications Policy invites public comment on the continuation of the following Advisory Committees:

(1) Frequency Management Advisory Council (FMAC). This council advises the Director of the Office of Telecommunications Policy on radio frequency spectrum allocation matters and means by which the effectiveness of Federal Government frequency management may be enhanced. It reviews, as appropriate: (1) recommendations of the Interdepartment Radio Advisory Committee (IRAC); (2) the progress of electromagnetic compatibility programs; (3) proposed United States positions on spectrum matters with respect to International Telecommunications Union (ITU) conferences.

(2) Electromagnetic Radiation Management Advisory Council (ERMAC). This Council advises the Director of Office of Telecommunications Policy on side effects and the adequacy of control of electromagnetic radiations arising from telecommunications activities. It reviews, evaluates and recommends measures to investigate and mitigate potential undesirable effects on the environment.

(3) U.S. INMARSAT Preparatory Committee Working Group (INMARSAT Working Group). This committee advises the Director of the Office of Telecommunications Policy on various positions to be taken by the United States Government on issues under consideration by the INMARSAT Preparatory Committee. The Preparatory Committee was established by the Second Session of the International Conference on the Establishment of an International Maritime Satellite System (INMARSAT) to conduct economic and technical studies and to prepare draft organizational structures and financial and staff regulations.

Public comments regarding the continuation of these Advisory Committees should be submitted in writing to L. Daniel O'Neill, Advisory Committee Management Officer, Rm 703, 1800 G Street NW., Washington, D.C. 20504, on or before April 8, 1977.

L. DANIEL O'NEILL,
Advisory Committee Management Officer.

[FR Doc.77-9192 Filed 3-25-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1301; Amdt. No. 1]

MISSOURI

Declaration of Disaster Loan Area

The above-numbered Disaster Declaration (see 42 FR 15392) is amended to include the incidence period February 18-28, 1977 during which time further damages occurred due to ice breakup and high winds in the Lake of the Ozarks Region of Missouri. The declaration is further amended by extending the filing date for physical damage until the close of business on May 19, 1977, and for economic injury until the close of business on December 19, 1977. All other conditions remain the same.

Dated: March 18, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77-9093 Filed 3-25-77;8:45 am]

[Declaration of Disaster Loan Area No. 1306]

WISCONSIN

Declaration of Disaster Loan Area

Door County and adjacent counties within the State of Wisconsin constitute a disaster area because of physical damage to wells resulting from drought which occurred in the calendar year 1976 and through March 7, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage as a result of drought until the close of business on May 19, 1977, and for economic injury until the close of business on December 19, 1977, at:

Small Business Administration, District Office, 122 West Washington Avenue, Room 700, Madison, Wisconsin 53703.

or other locally announced locations.

Dated: March 18, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77-9094 Filed 3-25-77;8:45 am]

FEDERAL MARITIME COMMISSION

[Docket No. 77-4]

MODIFICATION OF EURO-PACIFIC JOINT SERVICE AGREEMENT

Order of Investigation and Hearing

This proceeding is instituted to determine (1) the continued approvability of Agreement No. 9902-3, and (2) whether Agreements Nos. 9902-4, 9902-5 and 9902-6, should be approved, disapproved or modified, pursuant to section 15 of the Shipping Act, 1916.

Agreement No. 9902 is the organic agreement of the Euro-Pacific Joint Service (Euro-Pacific) operating in the trade between the U.S. Pacific Coast and ports in the United Kingdom, Scandinavia and Continental Europe including wayports in Mexico, Central America, the East Coast of South America and the West Indies. The Agreement was originally approved on March 16, 1971, for a three-year period and subsequently approved for an additional three years to expire March 21, 1977. Present parties to the Agreement are Hapag-Lloyd (Hapag), Compagnie Generale Transatlantique (CGT) and Intercontinental Transport (ICT).

Agreement No. 9902-3, was approved October 15, 1976, and amended the basic agreement by (1) adding ICT in place of Holland America; (2) changing the proportion of each party's participation in the joint service to 50 percent for Hapag, 30 percent for CGT and 20 percent for ICT; and (3) replacing the previous fleet of combination breakbulk/container vessels of up to six (6) vessels of average capacity of not more than six hunderd fifty (650) twenty-foot container equivalent units TEU's.

Agreement No. 9902-4 amends the basic agreement (1) to extend the approved Agreement to December 31, 1977, and (2) to allow the parties to appoint separate agents.

Agreement No. 9902-5 amends (1) Article eight of the basic agreement, as amended, to provide for the introduction of a containership fleet of up to eight vessels with an average capacity of 1,000 twenty-foot container equivalent units TEU's each, and (2) to extend the agreement for five years beyond December 31, 1977.

Notice of Agreement No. 9902-3 was published in the FEDERAL REGISTER on April 26, 1976. United States Lines (USL) filed comments and a request for hearing on the basis of insufficient data as to the operation and impact of the Amendment.

Notice of the filing of Agreements Nos. 9902-4 and 9902-5 was published in the FEDERAL REGISTER on November 24, 1976. USL and Sea-Land have requested that the Amendments be set down for hearing on the grounds that they do not satisfy the requirements of Section 15 and do not demonstrate a transportation need which would overcome the public policy of the antitrust laws.

By order dated September 29, 1976, the Commission issued a conditional order of approval for Agrement No. 9902-3. The conditions of the Commission's order were met and Agreement No. 9902-3 was approved on October 15, 1976.

The Commission has considered the subject Amendments, the protests of USL and Sea-Land, and the reply of proponents. The Commission has determined that issues have been presented which can only be resolved by an adjudicatory proceeding, and that an investigation and hearing should be instituted to determine whether Agreements Nos. 9902-3, 9902-4, 9902-5 and 9902-6 hereinafter ordered, should be approved, disapproved

and/or to what extent modified pursuant to section 15 of the Shipping Act, 1916.

Proponents state that excessive delay in final determination of the matters under consideration, especially the larger containerships which are scheduled for deployment in late 1977, will impede the orderly transition of the Euro-Pacific service and will be highly disruptive of their operations in other services. In this regard, they request that any proceeding ordered be concluded as quickly as possible and that the Commission issue a final decision at the earliest possible date. In consideration of this request and the fact that these matters have been under consideration for some time now, we hereby direct the Office of Administrative Law Judges to conduct the proceeding herein ordered with the utmost expedition, consistent with the fullest development of the facts. This, we believe will be in the interest of both proponents and protestants.

Although we have directed expeditious handling of the hearing, it may be impossible for us to issue a final decision in these matters prior to the termination date of the basic agreement through December 31, 1977, as requested pursuant to Agreement No. 9902–4. Therefore, since Agreement No. 9902–5, incorporates a request for an additional five-year extension of the basic agreement coupled with the modification to enlarge the container fleet to eight full containerships having an average capacity of 1,000 TEU's each, we believe it would be more practical for the Commission to approve the request for the five-year extension contained in Agreement No. 9902–5, for the pendency of the hearing herein afterwards ordered and, to require the parties to place the increased fleet amendment to Article nine in a separate amendatory agreement designated as Agreement No. 9902–6, and to submit that agreement for Commission action. In this respect, we shall approve Agreement No. 9902–5 pendente lite on condition that (1) it be modified to strike language in the preamble rendered inappropriate by this action, and to amend Article fourteen of the basic agreement to incorporate a termination date of March 21, 1982, and (2) that proponents file a separate agreement setting forth the amendment providing for the larger fleet previously contained in Agreement No. 9902–5, and other conditions as hereinafter set forth and ordered.

The Commission's conditional approval of Agreement No. 9902–5, as amended, pendente lite is based upon current Commission records which show that (1) the amount of cargo carried by Euro-Pacific is of a sufficient amount to fulfill a serious transportation need in this trade, (2) the new containership service is beneficial to the public since it assures the continuation in the trade of this all-water carrier which is in the overall best interest to the commerce of the United States, (3) the parties have made a substantial capital investment in the trade in its new containership operation and, as a consequence, both shippers/consignees, as well as port interest rely heavily on this all-water service, and (4) the change from a breakbulk operator to a fully containership operator will allow Euro-Pacific to provide the trade with a better service thereby, improving the competitive situation of this all-water carrier which might otherwise be forced to leave the trade. Therefore, we find that the continuation of the current Euro-Pacific fleet would not seriously harm the trade since it serves a serious transportation need, continues an important public interest benefit, and serves a valid regulatory purpose under the Shipping Act.

Therefore, it is ordered, That, pursuant to section 15 of the Shipping Act, 1916, Agreement No. 9902–5, is approved pendente lite, until the final order of the Commission in the proceeding instituted herein, on condition that:

1. The preamble to Agreement No. 9902–5 is modified by deleting therefrom the words and numbers "* * *, in the format indicated in FMC General Order 24 (46 CFR 522.4), Joint Service Agreement, FMC No. 9902–4 (approved_____, 197__) * * *" and substituting therefor the words and numbers, "* * * Joint Service Agreement, FMC No. 9902 * * *"; and

2. Agreement No. 9902–5 is modified by deleting paragraphs (1) and (2) thereof in their entirety, and substituting therefor the following:

Article 14 of the Agreement is amended to read:

This Agreement shall become effective on the day following approval by the Federal Maritime Commission. This Agreement shall remain effective until March 21, 1982, but this Agreement may be terminated by mutual agreement of the parties hereto at any time, or as to any one or more participants upon two years' advance notice by such party or parties to the remaining party or parties. Copies of any such notice or mutual agreement to terminate this Agreement shall be furnished to the Federal Maritime Commission promptly.

; and

3. Proponents file with the Commission a document containing all of and only the following terms: Joint Service Agreement, FMC No. 9902, Agreement No. 9902–6.

The parties hereby agree to modify, in the format indicated in FMC General Order 24 (46 CFR 522.4), Joint Service Agreement FMC No. 9902 (hereinafter the "Agreement"), as follows:

Article 9 of the Agreement is amended to read:

In effectuation of the goals set forth in Article 8 hereof, the parties will replace the current fleet of vessels, employed in the Euro-Pacific Joint Service with a fleet of up to eight (8) full containerships. The average capacity of the vessels shall be approximately one thousand (1,000) twenty-foot container equivalent units (TEU's), depending upon the availability of vessels.

HAPAG-LLOYD AKTIENGESSELSCHAFT

By _____
Edward Schmeltzer
Attorney in Fact

COMPAGNIE GENERALE TRANSATLANTIQUE

By _____
Edward Schmeltzer
Attorney in Fact

INTERCONTINENTAL TRANSPORT (ICT) B.V.

By _____
Edward Schmeltzer
Attorney in Fact

Date: November 5, 1976.

4. Proponents file, with the Secretary of the Commission, on or before March 21, 1977, (a) a complete copy of Agreement No. 9902–5, modified as required in clauses (1) and (2) of this paragraph, and (b) the document required by clause (3) of this paragraph, each signed by the Attorney in Fact for Proponents.

It is further ordered, That the interim approval herein granted shall be effective on the date all of the above conditions are met.

It is further ordered, That, pursuant to sections 15 and 22 of the Shipping Act, 1916, an investigation and hearing is hereby commenced in order to determine whether Agreement No. 9902–3, 9902–4, 9902–5, and 9902–6, are unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of the Shipping Act, 1916.

It is further ordered, That Hapag Lloyd, AG, Compagnie Generale Transatlantique and Intercontinental Transport B.V. are hereby made proponents in this proceeding.

It is further ordered, That United States Line and Sea-Land Service, Inc., are hereby made the protestants in this proceeding.

It is further ordered, That a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the presiding Administrative Law Judge, but not later than September 21, 1977.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER, and a copy thereof be served upon proponents and protestants as listed in the Appendix below.

It is further ordered, That any person other than proponents, protestants, and the Bureau of Hearing Counsel, having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 5(1) (46 CFR 502.72) of the Commission's rules of practices and procedure;

It is further ordered, That all future notices, orders, and/or decisions issued by on or behalf of the Commission in

this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

APPENDIX

PROPONENTS

Hapag Lloyd AG, Aktiengesellschaft AG, Ballindamm 25, 2 Hamburg 1, Germany.
Intercontinental Transport (ICT) B.V., 39 Wilhelminakade, Rotterdam 3020, The Netherlands.
Compagnie Generale Transatlantique, 6 Rue Auber, Paris, France.
Euro-Pacific Joint Service: Balfour, Guthrie & Co., Ltd., General Agents, One Maritime Plaza, San Francisco, California 94111.

PROTESTANTS

Sea-Land Service, Inc., P.O. Box 900, Edison, New Jersey 08817.
United States Lines, Inc., One Broadway, New York, New York 10004.

[FR Doc.77-9116 Filed 3-25-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, ENVIRONMENTAL SUBCOMMITTEE

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Environmental Subcommittee will hold an open meeting on April 14 and 15, 1977 in Room 1046, 1717 H St., NW., Washington, D.C. 20555. The purpose of this meeting is to review radiation dose calculation methodology, to develop information on front end of light water reactor fuel cycle doses, and to be briefed on the status of Emergency Planning.

The agenda for subject meeting shall be as follows:

Thursday, April 14, 1977, 8:30 a.m.–9 a.m.

The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions regarding matters which should be considered.

9 a.m. until the conclusion of business on April 14.

The Subcommittee will hear presentations by representatives of the NRC Staff, and their consultants, and will hold discussions with these groups pertinent to radiation dose calculation methodology, and front end of light water reactor fuel cycle doses.

Friday, April 15, 1977, 8:30 a.m.–9 a.m.

The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions regarding matters which should be considered in the follow-on discussions.

9 a.m. until the conclusion of business.

The Subcommittee will hear presentations by representatives of the NRC Staff, certain State representatives, other involved Federal Agencies, and their consultants, and will hold discussions with these groups pertinent to the status of Emergency Planning.

At the conclusion of this session, the Subcommittee may caucus to determine whether the matters identified in the initial session have been adequately covered and whether the subject should be reviewed by the full Committee.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than April 7, 1977 to Mr. R. Muller, ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on April 13, 1977 to the Office of the Executive Director of the Committee (telephone 202/634–1413, Attn: Mr. R. Muller) between 8:15 a.m. and 5 p.m., EST.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after April 22 and July 15, 1977, respectively, at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: March 22, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-9026 Filed 3-25-77;8:45 am]

PRIVACY ACT OF 1974

Systems of Records; Minor Amendments

In accordance with the Privacy Act of 1974, the Nuclear Regulatory Commission has published notices of those systems of records maintained by the NRC which contain personal information about individuals and from which such information can be retrieved by an individual identifier. The notices were published as a document subject to publication in the annual compilation of Privacy Act documents.

The amendments set forth below to NRC System of Records NRC–1, Appointment and Promotion Certificate Records, add clarity to the paragraph on "Categories of records in the system" to state that these records contain information about appointment and promotion certificates and the results of reference checks on employees. The paragraph on "Retention and Disposal" is amended to state that records will be retained until destroyed, normally two years from the date of the document.

The amendment set forth below to NRC System of Records NRC–11, General Personnel Records (Official Personnel Folder and Related Records), adds specificity to the paragraph on "Categories of records in the system" to state that these records contain information about personnel performance appraisals, the results of reference checks on appointees and probationary period appraisals.

The amendment set forth below to NRC System of Records NRC–22, Personnel Performance Appraisals, adds a paragraph regarding duplicate systems.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 552a of Title 5 of the

United States Code, as amended, notice is hereby given of the adoption of the following amendments to NRC systems of records NRC–1, NRC–11, and NRC–22, which are published as a document subject to publication in the annual compilation of Privacy Act documents.

1. The paragraphs of NRC–1 entitled "Categories of records in the system" and "Retention and disposal" are amended to read as follows:

NRC–1

* * * * *

Categories of records in the system:

This system of records contains personnel qualification statements, vacancy announcements, applications for vacancies, selection certificates, the results of reference checks on employees, performance appraisals and related records.

* * * * *

Retention and disposal:

Records will normally be retained for two years from the date of the document and then destroyed.

2. The paragraph of NRC–11 entitled "Categories of records in the system" is amended to read as follows:

NRC–11

* * * * *

Categories of records in the system:

These records contain information about an individual's birth date, social security account number, veteran preference status, tenure, physical handicaps, past and present salaries, grades, position titles, training, test performance, minority group designator, life insurance, health benefits, beneficiaries, personnel performance appraisals, the results of reference checks on appointees, probationary period appraisals, and awards. These records also contain letters of commendation and reprimand, documentation of charges and decisions on charges, notices of reductions-in-force, locator files; information related to personnel actions, including but not limited to appointment, reassignment, demotion, detail, promotion, transfer, and separation; and data documenting the reasons for personnel actions or decisions made about an individual related to the status of the individual. Some duplicate records may contain office-related employee performance evaluations, office-specific applications, personnel qualification statements (SF–171), resumes and applicant evaluations and conflict of interest correspondence, in addition to that contained in the primary system.

3. The paragraph of NRC–22 entitled "system location" is amended to read as follows:

NRC–22

* * * * *

System location:

Primary system—Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

* * * * *

Effective date: These amendments to the Notices of Systems of Records become effective on March 28, 1977.

Dated at Bethesda, Maryland this 9th day of March 1977.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.77-9024 Filed 3-25-77;8:45 am]

[Docket No. 50-317]

BALTIMORE GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. DPR–53, issued to Baltimore Gas and Electric Company (the licensee), which revised the license and its appended Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant Unit No. 1 (the facility) located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

The amendment (1) terminated NRC's June 17, 1976 "Order for Modification of License" which had placed an interim restriction on peak linear heat generation rate of 13.9 kw/ft, (2) authorized power operation using Cycle 2 reload fuel including three test assemblies, and (3) incorporated modified operating limits based on applications dated November 30, 1976 and March 2, 1977 and based on an acceptable emergency core cooling system evaluation model that conforms with Section 50.46 of 10 CFR Part 50.

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. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with item (3) above was published in the FEDERAL REGISTER on December 13, 1976 (41 FR 54258). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action on item (3) above. Prior public notice of items (1) and (2) above was not required since these items do not involve a significant hazards consideration.

In connection with items (1) and (2) above, the Commission has determined that these actions 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 item (3) above, the Commission has prepared an environmental impact appraisal relating to the action and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the applications for amendment dated July 6, 1976 and October 1, 1976, and supplements thereto dated October 20 and 26, November 5 and 30, 1976, January 30 and 31, 1977 and March 2, 3 and 7, 1977, and earlier supportive filings dated July 9, 1975, July 21, 1975, March 4 and May 7, 1976, (2) Amendment No. 21 to License No. DPR–53, and (3) the Commission's Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland 20678, except for the proprietary documents for which nonproprietary versions are available. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14th day of March, 1977.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-8907 Filed 3-25-77;8:45 am]

[Docket No. 50-293]

BOSTON EDISON CO. (PILGRIM NUCLEAR POWER STATION UNIT NO. 1)

Order for Modification of License

I.

The Boston Edison Company (the licensee), is the holder of Facility Operating License No. DPR–35 which authorizes the operation of the nuclear power reactor known as Pilgrim Nuclear Power Station Unit No. 1 (the facility) at steady state reactor power levels not in excess of 1998 megawatts thermal (rated power). The facility consists of a boiling water reactor (BWR) located at the licensee's site in the town of Plymouth, Plymouth County, Massachusetts.

II.

In conformance with evaluations of the performance of the Emergency Core Cooling System (ECCS) of the facility submitted by the licensee on July 9, 1975, and a supplement thereto dated October 3, 1975, the Technical Specification issued for the facility on May 21, 1976, limit the Average Planar Linear Heat Generation Rates to the values shown on Technical Specification Figures 3.11–1

through 3.11–7. The ECCS performance evaluation submitted by the licensee was based upon a previously approved ECCS evaluation model developed by General Electric Company (General Electric), the designer of the facility. This model has been found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50 § 50.46 and Appendix K. The evaluation indicated that with the average planar linear heat generation rate limited as set forth above, and with the other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR § 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long term cooling.

Recently, the NRC staff was informed by General Electric that several errors had been discovered in the computer codes used to calculate peak clad temperature and the clad oxidation percentage in the General Electric evaluation model. These errors have been discovered by General Electric during a continuing internal Quality Assurance (QA) audit of their LOCA evaluation model codes. This audit is still under way and the errors reported reflect those found to date. The additional effort expended by the vendor to enhance the assurance of the quality of its evaluation model, the staff believes, was prudent and desirable. Identification of additional errors of a minor nature may still develop during the ongoing QA checks. Nonetheless, the staff believes it appropriate to order the correction of those uncovered thus far. While some of these errors discussed herein have either no significant effect or a conservative effect on the evaluation results, one or more of the errors included in the Pilgrim ECCS evaluation leads to non-conservative values. Based on a preliminary assessment, including information and supportive calculations by General Electric, the NRC staff has determined that the combined effect of the following code errors would, when corrected, result in an ECCS evaluation requiring no reduction in operating limits for Pilgrim Unit No. 1.

(1) PRESSURE RULE

The LAMB code is used to calculate system pressure during the LOCA. This calculated pressure is then used as an input to the REFLOOD code which calculates the water level vs time relationship in the core. General Electric used an approximation of the pressure response of the LAMB code that was thought, at the time of approval, to be an acceptable representation of the physical phenomena involved. Later application of this approximation to certain cases showed it to be non-conservative. General Electric proposes to correct this nonconservatism by utilizing a conservative approximation to the pressure rule for input into REFLOOD. This correction increases reflood time by 0 to 50 seconds and decreases MAPLHGR by 0 to 5%.

(2) BUNDLE VAPORIZATION

General Electric has used incorrect coefficients in the calculation of the amount of vaporization occurring during core spray. The vapor formation in the bundle is a prime determinant of the amount of spray water that can get through the upper tie plate and reflood the core. The vapor formation was under-calculated by approximately 4% resulting in a 20-second increase in reflooding time and about a 2% decrease in the MAPLHGR.

(3) DISCHARGE BREAK MODELING

General Electric proposes to take credit for an approved model for suction line friction (from the vessel nozzle to the discharge side of the recirculation pump) that improves reflooding time for the discharge break by approximately 15 seconds. This increases the MAPLHGR for discharge break limited plants by about 1.5%. This error does not apply to Pilgrim Unit No. 1.

(4) STRUCTURAL ABSORPTION OF GAMMA HEAT

General Electric has erroneously taken double credit for power generation in non-fuel structural material. Correction of this error results in approximately a 4% decrease in the MAPLHGR for certain plants. This error does not apply to Pilgrim Unit No. 1.

(5) INCREASED COUNTER CURRENT FLOW LIMITING (CCFL) DIFFERENTIAL PRESSURE

Some experimental evidence exists that the differential pressure in a fuel assembly during periods of CCFL may be higher than previously assumed. This could cause a delay in reflood time. Correction of this error reduces the Pilgrim MAPLHGR by 1 to 2%.

(6) OTHERS

Several small changes of inputs to the evaluation codes were identified as being necessary to correct errors. They included: (a) The use of actual plant specific break areas for the LOCA;

(b) A reduced core plate weight;

(c) An increase in the peripheral bypass area used in the counter current flooding calculations;

(d) The correction of a decimal point error in the assumed guide tube thickness; and

(e) Credit is no longer assumed for recirculation loop discharge valve closure during blowdown.

Due to the errors in the ECCS analysis currently approved by NRC for Pilgrim Unit No. 1, the staff requested the licensee to submit an estimate of the impact of these errors on the peak clad temperature that would result from the worst break, if the errors were corrected. The revised ECCS calculations indicated that the MAPLHGR is conservative by approximately 1% considering the cumulative effect of these errors. Although GE model changes under review by the staff generically show that MAPLHGR limits even higher than those presently set forth in the Technical Specifications for Pilgrim Unit No. 1 would still satisfy ECCS limits, no credit for such increase was considered by NRC.

The staff expects that when final revised calculations for the facility are submitted using the revised and corrected model, they will demonstrate that operation with the linear heat generation rates set forth in this Order will conform to the Criteria of 10 CFR § 50.45 (b). Such revised calculations fully conforming to the requirements of 10 CFR § 50.46 are to be provided for the facility as soon as possible.

As discussed herein, the present MAPLHGR limits for this facility are such that they assure that the ECCS will conform to the performance requirements of 10 CFR § 50.46. Accordingly, such limits provide reasonable assurance that the public health and safety will not be endangered.

Upon notification by the NRC staff on February 14, 1977, the licensee committed to submit a re-evaluation of the ECCS performance of Pilgrim on a timely basis. The staff believes that the licensee's action, under the circumstances, is appropriate and that this action should be confirmed by NRC Order.

III

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555 and are being placed in the Commission's local public document room at the Plymouth Public Library, North Street, Plymouth, Massachusetts 02360: (1) Letters from General Electric to NRC dated February 14, 1977, and January 26, 1977;

(2) Leters from Boston Edison Electric Company to the Director of Nuclear Re-Regulation dated Januay 9, 1977, February 18 and 24, 1977;

(3) Letter dated July 9, 1975, from Boston Edison Company to NRC and a supplement thereto dated October 3, 1975.

(4) This Order for Modification of License in the matter of Boston Edison Company (Pilgrim Nuclear Power Station Unit No. 1).

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered, that Facility Operating License No. DPR–35 is hereby amended by adding the following new provision:

(1) As soon as possible, the licensee shall submit a re-evaluation of ECCS cooling performance calculated in accordance with General Electric Company's Evaluation Model approved by the NRC staff and corrected for the errors described herein and any other corrections in the Model of which the licensee is aware at the time the calculations are performed.

Dated in Bethesda, Maryland this 11th day of March, 1977.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-9028 Filed 3-25-77;8:45 am]

COMMONWEALTH EDISON CO. (DRESDEN NUCLEAR POWER STATION UNIT NOS. 2 AND 3)

Order for Modification of License

I

The Commonwealth Edison Company (the licensee), is the holder of Facility Operating License Nos. DPR–19 and DPR–25 which authorize the operation of the nuclear power reactors known as Dresden Nuclear Power Station Unit Nos. 2 and 3 (the facilities) at steady state reactor power levels not in excess of 2527 megawatts thermal (rated power). The facilities consist of a boiling water reactor (BWR) located at the licensee's site near Morris, Illinois.

II

In conformance with evaluations of the performance of the Emergency Core Cooling System (ECCS) of the facilities submitted by the licensee on May 5, 1975, and July 1, 1975, with subsequent supplements thereto, and a supplement dated March 15, 1976, and August 23, 1976, for Unit Nos. 2 and 3, respectively, the Technical Specifications issued for the facility on October 23, 1976, limit the Average Planar Linear Heat Generation Rates to the values shown on Technical Specification Figures 3.5–1–A and 3.5–1–B for Dresden Unit No. 2 and Figures 3.5.1–1 and 3.5.1–2 for Dresden Unit No. 3. The ECCS performance evaluation submitted by the licensee was based upon an ECCS evaluation model developed by General Electric Company (General Electric), the designer of the facility. The General Electric ECCS Evaluation model had been previously found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part § 50.46 and Appendix K. The evaluation indicated that with the average planar linear heat generation rate limited as set forth above, and with the other limits set forth in the facilities' Technical Specifications, the ECCS cooling performance for the facilities would conform with the criteria contained in 10 CFR § 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long term cooling.

Recently, the NRC staff was informed by General Electric that several errors had been discovered in the computer codes used to calculate peak clad temperature and the clad oxidation percentage in the General Electric ECCS evaluation model. These errors have been discovered by General Electric during a continuing internal Quality Assurance (QA) audit of their LOCA evaluation model codes. The additional effort expended by the vendor to enhance the assurance of the quality of its evaluation model, the staff believes, was prudent and desirable. This audit is still under way and the errors reported reflect those found to date. Identification of additional errors of a minor nature may still develop during the ongoing QA checks. Nonetheless, the staff believes it appropriate to order the correction of those uncovered thus far. While some of these errors discussed herein have either no significant effect or a conservative effect on the evaluation results, one or more of the errors included in the Dresden ECCS evaluation leads to nonconservative values. Based on preliminary assessment, including information and supportive calculations by General Electric, the NRC staff has determined that the combined effect of the following code errors, when corrected, could produce ECCS evaluation results which would require a reduction in operating limits for Dresden Unit Nos. 2 and 3.

(1) PRESSURE RULE

The LAMB code is used to calculate system pressure during the LOCA. This calculated pressure is then used as an input to the REFLOOD code which calculates the water level vs time relationship in the core. General Electric used an approximation of the pressure response of the LAMB code that was thought, at the time of approval, to be an acceptable representation of the physical phenomena involved. Later application of this approximation to certain cases showed it to be non-conservative. General Electric proposes to correct this nonconservatism by utilizing a conservative approximation to the pressure rule for input into REFLOOD. This correction increases reflood time by 0 to 50 seconds and decreases MAPLHGR by 0 to 5%.

(2) BUNDLE VAPORIZATION

General Electric has used incorrect coefficients in the calculation of the amount of vaporization occurring during core spray. The vapor formation in the bundle is a prime determinant of the amount of spray water that can get through the upper tie plate and reflood the core. The vapor formation was under-calculated by approximately 4% resulting in a 20-second increase in reflooding time and about a 2% decrease in the MAPLHGR.

(3) DISCHARGE BREAK MODELING

General Electric proposes to take credit for an approved model for suction line friction (from the vessel nozzle to the discharge side of the recirculation pump) that improves reflooding time for the discharge break by approximately 15 seconds. This increases the MAPLHGR for discharge break limited plants by about 1.5%.

(4) STRUCTURAL ABSORPTION OF GAMMA HEAT

General Electric has erroneously taken double credit for power generation in non-fuel structural material. Correction of this error results in approximately a 4% decrease in the MAPLHGR for Dresden Units Nos. 2 and 3.

(5) INCREASED COUNTER CURRENT FLOW LIMITING (CCFL) DIFFERENTIAL PRESSURE

Some experimental evidence exists that the differential pressure in a fuel assembly during periods of CCFL may be higher than previously assumed. This could cause a delay in reflood time. Correction of this error reduces the Dresden MAPLHGR by 2%.

(6) OTHERS

Several small changes of inputs to the evaluation codes were identified as being necessary to correct errors. They included:

(a) The use of actual plant specific break areas for the LOCA;

(b) A reduced core plate weight;

(c) An increase in the peripheral bypass area used in the counter current flooding calculations;

(d) The correction of a decimal point error in the assumed guide tube thickness; and

(e) Credit is no longer assumed for recirculation loop discharge valve closure during blowdown.

Due to the above errors in the ECCS analysis currently approved by NRC for Dresden Station Unit Nos. 2 and 3, the staff requested the licensee to submit an estimate of the impact of these errors on the peak clad temperature that would result from the worst break, if the errors were corrected. The revised ECCS calculations indicated that the MAPLHGR should be reduced by approximately 8% to accommodate the cumulative effect of these errors. On the other hand, the NRC staff is currently reviewing General Electric's most recent ECCS model revisions some of which have effects offsetting such a reduction. These revisions included:

(1) CHASTE 04 COMPUTER CODE CHANGE

The Chaste code has been modified to incorporate an improved conduction solution for the calculation of fuel rod temperatures and more detailed evaluation of view factors for calculation of rod to rod radiation of heat.

(2) REFLOOD 05 COMPUTER CODE REVISION

The Reflood code was modified to correct a logic error in the evaluation of the flow split between the core and the jet pumps. This logic error only occurred for certain plant calculations and determined the fraction of steam used to evaluate the counter current flow limiting phenomenon which limits the penetration of spray cooling water into the lower plenum and therefore increase the reflood time for the core.

(3) PARTIALLY DRILLED CORE CREDIT

The partial drilling correction gives credit for additional flow paths provided by drilling holes in the bottom nozzle of the fuel assemblies. This additional flow area enhances the refill of the lower plenum by spray cooling water following the postulated Loss-of-Coolant Accident and results in a faster core reflood which reduces peak clad temperatures.

Although the entire group of model changes is still under review, the staff has completed its review of the Chaste and Reflood changes and has concluded that they may be used in GE's ECCS performance evaluation model. While revised computer runs incorporating these changes in the model as a whole have not yet been run for a spectrum

of break for all plants, the parametric studies performed by GE to determine the effect of these changes demonstrate that they will in turn result in changes of at least a 1% MAPLHGR increase for 7 x 7 fuel assemblies up to 12,500 MWD/T, a 4% increase for 7 x 7 fuel assembly at fuel burnups greater than 12,500 MWD/T, and a 1% MAPLHGR increase for 8 x 8 fuel assemblies at all burnups. These values may be used to offset the reductions discussed above. These parametric studies and calculational runs for typical boiling reactor models demonstrate that the reduction of the Dresden facilities MAPLHGR, as set forth in Appendix A will conservatively assure that calculated peak clad temperatures in the event of postulated loss-of-coolant accidents would not exceed 2200° F and that the other criteria of 10 CFR § 50.46(b) will be satisfied. Operation of the facility would nevertheless be technically in non-conformance with the requirements of § 50.46 in that specific computer runs for the particular facility employing the revised model as a complete entity will not be complete for some time. However, the limitations on MAPLHGR set forth herein will assure that the ECCS system will conform to the performance criteria of § 50.46. Accordingly, while the actual computer runs for the specific facility are carried out to achieve full compliance with 10 CFR § 50.46, operation of the facilities will not endanger life or property or the common defense and security.

Upon notification by the NRC staff on January 14, 1977, the licensee promptly modified the plant setpoints to reduce its Maximum Average Planar Linear Heat Generator Rate by 6% to accommodate the effect of the errors and changes in the General Electric evaluations. The licensee again reduced the Dresden MAPLHGRs by an additional 2% to accommodate the effect of the CCFL error on February 18, 1977. The staff believes that the licensee's action under the circumstances is appropriate and that this action should be confirmed by NRC order.

III.

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H. Street, Washington, D.C. 20555 and are being placed in the Commission's local public document room at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451:

(1) Letters from General Electric to NRC dated February 14, 1977, and January 26, 1977;

(2) Letters from Commonwealth Edison Company to the Director of Nuclear Reactor Regulation dated January 19, 1977, and February 18, 1977;

(3) Letters dated May 5, 1975, and July 1, 1975, from Commonwealth Edison Company to NRC and supplements thereto dated March 15, 1976, and August 23, 1976;

(4) This Order for Modification of License in the matter of Commonwealth Edison Company (Dresden Nuclear Power Station Unit Nos. 2 and 3).

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50, it is ordered: That Facility Operating License Nos. DPR–19 and DPR–25 are hereby amended by adding the following new provisions:

(1) As soon as possible, the licensee shall submit a re-evaluation of ECCS cooling performance calculated in accordance with General Electric Company's Evaluation Model approved by the NRC staff and corrected for the errors described herein and any other corrections in the Model of which the licensee is aware at the time the calculations are performed;

(2) Until further authorization by the Commission, the reactor shall be operated with the Maximum Average Planar Linear Heat Generation Rates specified in Appendix A to this Order.

Dated in Bethesda, Maryland this 11th day of March, 1977.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

APPENDIX A.—DRESDEN STATION UNIT NO. 2 CORRECTED MAPLHGR VALUES

Fuel type: Initial (7×7)

Exposure MWD/T:	MAPLHGR
200	12.4
1,000	12.8
5,000	13.3
10,000	13.4
15,000	12.9
25,000	12.6
30,000	12.1

Fuel type: 7D 230

Exposure MWD/T:	MAPLHGR
200	12.8
1,000	13.0
5,000	13.3
10,000	13.2
15,000	12.4
20,000	12.1
25,000	12.0
30,000	12.1

Fuel type: 8D 250

Exposure MWD/T:	MAPLHGR
200	10.4
1,400	10.5
5,000	10.8
11,200	11.1
15,000	11.0
25,000	10.7
30,000	10.7

Fuel type: 8D 262

Exposure MWD/T:	MAPLHGR
200	11.1
2,000	10.6
5,000	10.8
11,200	11.1
15,000	11.1
25,000	10.7
30,000	10.5

APPENDIX A.—DRESDEN STATION UNIT NO. 3 CORRECTED MAPLHGR VALUES

Fuel type: Initial (7×7)

Exposure MWD/T:	MAPLHGR
0	12.5
5,000	13.5
12,500	13.1
22,500	12.6
30,000	12.5

Fuel type: 7D 230

Exposure MWD/T:	MAPLHGR
200	12.8
1,000	13.0
5,000	13.3
10,000	13.2
15,000	12.4
20,000	12.1
25,000	12.0
30,000	12.1

Fuel type: 8D 250

Exposure MWD/T:	MAPLHGR
200	10.4
1,400	10.5
5,000	10.8
11,200	11.1
15,000	11.0
25,000	10.7
30,000	10.7

Fuel type: 8D 262

Exposure MWD/T:	MAPLHGR
200	11.1
2,000	10.6
5,000	10.8
11,200	11.1
15,000	11.1
25,000	10.7
30,000	10.5

[FR Doc.77-9030 Filed 3-25-77;8:45 am]

[Docket No. 50-254]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO. (QUAD CITIES NUCLEAR POWER STATION UNIT NO. 1)

Order for Modification of License and Exemption

I

The Commonwealth Edison Company (the licensee), is the holder of Facility Operating License No. DPR–29 which authorizes the operation of the nuclear power reactor known as Quad Cities Nuclear Power Station Unit No. 1 (the facility) at steady state reactor power levels not in excess of 2511 megawatts thermal (rated power). The facility consists of a boiling water reactor (BWR) located at the license's site near Rock Island County, Illinois.

II

In conformance with evaluations of the performance of the Emergency Core Cooling system (ECCS) of the facility submitted by the licensee on July 1, 1975, and February 4, 1976, with subsequent supplements thereto, the Technical Specifications issued for the facility on March 12, 1976, limit the Average Planar Linear Heat Generation Rates to the values shown on Technical Specification Figure 3.5–1. The ECCS performance evaluation submitted by the licensee was

based upon an ECCS evaluation model developed by General Electric Company (General Electric), the designer of the facility. The General Electric ECCS Evaluation model had been previously found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50 § 50.46 and Appendix K. The evaluation indicated that with the average planar linear heat generation rate limited as set forth above, and with the other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR § 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long term cooling.

Recently, the NRC staff was informed by General Electric that several errors had been discovered in the computer codes used to calculate peak clad temperature and the clad oxidation percentage in the General Electric ECCS evaluation model. These errors have been discovered by General Electric during a continuing internal Quality Assurance (QA) audit of their LOCA evaluation model codes. The additional effort expended by the vendor to enhance the assurance of the quality of its evaluation model, the staff believes, was prudent and desirable. This audit is still underway and the errors reported reflect those found to date. Identification of additional errors of a minor nature may still be uncovered during the ongoing QA checks.

While some of these errors discussed herein have either no significant effect or a conservative effect on the evaluation results, one or more of the errors included in the Quad Cities ECCS evaluation leads to nonconservative values. Based on a preliminary assessment, including information and supportive calculations by General Electric, the NRC staff has determined that the combined effect of the following code errors, when corrected, could produce ECCS evaluation results which would require a reduction in operating limits for Quad Cities Unit No. 1.

(1) PRESSURE RULE

The LAMB code is used to calculate system pressure during the LOCA. This calculated pressure is then used as an input to the REFLOOD code which calculates the water level vs time relationship in the core. General Electric used an approximation of the pressure response of the LAMB code that was thought, at the time of approval, to be an acceptable representation of the physical phenomena involved. Later application of this approximation to certain cases showed it to be non-conservative. General Electric proposes to correct this nonconservatism by utilizing a conservative approximation to the pressure rule for input into REFLOOD. This correction increases reflood time by 0 to 50 seconds and decreases MAPLHGR by 0 to 5%.

(2) BUNDLE VAPORIZATION

General Electric has used incorrect coefficients in the calculation of the amount of vaporization occurring during core spray. The vapor formation in the bundle is a prime determinant of the amount of spray water that can get through the upper tie plate and reflood the core. The vapor formation was under-calculated by approximately 4% resulting in a 20-second increase in reflooding time and about a 2% decrease in the MAPLHGR.

(3) DISCHARGE BREAK MODELING

General Electric proposes to take credit for an approved model for suction line friction (from the vessel nozzle to the discharge side of the recirculation pump) that improves reflooding time for the discharge break by approximately 15 seconds. This increases the MAPLHGR for discharge break limited plants by about 1.5%.

(4) STRUCTURAL ABSORPTION OF GAMMA HEAT

General Electric has erroneously taken double credit for power generation in non-fuel structural material. Correction of this error results in approximately a 4% decrease in the MAPLHGR for Quad Cities Unit No. 1.

(5) INCREASED COUNTER CURRENT FLOW LIMITING (CCFL) DIFFERENTIAL PRESSURE

Some experimental evidence exists that the differential pressure in a fuel assembly during periods of CCFL may be higher than previously assumed. This could cause a delay in reflood time. Correction of this error reduces the Quad Cities MAPLHGR by 2%.

(6) OTHERS

Several small changes of inputs to the evaluation codes were identified as being necessary to correct errors. They included:

(a) The use of actual plant specific break areas for the LOCA; (b) A reduced core plate weight; (c) An increase in the peripheral bypass area used in the counter current flooding calculations; (d) The correction of a decimal point error in the assumed guide tube thickness; and (e) Credit is no longer assumed for recirculation loop discharge valve closure during blowdown.

Due to the above errors in the ECCS analysis currently approved by NRC for Quad Cities Station Unit No. 1, the staff requested the license to submit an estimate of the impact of these errors on the peak clad temperature that would result from the worst break, if the errors were corrected. The revised ECCS calculations indicated that the MAPLHGR should be reduced by approximately 8% to accommodate the cumulative effect of these errors. On the other hand, the NRC staff is currently reviewing General Electric's most recent ECCS model revisions some of which have effects offsetting such a reduction. These revisions included:

(1) CHASTE 04 COMPUTER CODE CHANGE

The CHASTE code has been modified to incorporate an improved conduction solution for the calculation of fuel rod temperatures and more detailed evaluation of view factors for calculation of rod to rod radiation of heat.

(2) REFLOOD 05 COMPUTER CODE REVISION

The REFLOOD code was modified to correct a logic error in the evaluation of the flow split between the core and the jet pumps. This logic error only occurred for certain plant calculations and determined the fraction of steam used to evaluate the counter current flow limiting phenomenon which limits the penetration of spray cooling water into the lower plenum and therefore increase the reflood time for the core.

(3) PARTIALLY DRILLED CORE CREDIT

The partial drilling correction gives credit for additional flow paths provided by drilling holes in the bottom nozzle of the fuel assemblies. This additional flow area enhances the refill of the lower plenum by spray cooling water following the postulated Loss-of-Coolant Accident and results in a faster core reflood which reduces peak clad temperatures.

Although the entire group of model changes is still under review, the staff has completed its review of the CHASTE and REFLOOD changes and has concluded that they may be used in GE's ECCS performance evaluation model. While revised computer runs incorporating these changes in the model as a whole have not yet been run for a spectrum of break for all plants, the parametric studies performed by GE to determine the effect of these changes demonstrate that they will in turn result in changes of at least a 1% MAPLHGR increase for 7 x 7 fuel assemblies up to 12,500 MWD/T, and 4% increase for 7 x 7 fuel assemblies at fuel burnups greater than 12,500 MWD/T, and a 1% MAPLHGR increase for 8 x 8 fuel assemblies at all burnups.

These parametric studies and calculational runs for typical boiling water reactor models demonstrate that the reduction of the Quad Cities facility MAPLHGR, as set forth in Appendix A, will conservatively assure that calculated peak clad temperatures in the event of postulated loss-of-coolant accidents would not exceed 2200° F and that the other criteria of 10 CFR § 50.46(b) will be satisfied. Operation of the facility would nevertheless be technically in non-conformance with the requirements of § 50.46 in that specific computer runs for the particular facility employing the revised model as revised as a complete entity will not be complete for some time. However, the limitations on MAPLHGR set forth herein will assure that the ECCS system will conform to the performance criteria of § 50.46. Accordingly, while the actual computer runs for the specific facility are carried out to achieve full compliance with 10 CFR

§ 50.46, operation of the facility will not endanger life or property or the common defense and security.

Such revised calculations fully conforming to the requirements of 10 CFR § 50.46 are to be provided for the facility as soon as possible. Upon notification of the NRC staff on February 14, 1977, the licensee promptly modified plant setpoints to reduce its MAPLHGR by up to 8% to accommodate the effect of these changes. The staff believes that the licensee's action under the circumstances is appropriate and that this action should be confirmed by NRC Order.

The facility is scheduled to be reloaded in March and April, 1977, which may precede the completion of the required recalculations. In the absence of safety significance in the period until the computer computations are completed, there appears no public interest in restricting the operation of the captioned facility. Accordingly, the Commission has determined that an exemption in accordance with 10 CFR § 50.12 authorizing operation with such reload is appropriate, provided that MAPLHGR limits computed with the uncorrected model are reduced as set forth below. Such Exemption shall be limited to the period of time necessary to complete computer calculations.

The reload core will require a new ECCS performance calculation and new ECCS based operating limitations, terminating the effect of the licensee's submittal in accordance with 10 CFR § 50.46 (a)(iv). Therefore, the procedural requirements of 10 CFR § 50.46(a)(vi) are not applicable to such exemption authorization.

III

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555 and are being placed in the Commission's local public document room at the Moline Public Library, 504 17th Street, Moline, Illinois 61265:

(1) Letters from General Electric to NRC dated February 14, 1977, and January 26, 1977;

(2) Letters from Commonwealth Edison Company to the Director of Nuclear Reactor Regulation dated January 19, 1977, and February 18, 1977;

(3) Letters dated July 1, 1975, and February 4, 1976, from Commonwealth Edison Company to NRC;

(4) This Order and Exemption in the matter of Commonwealth Edison Company and Iowa-Illinois Gas and Electric Company (Quad Cities Nuclear Power Station Unit No. 1).

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that Facility Operating License No. DPR-29 is hereby amended by adding the following new provisions:

(1)(a) As soon as possible, the licensee shall submit a re-evaluation of ECCS cooling performance calculated in accordance with General Electric Company's Evaluation Model approved by the NRC staff and corrected for the errors described herein and any other corrections in the Model of which the licensee is aware at the time the calculations are performed.

(b) Until further authorization by the Commission, the reactor shall be operated with the Maximum Average Planar Linear Heat Generation Rates specified in Appendix A to this Order;

(2) If the core is to be reloaded prior to completion of the calculations required by paragraph (1), the licensee shall submit such calculations, as soon as possible, for the core as configured after reload rather than for the present core, and the MAPLHGR for the reloaded core determined with the uncorrected model shall be reduced by 7% for 7 x 7 fuel at burnups less than 12,500 megawatt days per ton, 4% for 7 x 7 fuel at burnups greater than 12,500 megawatt days per ton, and 7% for 8 x 8 fuel at all burnups until further authorization by the Commission.

Dated in Bethesda, Maryland, this 11th day of March 1977.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

APPENDIX A.—QUAD CITIES STATION UNIT NO. 1

Corrected MAPLHGR Values

Fuel type: Initial (7×7)

Exposure MWD/T:	MAPLHGR
200	12.4
1,000	12.8
5,000	13.3
10,000	13.4
15,000	12.9
25,000	12.6
30,000	12.1

Exposure MWD/T:	MAPLHGR
200	12.8
1,000	13.0
5,000	13.3
10,000	13.2
15,000	12.4
20,000	12.1
25,000	12.0
30,000	12.1

Exposure MWD/T:	MAPLHGR
200	10.4
1,400	10.5
5,000	10.8
11,200	11.1
15,000	11.0
25,000	10.7
30,000	10.7

Fuel type: 8D 262

Exposure MWD/T:	MAPLHGR
200	11.1
2,000	10.6
5,000	10.8
11,200	11.1
15,000	11.1
25,000	10.7
30,000	10.5

Fuel type: EEI-Pu (7×7)

Exposure MWD/T:	MAPLHGR
200	12.5
1,000	12.8
5,000	13.2
10,000	11.9
15,000	11.6
20,000	11.4
25,000	11.3
30,000	11.4

[FR Doc.77-9029 Filed 3-25-77;8:45 am]

[Docket No. 50-265]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO. (QUAD CITIES NUCLEAR POWER STATION UNIT NO. 2)

Order for Modification of License

I

The Commonwealth Edison Company (the licensee), is the holder of Facility Operating License No. DPR-30 which authorizes the operation of the nuclear power reactor known as Quad Cities Nuclear Power Station Unit No. 2 (the facility) at steady state reactor power levels not in excess of 2511 megawatts thermal (rated power). The facility consists of a boiling water reactor (BWR) located at the licensee's site near Rock Island County, Illinois.

II

In conformance with evaluations of the performance of the Emergency Core Cooling System (ECCS) of the facility submitted by the licensee on January 21, 1975, and August 6, 1976, with subsequent supplements thereto, the Technical Specifications issued for the facility on October 23, 1976, limit the Average Planar Linear Heat Generation Rates to the values shown on Technical Specification Figures 3.5-1. The ECCS performance evaluation submitted by the licensee was based upon an ECCS evaluation model developed by General Electric Company (General Electric), the designer of the facility. The General Electric ECCS Evaluation model had been previously found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50 § 50.46 and Appendix K. The evaluation indicated that with the average planar linear heat generation rate limited as set forth above, and with the other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR § 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long term cooling.

Recently, the NRC staff was informed by General Electric that several errors had been discovered in the computer codes used to calculate peak clad temperature and the clad oxidation percentage in the General Electric ECCS evaluation model. These errors have been discovered by General Electric during a con-

tinuing internal Quality Assurance (QA) audit of their LOCA evaluation model codes. The additional effort expended by the vendor to enhance the assurance of the quality of its evaluation model, the staff believes, was prudent and desirable. This audit is still under way and the errors reported reflect those found to date. Identification of additional errors of a minor nature may still develop during the ongoing QA checks. Nonetheless, the staff believes it appropriate to order the correction of those uncovered thus far. While some of these errors discussed herein have either no significant effect or a conservative effect on the evaluation results, one or more of the errors included in the Quad Cities ECCS evaluation leads to nonconservative values. Based on a preliminary assessment, including information and supportive calculations by General Electric, the NRC staff has determined that the combined effect of the following code errors, when corrected, could produce ECCS evaluation results which would require a reduction in operating limits for Quad Cities Unit No. 2.

(1) PRESSURE RULE

The LAMB code is used to calculate system pressure during the LOCA. This calculated pressure is then used as an input to the REFLOOD code which calculates the water level vs time relationship in the core. General Electric used an approximation of the pressure response of the LAMB code that was thought, at the time of approval, to be an acceptable representation of the physical phenomena involved. Later application of this approximation to certain cases showed it to be nonconservative. General Electric proposes to correct this nonconservatism by utilizing a conservative approximation to the pressure rule for input into REFLOOD. This correction increases reflood time by 0 to 50 seconds and decreases MAPLHGR by 0 to 5%.

(2) BUNDLE VAPORIZATION

General Electric has used incorrect coefficients in the calculation of the amount of vaporization occurring during core spray. The vapor formation in the bundle is a prime determinant of the amount of spray water that can get through the upper tie plate and reflood the core. The vapor formation was under-calculated by approximately 4% resulting in a 20-second increase in reflooding time and about a 2% decrease in the MAPLHGR.

(3) DISCHARGE BREAK MODELING

General Electric proposes to take credit for an approved model for suction line friction (from the vessel nozzle to the discharge side of the recirculation pump) that improves reflooding time for the discharge break by approximately 15 seconds. This increases the MAPLHGR for discharge break limited plants by about 1.5%.

(4) STRUCTURAL ABSORPTION OF GAMMA HEAT

General Electric has erroneously taken double credit for power generation in non-fuel structural material. Correction of this error results in approximately a 4% decrease in the MAPLHGR for Quad Cities Unit No. 2.

(5) INCREASED COUNTER CURRENT FLOW LIMITING (CCFL) DIFFERENTIAL PRESSURE

Some experimental evidence exists that the differential pressure in a fuel assembly during periods of CCFL may be higher than previously assumed. This could cause a delay in reflood time. Correction of this error reduces the Quad Cities MAPLHGR by 2%.

(6) OTHERS

Several small changes of inputs to the evaluation codes were identified as being necessary to correct errors. They included:

(a) The use of actual plant specific break areas for the LOCA;

(b) A reduced core plate weight;

(c) An increase in the peripheral bypass area used in the counter current flooding calculations;

(d) The correction of a decimal point error in the assumed guide tube thickness; and

(e) Credit is no longer assumed for recirculation loop discharge valve closure during blowdown.

Due to the above errors in the ECCS analysis currently approved by NRC for Quad Cities Station Unit No. 2, the staff requested the licensee to submit an estimate of the impact of these errors on the peak clad temperature that would result from the worst break, if the errors were corrected. The revised ECCS calculations indicated that the MAPLHGR should be reduced by approximately 8% to accommodate the cumulative effect of these errors. On the other hand, the NRC staff is currently reviewing General Electric's most recent ECCS model revisions some of which have effects offsetting such a reduction. These revisions included:

(1) CHASTE 04 COMPUTER CODE CHANGE

The CHASTE code has been modified to incorporate an improved conduction solution for the calculation of fuel rod temperatures and more detailed evaluation of view factors for calculation of rod to rod radiation of heat.

(2) REFLOOD 05 COMPUTER CODE REVISION

The REFLOOD code was modified to correct a logic error in the evaluation of the flow split between the core and the jet pumps. This logic error only occurred for certain plant calculations and determined the fraction of steam used to evaluate the counter current flow limiting phenomenon which limits the penetration of spray cooling water into the lower plenum and therefore increase the reflood time for the core.

(3) PARTIALLY DRILLED CORE CREDIT

The partial drilling correction gives credit for additional flow paths provided by drilling holes in the bottom nozzle of the fuel assemblies. This additional flow area enhances the refill of the lower plenum by spray cooling water following the postulated Loss-of-Coolant Accident and results in a faster core reflood which reduces peak clad temperatures.

Although the entire group of model changes is still under review, the staff has completed its review of the CHASTE and REFLOOD changes and has concluded that they may be used in GE's ECCS performance evaluation model. While revised computer runs incorporating these changes in the model as a whole have not yet been run for a spectrum of break for all plants, the parametric studies performed by GE to determine the effect of these changes demonstrate that they will in turn result in changes of at least a 1% MAPLHGR increase for 7 x 7 fuel assemblies up to 12,500 MWD/T, a 4% increase for 7 x 7 fuel assembly at fuel burnups greater than 12,500 MWD/T, and a 1% MAPLHGR increase for 8 x 8 fuel assemblies at all burnups. These values may be used to offset the reductions discussed above.

These parametric studies and calculational runs for typical boiling reactor models demonstrate that the reduction of the Quad Cities facility MAPLHGR, as set forth in Appendix A will conservatively assure that calculated peak clad temperatures in the event of postulated loss-of-coolant accidents would not exceed 2200° F and that the other criteria of 10 CFR § 50.46(b) will be satisfied. Operation of the facility would nevertheless be technically in non-conformance with the requirements of § 50.46 in that specific computer runs for the particular facility employing the revised model as a complete entity will not be complete for some time. However, the limitations on MAPLHGR set forth herein will assure that the ECCS system will conform to the performance criteria of § 50.46. Accordingly, while the actual computer runs for the specific facility are carried out to achieve full compliance with 10 CFR § 50.46, operation of the facility will not endanger life or property or the common defense and security.

Upon notification by the NRC staff on January 14, 1977, the licensee promptly modified the plant setpoints to reduce its Maximum Average Planar Linear Heat Generator Rate by 6% to accommodate the effect of the errors and changes in the General Electric evaluations. The licensee again reduced the Quad Cities MAPLHGRs by an additional 2% to accommodate the effect of the CCFL error on February 18, 1977. The staff believes that the licensee's action under the circumstances is appropriate and that this action should be confirmed by NRC order.

III

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555 and are being placed in the Commission's local public document room at the Moline Public Library, 504 17th Street, Moline, Illinois 61265:

(1) Letters from General Electric to NRC dated February 14, 1977, and January 26, 1977;

(2) Letters from Commonwealth Edison Company to the Director of Nuclear Reactor Regulation dated January 19, 1977, and February 18, 1977;

(3) Letters dated January 21, 1975, and August 6, 1976, from Commonwealth Edison Company to NRC;

(4) This Order for Modification of License in the matter of Commonwealth Edison Company and Iowa-Illinois Gas and Electric Company (Quad Cities Nuclear Power Station Unit No. 2).

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that Facility Operating License No. DPR-30 is hereby amended by adding the following new provisions:

(1) As soon as possible, the licensee shall submit a re-evaluation of ECCS cooling performance calculated in accordance with General Electric Company's Evaluation Model approved by the NRC staff and corrected for the errors described herein and any other corrections in the Model of which the licensee is aware at the time the calculations are performed;

(2) Until further authorization by the Commission, the reactor shall be operated with the Maximum Average Planar Linear Heat Generation Rates specified in Appendix A to this Order.

Dated in Bethesda, Maryland this 11th day of March, 1977.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

APPENDIX A.—QUAD CITIES STATION UNIT NO. 2 CORRECTED MAPLHGR VALUES

Fuel type: Initial (7×7)

Exposure MWD/T:	MAPLHGR
200	12.4
1,000	12.8
5,000	13.3
10,000	13.4
15,000	12.9
25,000	12.6
30,000	12.1

Fuel type: 7D 230

Exposure MWD/T:	MAPLHGR
200	12.8
1,000	13.0
5,000	13.3
10,000	13.2
15,000	12.4
20,000	12.1
25,000	12.0
30,000	12.1

Fuel type: 8D 250

Exposure MWD/T:	MAPLHGR
200	10.4
1,400	10.5
5,000	10.8
11,200	11.1
15,000	11.0
25,000	10.7
30,000	10.7

Fuel type: 8D 262

Exposure MWD/T:	MAPLHGR
200	11.1
2,000	10.6
5,000	10.8
11,200	11.1
15,000	11.1
25,000	10.7
30,000	10.5

[FR Doc.77-9031 Filed 3-25-77;8:45 am]

[Docket No. 50-155]

CONSUMERS POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating License No. DPR-6, issued to the Consumers Power Company (the licensee), which revised Technical Specifications for operation of the Big Rock Point Plant (the facility) located in Charlevoix County, Michigan. The amendment is effective as of its date of issuance.

The amendment revised the Administrative Controls Section of the Technical Specifications to incorporate recent General Office and plant organizational changes, corrected minor editorial and typographical errors, and added a definition of surveillance requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental 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 March 8, 1976, as modified by letter dated March 3, 1977, (2) Amendment No. 12 to License No. DPR-6, 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, N.W., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of March, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-8908 Filed 3-25-77;8:45 am]

[Docket No. 50-334]

DUQUESNE LIGHT COMPANY, OHIO EDISON CO. AND PENNSYLVANIA POWER CO.

Establishment of Atomic Safety and Licensing Board to Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

DUQUESNE LIGHT COMPANY, ET AL. (Beaver Valley Power Station, Unit No. 1), Facility Operating License No. DPR-66.

This action is in reference to a notice published by the Commission on January 27, 1977, in the FEDERAL REGISTER (42 FR 5155) entitled "Proposed Issuance of Amendment to Facility Operating License".

The members of the Board and addresses are as follows:

Daniel M. Head, Esq., Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Mr. Lester Kornblith, Member, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. James C. Lamb, III, Member, 303 Plum Lane, Chapel Hill, N.C. 27514.

Dated at Bethesda, Maryland, this 21st day of March 1977.

ATOMIC SAFETY AND LICENSING BOARD PANEL,
JAMES R. YORE,
Chairman.

[FR Doc.77-8909 Filed 3-25-77;8:45 am]

[Docket No. STN 50-550]

GENERAL ELECTRIC STANDARD SAFETY ANALYSIS REPORT (GESSAR-238 NUCLEAR STEAM SUPPLY SYSTEM STANDARD DESIGN)

Issuance of a Safety Evaluation Report and Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission

(the NRC staff) has issued a Safety Evaluation Report (SER) dated March, 1977, and a Preliminary Design Approval No. PDA–10, dated March 10, 1977, for the nuclear steam supply system portion of a nuclear power plant as described in the General Electric Company GESSAR–238 NSSS Safety Analysis Report. The GESSAR–238 NSSS Safety Analysis Report was reviewed by the NRC staff pursuant to Appendix O to 10 CFR Part 50.

The GESSAR–238 NSSS Safety Analysis Report contains preliminary safety-related design information for the nuclear steam supply system portion of a boiling water type nuclear power plant which includes the reactor system, reactor coolant system, emergency core cooling system, instrumentation and control systems, and specified auxiliary systems. The GESSAR–238 NSSS reference system is designed to operate at a core thermal power level of 3579 megawatts.

The SER documents the results of the NRC staff's review and evaluation of the GESSAR–238 NSSS Safety Analysis Report including Amendments 1 through 7 thereto. The SER addresses the comments of the Advisory Committee on Reactor Safeguards (ACRS) as reflected in its report to the Commission dated December 17, 1976. A copy of the ACRS report is included as Appendix C to the SER.

PDA–10 provides NRC staff approval of the preliminary nuclear steam supply system design described in the GESSAR–238 NSSS Safety Analysis Report, including Amendments 1 through 7 and described in Sections 1 through 19 of the SER. By the issuance of PDA–10, the NRC staff has determined that the design is acceptable for referencing in utility applications for construction permits. The GESSAR–238 NSSS design as described in that document, subject to the conditions of PDA–10, shall be utilized by and relied upon by the NRC staff and the ACRS in their review of facility license applications for construction permits incorporating by reference the GESSAR–238 NSSS preliminary standard design unless there exists significant new information which substantially affects the determinations in PDA–10 or other good cause.

Issuance of PDA–10 and the NRC staff's Safety Evaluation Report does not constitute a commitment to issue a permit or license or in any way affect the authority of the Commission, Atomic Safety and Licensing Appeal Board, Atomic Safety and Licensing Boards, and other presiding officers in any proceeding under Subpart G of 10 CFR Part 2. This action only approves the design of a nuclear steam supply system for use for reference purposes in applications for permits to construct a nuclear power plant. It does not authorize the construction or operation of any nuclear power plant or any other facility. The environmental impacts associated with any facility proposed to be constructed utilizing the approved reference design will be considered in accordance with the Commission's regulations in 10 CFR Part 51.

PDA–10 is effective as of its date of issuance and shall expire on March 10, 1980, unless earlier superseded by issuance of an appropriate Final Design Approval (FDA) for the GESSAR–238 NSSS standard design or extended by the NRC staff. The expiration of PDA–10 on March 10, 1980 should not affect the use of PDA–10 for reference in any construction permit application docked prior to that date.

A copy of (1) the Preliminary Design Approval No. PDA–10 dated March 10, 1977; (2) the report of the Advisory Committee on Reactor Safeguards dated December 17, 1976, (3) the NRC staff's Safety Evaluation Report, NUREG–0152, dated March 1977; (4) the General Electric Company GESSAR–238 NSSS Standard Safety Analysis Report and Amendments 1 through 7 thereto, and (5) WASH–1341, the Commission's "Programmatic Information for the Licensing of Standardized Nuclear Power Plants" dated August 1974, and Amendment 1 thereto dated December 1974 are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555. A copy of PDA–10 may be obtained upon request. The request should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management. Copies of the Safety Evaluation Report (NUREG–0152) may be purchased at current rates from the National Technical Information Service, Springfield, Va. 22161.

. Dated at Bethesda, Maryland this 10th day of March 1977.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc.77–9027 Filed 3–25–77;8:45 am]

[Docket No. 50–289]

METROPOLITAN EDISON COMPANY JERSEY CENTRAL POWER AND LIGHT CO. AND PENNSYLVANIA ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. DPR–50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (the licensees), which revised Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

This amendment changes the provisions of the Technical Specifications to extend the period of applicability of the present limits on the reactor coolant system pressure and system heatup and cooldown rates from 1.84 effective full power years (EFPY) to 2 EFPY.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental 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 March 7, 1977, (2) Amendment No. 26 to License No. DPR–50, 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, N.W., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of March 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77–8910 Filed 3–25–77;8:45 am]

[Docket No. 50–298]

NEBRASKA PUBLIC POWER DISTRICT (COOPER NUCLEAR STATION)

Order for Modification of License

I

The Nebraska Public Power District (the licensee), is the holder of Facility Operating License No. DPR–46 which authorizes the operation of the nuclear power reactor known as Cooper Nuclear Station (the facility) at steady state reactor power levels not in excess of 2381 megawatts thermal (rated power). The facility consists of a boiling water reactor (BWR) located at the licensee's site in Nemaha County, Nebraska.

II

In conformance with evaluations of the performance of the Emergency Core Cooling System (ECCS) of the facility submitted by the licensee on July 10, 1975, April 7, 1976, and August 9, 1976, with subsequent supplements thereto, the Technical Specifications issued for

the facility on November 10, 1976, limit the Average Planar Linear Heat Generation Rates to the values shown on Technical Specification Figures 3.11–1.1 through 3.11–1.4. The ECCS performance evaluation submitted by the licensee was based upon a previously approved ECCS evaluation model developed by General Electric Company (General Electric), the designer of the facility. This model has been found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50 § 50.46 and Appendix K. The evaluation indicated that with the average planar linear heat generation rate limited as set forth above, and with the other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform with the criteria containend in 10 CFR § 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long term cooling.

Recently, the NRC staff was informed by General Electric that several errors, had been discovered in the computer codes used to calculate peak clad temperature and the clad oxidation percentage in the General Electric evaluation model. These errors have been discovered by General Electric during a continuing internal Quality Assurance (QA) audit of their LOCA evaluation model codes. This audit is still under way and the errors reported reflect those found to date. The additional effort expended by the vendor to enhance the assurance of the quality of its evaluation model, the staff believes, was prudent and desirable. Identification of additional errors of a minor nature may still develop during the ongoing QA checks. Nonetheless, the staff believes it appropriate to order the correction of those uncovered thus far. While some of these errors discussed herein have either no significant effect or a conservative effect on the evaluation results, one or more of the errors included in the Cooper ECCS evaluation leads to non-conservative values. Based on a preliminary assessment, including information and supportive calculations by General Electric, the NRC staff has determined that the combined effect of the following code errors would, when corrected, result in an ECCS evaluation requiring a reduction in operating limits for Cooper Nuclear Station.

(1) PRESSURE RULE

The LAMB code is used to calculate system pressure during the LOCA. This calculated pressure is then used as an input to the REFLOOD code which calculates the water level vs time relationship in the core. General Electric used an approximation of the pressure response of the LAMB code that was thought, at the time of approval, to be an acceptable representation of the physical phenomena involved. Later application of this approximation to certain cases showed it to be non-conservative. General Electric proposes to correct this nonconservatism by utilizing a conservative approximation to the pressure rule for input into REFLOOD. This correction increases reflood time by 0 to 50 seconds and decreases MAPLHGR by 0 to 5%.

(2) BUNDLE VAPORIZATION

General Electric has used incorrect coefficients in the calculation of the amount of vaporization occurring during core spray. The vapor formation in the bundle is a prime determinant of the amount of spray water that can get through the upper tie plate and reflood the core. The vapor formation was undercalculated by approximately 4% resulting in a 20-second increase in reflooding time and about a 2% decrease in the MAPLHGR.

(3) DISCHARGE BREAK MODELING

General Electric proposes to take credit for an approved model for suction line friction (from the vessel nozzle to the discharge side of the recirculation pump) that improves reflooding time for the discharge break by approximately 15 seconds. This increases the MAPLHGR for discharge break limited plants by about 1.5%.

(4) STRUCTURAL ABSORPTION OF GAMMA HEAT

General Electric has erroneously taken double credit for power generation in non-fuel structural material. Correction of this error results in approximately a 4% decrease in the MAPLHGR for certain plants. This error does not apply to Cooper Nuclear Station.

(5) INCREASED COUNTER CURRENT FLOW LIMITING (CCFL) DIFFERENTIAL PRESSURE

Some experimental evidence exists that the differential pressure in a fuel assembly during periods of CCFL may be higher than previously assumed. This could cause a delay in reflood time. Correction of this error reduces the Cooper MAPLHGR by 1 to 2%.

(6) OTHERS

Several small changes of inputs to the evaluation codes were identified as being necessary to correct errors. They included:

(a) The use of actual plant specific break areas for the LOCA;

(b) A reduced core plate weight;

(c) An increase in the peripheral bypass area used in the counter current flooding calculation;

(d) The correction of a decimal point error in the assumed guide tube thickness; and

(e) Credit is no longer assumed for recirculation loop discharge valve closure during blowdown.

Due to the errors in the ECCS analysis currently approved by NRC for Cooper Nuclear Station, the staff requested the licensee to submit an estimate of the impact of these errors on the peak clad temperature that would result from the worst break, if the errors were corrected. The revised ECCS calculations indicated that the MAPLHGR should be reduced by approximately 1% to accommodate the cumulative effect of these errors. On the other hand, the NRC staff is currently reviewing General Electric's most recent ECCS model revisions some of which have effects offsetting such a reduction. These revisions included:

(1) CHASTE 04 COMPUTER CODE CHANGE

The CHASTE code has been modified to incorporate an improved conduction solution for the calculation of fuel rod temperatures and more detailed evaluation of view factors for calculation of rod to rod radiation of heat.

(2) REFLOOD 05 COMPUTER CODE REVISION

The REFLOOD code was modified to correct a logic error in the evaluation of the flow split between the core and the jet pumps. This logic error only occurred for certain plant calculations and determined the fraction of steam used to evaluate the counter current flow limiting phenomenon which limits the penetration of spray cooling water into the lower plenum and therefore increase the reflood time for the core.

(3) PARTIALLY DRILLED CORE CREDIT

The partial drilling correction gives credit for additional flow paths provided by drilling holes in the bottom nozzle of the fuel assemblies. This additional flow area enhances the refill of the lower plenum by spray cooling water following the postulated Loss-of-Coolant Accident and results in a faster core reflood which reduces peak clad temperatures.

Although the entire group of model changes is still under review, the staff has completed its review of the CHASTE and REFLOOD changes and has concluded that they may be used in GE's ECCS performance evaluation model. While revised computer runs incorporating these changes in the model as a whole have not yet been run for a spectrum of break for all plants, the parametric studies performed by GE to determine the effect of these changes demonstrate that they will in turn result in changes of at least a 9% MAPLHGR increase for 7 x 7 fuel assemblies up to 15,000 MWD/t, an 11% increase for 7 x 7 fuel assemblies at fuel burnups greater than 15,000 MWD/t, and a 9% MAPLHGR increase for 8 x 8 fuel assemblies at all burnups. These values may be used to offset the reductions discussed above and the cumulative effect of the error corrections and model changes verifies that the Cooper Station's current MAPLHGR's are adequately conservative.

The staff expects that when final revised calculations for the facility are submitted using the revised and corrected model, they will demonstrate that operation with the linear heat generation rates set forth in this Order will conform to the Criteria of 10 CFR § 50.46 (b). Such revised calculations fully conforming to the requirements of 10 CFR § 50.46 are to be provided for the facility as soon as possible.

As discussed herein, the present MAPLHGR limits for this facility are such that they assure that the ECCS will conform to the performance require-

ments of 10 CFR § 50.46. Accordingly, such limits provide reasonable assurance that the public health and safety will not be endangered.

Upon notification by the NRC staff on February 14, 1977, the licensee committed to submit a re-evaluation of the ECCS performance of Cooper on a timely basis. The staff believes that the licensee's action, under the circumstances, is appropriate and that this action should be confirmed by NRC Order.

III

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555 and are being placed in the Commission's lo-Public Library, 118 15th Street, Auburn, Library, 118 15th Street, Auburn, Ne-Nebraska 68305:

(1) Letters from General Electric to NRC dated February 14, 1977, and January 26, 1977;

(2) Letters from Nebraska Public Power District to the Director of Nuclear Reactor Regulation dated January 18, 1977, and February 18 and 22, 1977;

(3) Letter dated July 10, 1975 from Nebraska Public Power District to NRC and supplements thereto dated April 7, 1976, and August 9, 1976;

(4) This Order for Modification of License in the matter of Nebraska Public Power District (Cooper Nuclear Station). Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered: That Facility Operating License No. DPR-46 is hereby amended by adding the following new provision:

(1) As soon as possible, the licensee shall submit a re-evaluation of ECCS cooling performance calculated in accordance with General Electric Company's Evaluation Model approved by the NRC staff and corrected for the errors described herein and any other corrections in the Model of which the licensee is aware at the time the calculations are performed.

Dated in Bethesda, Maryland this 11th day of March, 1977.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-9032 Filed 3-25-77;8:45 am]

[Docket No. 50-263]

NORTHERN STATES POWER CO. (MONTICELLO NUCLEAR GENERATING PLANT)

Order for Modification of License

I

The Northern States Power Company (the licensee), is the holder of Provisional Operating License No. DPR-22 which authorizes the operation of the nuclear power reactor known as Monticello Nuclear Generating Plant (the facility) at steady state reactor power levels not in excess of 1670 megawatts thermal (rated power). The facility consists of a boiling water reactor (BWR) located at the licensee's site in Wright County, Minnesota.

II

In conformance with evaluations of the performance the Emergency Core Cooling System (ECCS) of the facility submitted by the licensee on July 9, 1975, and supplements thereto dated August 4, 1975, and April 23, 1976, the Technical Specifications issued for the facility on October 30, 1975, and June 18, 1976, limit the Average Planar Heat Generation Rates to the values shown on Technical Specifications Figures 3.11.1-A through 3.11.1-D. The ECCS performance evaluation submitted by the licensee was based upon a previously approved ECCS evaluation model developed by General Electric Company (General Electric), the designer of the facility. This model has been found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50 § 50.46 and Appendix K. The evaluation indicated that with the average planar linear heat generation rate limited as set forth above, and with the other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR § 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long term cooling.

Recently, the NRC staff was informed by General Electric that several errors had been discovered in the computer codes used to calculate peak clad temperature and the clad oxidation percentage in the General Electric evaluation model. These errors have been discovered by General Electric during a continuing internal Quality Assurance audit of their LOCA eveluation model codes. This audit is still under way and the errors reported reflect those found to date. The additional effort expended by the vendor to enhance the assurance of the quality of its evaluation model, the staff believes, was prudent and desirable. Identification of additional errors of a minor nature may still develop during the ongoing QA checks. Nonetheless, the staff believes it appropriate to order the correction of those uncovered thus far. While some of these errors discussed herein have either no significant effect or a conservative effect on the evaluation results, one or more of the errors included in the Monticello ECCS evaluation leads to non-conservative values. Based on a preliminary assessment, including information and supportive calculations by General Electric, the NRC staff has determined that the combined effect of the following code errors would, when corrected, result in an ECCS evaluation requiring no reduction in operating limits for Monticello.

(1) PRESSURE RULE

The LAMB code is used to calculate system pressure during the LOCA. This calculated pressure is then used as an input to the reflood code which calculates the water level vs. time relationship in the core. General Electric used an approximation of the pressure response of the LAMB code that was thought, at the time of approval, to be an acceptable representation of the physical phenomena involved. Later application of this approximation to certain cases showed it to be nonconservative. General Electric proposes to correct this nonconservatism by utilizing a conservative approximation to the pressure rule for input into reflood. This correction increases reflood time by 0 to 50 seconds and decreases NAPLHGR by 0 to 5 percent.

(2) BUNDLE VAPORIZATION

General Electric has used incorrect coefficients in the calculation of the amount of vaporization occurring during core spray. The vapor formation in the bundle is a prime determinant of the amount of spray water that can get through the upper tie plate and reflood the core. The vapor formation was under-calculated by approximately 4 percent resulting in a 20-second increase in reflooding time and about a 2 percent decrease in the MAPLHGR.

(3) DISCHARGE BREAK MODELING

General Electric proposes to take credit for an approved model for suction line friction (from the vessel nozzle to the discharge side of the recirculation pump) that improves reflooding time for the discharge break by approximately 15 seconds. This increases the MAPLHGR for discharge break limited plants by about 1.5 percent. This error does not apply to Monticello.

(4) STRUCTURAL ABSORPTION OF GAMMA HEAT

General Electric has erroneously taken double credit for power generation in nonfuel structural material. Correction of this error results in approximately a 4 percent decrease in the MAPLHGR for certain plants. This error does not apply to Monticello.

(5) INCREASED COUNTER CURRENT FLOW LIMITING (CCFL) DIFFERENTIAL PRESSURE

Some experimental evidence exists that the differential pressure in a fuel assembly during periods of CCFL may be higher than previously assumed. This could cause a delay in reflood time. Correction of this error reduces the Monticello MAPLHGR by 1 to 2 percent.

(6) OTHERS

Several small changes of inputs to the evaluation codes were identified as being necessary to correct errors. They included:

(a) The use of actual plant specific break areas for the LOCA; (b) A reduced core plate weight; (c) An increase in the peripheral bypass area used in the counter current flooding calculations; (d) The correction of a decimal point error in the assumed guide tube thickness; and (e) Credit is no longer assumed

for recirculation loop discharge valve closure during blowdown.

Due to the errors in the ECCS analysis currently approved by NRC for Monticello, the staff requested the licensee to submit an estimate of the impact of these errors on the peak clad temperature that would result from the worst break, if the errors were corrected. The revised ECCS calculations indicated that the MAPLHGR is conservative by approximately 2 percent considering the cumulative effect of these errors. Although GE model changes under review by the staff generally show that MAPLHGR limits even higher than those presently set forth in the Technical Specifications for Monticello would still satisfy ECCS limits, no credit for such increase was considered by the NRC.

The staff expects that when final revised calculations for the facility are submitted using the revised and corrected model, they will demonstrate that operation with the linear heat generation rates set forth in this Order will conform to the Criteria of 10 CFR § 50.46(b). Such revised calculations fully conforming to the requirements of 10 CFR § 50.46 are to be provided for the facility as soon as possible.

As discussed herein, the present MAPLHGR limits for this facility are such that they assure that the ECCS will conform to the performance requirements of 10 CFR § 50.46. Accordingly, such limits provide reasonable assurance that the public health and safety will not be endangered.

Upon notification by the NRC staff on February 14, 1977, the licensee committed to submit a re-evaluation of the ECCS performance of Monticello on a timely basis. The staff believes that the licensee's action, under the circumstances, is appropriate and that this action should be confirmed by NRC Order.

III

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555, and are being placed in the Commission's local public document room at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

(1) Letters from General Electric to NRC dated February 14, 1977, and January 26, 1977;

(2) Letters from Northern States Power Company to the Director of Nuclear Reactor Regulation dated January 18, 1977, and February 18, 1977;

(3) Letter dated July 9, 1975, from Northern States Power Company to NRC and supplements thereto dated August 4, 1975, and April 23, 1976;

(4) This Order for Modification of License in the matter of Northern States Power Company (Monticello Nuclear Generating Plant).

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that Provisional Operating License No. DPR–22 is hereby amended by adding the following new provision:

(1) As soon as possible, the licensee shall submit a re-evaluation of ECCS cooling performance calculated in accordance with General Electric Company's Evaluation Model approved by the NRC staff and corrected for the errors described herein and any other corrections in the Model of which the licensee is aware at the time the calculations are performed.

Dated in Bethesda, Maryland, this 11th day of March, 1977.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-9033 Filed 3-25-77;8:45 am]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Notice of Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. DPR–40 issued to Omaha Public Power District, which revised Technical Specifications for operation of the Fort Calhoun Station Unit No. 1 located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

This amendment consists of a change to the Technical Specifications which is temporary and will allow the containment cooling and air filtration unit VA–3A to be out of service for the period from March 13, 1977 to April 15, 1977 (a period of 33 days).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental 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 March 16, 1977, (2) Amendment No. 21 to License No. DPR–40, 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 Blair Public Library, 1665 Lincoln Street, Blair, Nebraska. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of March 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-8911 Filed 3-25-77;8:45 am]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO., ET AL.

Establishment of Atomic Safety and Licensing Board To Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

Portland General Electric Company, et al. (Trojan Nuclear Plant), Facility Operating License No. NPF–1.

This action is in reference to a notice published by the Commission on February 14, 1977, in the FEDERAL REGISTER (42 FR 9068) entitled "Proposed Issuance of Amendment to Facility Operating License".

The members of the Board and addresses are as follows:

Sheldon J. Wolfe, Esq., Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. Frederick P. Cowan, Member, 1800 St. Lucie Blvd., Apt. 2–104, Stuart, Fla. 33494.

Mr. Frederick J. Shon, Member, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland this 21st day of March 1977.

ATOMIC SAFETY AND LICENSING BOARD PANEL,
JAMES R. YORE,
Chairman.

[FR Doc.77-8912 Filed 3-25-77;8:45 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP. AND VERMONT YANKEE NUCLEAR POWER STATION

Order for Modification of License

I

The Vermont Yankee Nuclear Power Corporation (the licensee), is the holder of Facility Operating License No. DPR–28 which authorizes the operation of the nuclear power reactor known as Vermont

Yankee Nuclear Power Station (the facility) at steady state reactor power levels not in excess of 1593 megawatts thermal (rated power). The facility consists of a boiling water reactor (BWR) located at the licensee's site in Vernon, Windham County, Vermont.

II

In conformance with evaluations of the performance of the Emergency Core Cooling System (ECCS) of the facility submitted by the licensee on July 30, 1975, as supplemented, the Technical Specifications issued for the facility on November 12, 1975; August 2, 1976; and February 10, 1977, limit the Average Planar Linear Heat Generation Rates to the values shown on Technical Specification Figures 3.11-1A through 3.11-1E. The ECCS performance evaluation submitted by the licensee was based upon a previously approved ECCS evaluation model developed by General Electric Company (General Electric), the designer of the facility. This model has been found to conform to the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50 50.46 and Appendix K. The evaluation indicated that with the average planar linear heat generation rate limited as set forth above, and with the other limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long term cooling.

Recently, the NRC staff was informed by General Electric that several errors had been discovered in the computer codes used to calculated peak clad temperature and the clad oxidation percentage in the General Electric evaluation model. These errors have been discovered by General Electric during a continuing internal Quality Assurance (QA) audit of their LOCA evaluation model codes. This audit is still under way and the errors reported reflect those found to date. The additional effort expended by the vendor to enhance the assurance of the quality of its evaluation model, the staff believes, was prudent and desirable. Identification of additional errors of a minor nature may still develop during the ongoing QA checks. Nonetheless, the staff believes it appropriate to order the correction of those uncovered thus far. While some of these errors discussed herein have either no significant effect or a conservative effect on the evaluation results, one or more of the errors included in the Vermont Yankee ECCS evaluation leads to non-conservative values. Based on a preliminary assessment, including information and supportive calculations by General Electric, the NRC staff has determined that the combined effect of the following code errors would, when corrected, result in an ECCS evaluation requiring a reduction in operating limits for Vermont Yankee Nuclear Power Station.

(1) *Pressure Rule.* The LAMB code is used to calculate system pressure during the LOCA. This calculated pressure is then used as an input to the REFLOOD code which calculates the water level vs time relationship in the core. General Electric used an approximation on the pressure response of the LAMB code that was thought, at the time of approval, to be an acceptable representation of the physical phenomena involved. Later application of this approximation to certain cases showed it to be non-conservative. General Electric proposes to correct this nonconservatism by utilizing a conservative approximation to the pressure rule for input into REFLOOD. This correction increases reflood time by 0 to 50 seconds and decreases MAPLHGR by 0 to 5%.

(2) *Bundle Vaporization.* General Electric has used incorrect coefficients in the calculation of the amount of vaporization occurring during core spray. The vapor formation in the bundle is a prime determinant of the amont of spray water that can get through the upper tie plate and reflood the core. The vapor formation was under-calculated by approximately 4% resulting in a 20-second increase in reflooding time and about a 2% decrease in the MAPLHGR.

(3) *Discharge Break Modeling.* General Electric proposes to take credit for an approved model for suction line friction (from the vessel nozzle to the discharge side of the recirculation pump) that improves reflooding time for the discharge break by approximately 15 seconds. This increases the MAPLHGR for discharge break limited plants by about 1.5%.

(4) *Structural Absorption of Gamma Heat.* General Electric has erroneously taken double credit for power generation in non-fuel structural material. Correction of this error results in approximately a 4% decrease in the MAPLHGR for certain plants. This error does not apply to Vermont Yankee Nuclear Power Station.

(5) *Increased Counter Current Flow Limiting (CCFL) Differential Pressure.* Some experimental evidence exists that the differential pressure in a fuel assembly during periods of CCFL may be higher than previously assumed. This could cause a delay in reflood time. Correction of this error reduces the Vermont Yankee Nuclear Power Station MAPLHGR by 1-2%.

(6) *Others.* Several small changes of inputs to the evaluation codes were identified as being necessary to correct errors. They included: (a) The use of actual plant specific break areas for the LOCA; (b) A reduced core plate weight; (c) An increase in the peripheral bypass area used in the counter current flooding calculations; (d) The correction of a decimal point error in the assumed guide tube thickness; and (e) Credit is no longer assumed for recirculation loop discharge valve closure during blowdown.

Due to the errors in the ECCS analysis currently approved by NRC for Vermont Yankee Nuclear Power Station, the staff requested the licensee to submit an estimate of the impact of these errors on the peak clad temperature that would result from the worst break, if the errors were corrected. The revised ECCS calculations indicated that the MAPLHGR should be reduced by approximately 4% to accommodate the cumulative effect of these errors. On the other hand, the NRC staff is currently reviewing General Electric's most recent ECCS model revisions some of which have effects offsetting such a reduction. These revisions included:

(1) *CHASTE 04 Computer Code Change.* The CHASTE code has been modified to incorporate an improved conduction solution for the calculation of fuel rod temperatures and more detailed evaluation of view factors for calculation of rod to rod radiation of heat.

(2) *Reflood 05 Computer Code Revision.* The REFLOOD code was modified to correct a logic error in the evaluation of the flow split between the core and the jet pumps. This logic error only occurred for certain plant calculations and determined the fraction of steam used to evaluate the counter current flow limiting phenomenon which limits the penetration of spray cooling water into the lower plenum and therefore increase the reflood time for the core.

(3) *Partially Drilled Core Credit.* The partial drilling correction gives credit for additional flow paths provided by drilling holes in the bottom nozzle of the fuel assemblies. This additional flow area enhances the refill of the lower plenum by spray cooling water following the postulated Loss-of-Coolant Accident and results in a faster core reflood which reduces peak clad temperatures.

Although the entire group of model changes is still under review, the staff has completed its review of the CHASTE and REFLOOD changes and has concluded that they may be used in GE's ECCS performance evaluation model. While revised computer runs incorporating these changes in the model as a whole have not yet been run for a spectrum of break for all plants, the parametric studies performed by GE to determine the effect of these changes demonstrates that they will in turn result in changes of at least a 6% MAPLHGR increase for 7 x 7 fuel assemblies up to 10,000 MWD/t, a 9% increase for 7 x 7 fuel assemblies at fuel burnups greater than 10,000 MWD/t, and a 6% MAPLHGR increase for 8 x 8 fuel assemblies at all burnups. These values may be used to offset the reductions discussed above, and the cumulative effect of the error corrections and model changes verifies that the Vermont Yankee Nuclear Power Station's current MAPLHGR's are adequately conservative.

The staff expects that when final revised calculations for the facility are submitted using the revised and corrected model, they will demonstrate that operation with the linear heat generation rates set forth in this Order will conform

to the Criteria of 10 CFR § 50.46(b). Such revised calculations fully conforming to the requirements of 10 CFR § 50.46 are to be provided for the facility as soon as possible.

As discussed herein, the present MAPLHGR limits for this facility are such that they assure that the ECCS will conform to the performance requirements of 10 CFR § 50.46. Accordingly, such limits provide reasonable assurance that the public health and safety will not be endangered.

Upon notification by the NRC staff on February 14, 1977, the licensee committed to submit a re-evaluation of the ECCS performance of Vermont Yankee on a timely basis. The staff believes that the licensee's action, under the circumstances, is appropriate and that this action should be confirmed by NRC Order.

III

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555 and are being placed in the Commission's local public document room at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont.

(1) Letters from General Elcetric to NRC dated February 14, 1977, and January 26, 1977;

(2) Letters from Vermont Yankee Nuclear Power Corporation to the Director of Nuclear Reactor Regulation dated January 19, 1977, February 18 and 23, 1977;

(3) Letter dated July 30, 1975, from Vermont Yankee Nuclear Power Corporation to NRC.

(4) This Order for Modification of License in the matter of Vermont Yankee Nuclear Power Corporation (Vermont Yankee Nuclear Power Station).

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *It is ordered*, That Facility Operating License No. DPR-28 is hereby amended by adding the following new provision:

(1) As soon as possible, the licensee shall submit a re-evaluation of ECCS cooling performance calculated in accordance with General Electric Company's Evaluation Model approved by the NRC staff and corrected for the errors described herein and any other corrections in the Model of which the licensee is aware at the time the calculations are performed.

Dated in Bethesda, Maryland this 11th day of March 1977.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-8913 Filed 3-25-77;8:45 am]

STUDY OF WAYS TO IMPROVE THE EFFICIENCY OF FEDERAL/STATE SITING REVIEW

State Workshops

The FEDERAL REGISTER on October 28, 1976 (41 FR 47293), announced that the Nuclear Regulatory Commission was undertaking a study of ways to improve the efficiency of Federal/State Siting review and invited comment.

State Government views were provided to the study in a workshop announced in the FEDERAL REGISTER on November 26, 1976 (41 FR 52114), and held in Atlanta, Georgia, on December 15 and 16. This notice announces the convening of a follow-up workshop sponsored by the National Governors' Conference, under its contract with NRC. The workshop will convene at 8:30 a.m. on Thursday and Friday, April 14 and 15, 1977 at the Ramada O'Hare Hotel, Chicago, Illinois.

This workshop is being held to obtain the views of, and to provide the opportunity for discussion among, State siting officials and representatives from Federal agencies, environmental groups, utilities and regional groupings. All sessions will be open to the public and we invite submission of written statements by interested members of the public. Reports of the workshop will be filed in the NRC Public Document Room.

Persons who wish further information about this workshop or who wish to attend or submit written statements should write Energy Program, National Governors' Conference, Suite 202, Hall of the States, 444 N. Capitol St., Washington, D.C. 20001, or call (202) 624-5328, giving name, address, and phone number.

Persons who wish further information about the NRC study should write Elizabeth McCarthy, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or call her at (301) 492-7950.

Dated at Bethesda, Md., this 24th day of March 1977.

For the Nuclear Regulatory Commission.

ROBERT G. RYAN,
Director, Office of State Programs.

[FR Doc.77-9387 Filed 3-25-77;9:34 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-050]

PROPOSED FIXED HIGHWAY BRIDGE ACROSS THE SKIPANON RIVER, MILE 4.4, NEAR WARRENTON, OREGON

Public Hearing

The Commandant has authorized a public hearing to be held by the Commander, Thirteenth Coast Guard District at Warrenton High School, Warrenton, Oregon at 7 p.m., May 4, 1977. The purpose of the hearing is to consider the application from the State of Oregon Highway Division for a permit to construct a fixed, 2-lane highway bridge across the Skipanon River, Mile 4.4, near Warrenton, Oregon. The applicant proposes a new crossing of the river on a new alignment of the Oregon Coast Highway. The existing crossing at Mile 4.0 was reconstructed in 1929 as a single-leaf, hand-operated bascule bridge. This bridge, which provides navigation clearances of 34 feet horizontal and 4 feet vertical at M.H.W., is not required to open for navigation and will be retained for local access. The proposed new bridge will provide navigation clearances of 30 feet horizontal and 6.5 feet vertical at M.H.W. All interested persons may present data, views and comments orally or in writing at the public hearing concerning the impact of the proposed bridge on the environment and its effect on navigation. A Draft Environmental Impact Statement for the project prepared by the Federal Highway Administration was filed with the Council on Environmental Quality on 1 July 1976 as lead agency in compliance with the National Environmental Policy Act of 1969 (Pub. L. 91-190).

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed bridge and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan), Thirteenth Coast Guard District, Federal Building, 915 Second Avenue, Seattle, Washington 98174 by May 2, 1977. Such notification should include the approximate time required to make the presentation. A transcript will be made of the hearing and may be purchased by the public. Interested persons who are unable to attend this hearing may also participate in the consideration of this bridge permit application by submitting their comments in writing on or before May 27, 1977 to the Commander (oan), Thirteenth Coast Guard District. Each comment should state the reasons for any support or opposition, comments or proposed changes to the plans, and the name and address of the persons or organization submitting the comment.

Copies of all written communications will be available for examination by interested persons at the office of the Commander (oan), Thirteenth Coast Guard District. All comments received will be considered before final action is taken on the proposed bridge permit application. After the time set for the submission of comments, the Commander (oan), Thirteenth Coast Guard District will forward the record, including all written comments and his recommendations to the Commandant, U.S. Coast Guard, Washington, D.C. 20590. The Commandant will make the final determination of the bridge permit.

Section 502, 60 Stat. 847, as amended; 33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(C); 49 CFR 1.46(c)(10)

Dated: March 18, 1977.

F. P. SCHUBERT,
Captain, U.S. Coast Guard Acting Chief, Office of Marine Environment and Systems.

[FR Doc.77-9097 Filed 3-25-77;8:45 am]

National Highway Traffic Safety Administration

NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL

Membership and Designation of Members Representing the General Public

The purpose of this notice is to make public the membership of the National Motor Vehicle Safety Advisory Council and designate the members who represent the public.

The National Motor Vehicle Safety Advisory Council was created by section 104 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1939) to advise the Secretary of Transportation on motor vehicle safety standards promulgated under that Act. Under that Act, the majority of Advisory Council members must represent the "general public". Section 107(a) of the Motor Vehicle and Schoolbus Safety Amendments of 1974 (Pub. L. 93-492) amended section 104 of the National Traffic and Motor Vehicle Safety Act by defining "representative of the general public" to mean an individual (a) who is not an employee of, or is not holding "any official relation" to, a manufacturer, dealer, or distributor, or supplier thereof, of motor vehicles or motor vehicle equipment, or (b) who does not own stock or bonds of substantial value in such firms, or (c) who is not in any other manner directly or indirectly pecuniarily interested in such firms.

The 1974 amendments also require annual publication of the Council's membership and identification of those members designated as representatives of the general public.

With the appointment of new members to the Council effective on January 1, 1977, the members of the National Motor Vehicle Safety Advisory Council are as follows:

Mr. William T. Birge, The Bendix Corporation, South Bend, Indiana; Dr. B. J. Campbell, University of North Carolina, Chapel Hill, North Carolina; Mrs. Julie Candler, Women's Day Magazine, Birmingham, Michigan; Mr. Gilbert Carmichael, The Carriage House, Meridian, Mississippi; Mr. David Crowther, Lockheed-California Company, Burbank, California; Dr. Harold Allen Fenner, Jr., Orthopedic Surgeon, Hobbs, New Mexico; Mr. Donald Gibson, California Highway Patrol, Sacramento, California; Mr. Joel Gustafson, Gustafson, Caldwell, Stephens & Ferris P.A., Fort Lauderdale, Florida; Dr. Henry Hill, Riverside Research Laboratory, Inc., Haverhill, Massachusetts; Dr. Don Ivey, Texas A&M, College Station, Texas; Mr. Warren Jackson, Travelers Insurance Companies, Hartford, Connecticut; Mr. Robert Knoll, Consumers Union, Orange, Connecticut; Mr. Louis Lundstrom, General Motors Corporation, Detroit, Michigan; Mr. Robert McCaffrey, International Harvester, Chicago, Illinois; Mr. Henry Nave, Mack Trucks, Allentown, Pennsylvania; Mr. George Nield, Automobile Importers of America, Washington, D.C.; Mr. John Noettl, Automobile Club of Missouri, St. Louis, Missouri; Mr. Arthur Railton, Volkswagen of America, Inc., Englewood Cliffs, New Jersey; Mr. Archie Richardson, Jr., Automobile Owners Action Council, Washington, D.C.; Mr. Gene Roberts, Fire and Police Department, Chattanooga, Tennessee; Dr. Kenneth Saczalski, Office of Naval Research, Arlington, Virginia, Mr. Gordon Scherer, Cors, Hair & Hartsock, Cincinnati, Ohio; Dr. Basil Y. Scott, New York Department of Motor Vehicles, Albany, New York; Mr. Herbert Smith, Former Vice President, Uniroyal, Rumson, New Jersey; Mr. J. W. "Bill" Stevens, Broward County Board of Commissioners, Fort Lauderdale, Florida; Mr. Berkley Sweet, Truck Body and Equipment Association, Washington, D.C.; Mr. Martin Walker, Rockwell International Corporation, Troy, Michigan; Dr. Julian Waller, University of Vermont, Burlington, Vermont; Mr. Don Wilson, The Southland Corporation, Dallas, Texas; Dr. Ruth Winkler, Optometrist, Tulsa, Oklahoma.

Of the above members, the following have been designated by the Secretary as representatives of the general public:

Dr. Campbell, Mr. Crowther, Dr. Fenner, Mr. Gibson, Mr. Gustafson, Dr. Hill, Dr. Ivey, Mr. Jackson, Mr. Knoll, Mr. Noettl Mr. Richardson, Mr. Roberts, Dr. Saczalski, Mr. Scherer, Dr. Scott, Dr. Waller, Mr. Wilson, Dr. Winkler.

Questions concerning the membership of the National Motor Vehicle Safety Advisory Council and the Secretary's designation of those members representing the general public should be directed to the Executive Secretary, National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C. 20590 or telephone 202-426-2872.

This notice is filed under the requirements of section 104, Pub. L. 89-564; section 107, Pub. L. 93-492 (15 U.S.C. 1393).

Issued in Washington, D.C. on March 16, 1977.

JOHN W. SNOW,
Administrator.

[FR Doc.77-8906 Filed 3-25-77;8:45 am]

NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL

Closed Meeting

The Awards Subcommittee of the National Motor Vehicle Safety Advisory Council will meet in closed session on April 13, 1977 at 5 p.m. at the Sheraton National Motor Hotel in Arlington, Virginia.

The Awards Subcommittee will review nominations submitted for the Excalibur Award which will be presented at the Advisory Council's Fifth International Congress on Automotive Safety in Boston on July 11, 1977. The subcommittee will then present to the full Council in open session on April 14, a list of those individuals to be voted on for the Excalibur Award.

In accordance with exemption 6 of the Freedom of Information Act, the Secretary of Transportation has approved closing the Awards Subcommittee meeting to the public.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C., March 22, 1977.

WM. H. MARSH,
Executive Secretary.

[FR Doc.77-9022 Filed 3-25-77;8:45 am]

TRUCK AND BUS SAFETY SUBCOMMITTEES

Notice of Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Truck and Bus Safety Subcommittees of the National Highway Safety Advisory Committee and the National Motor Vehicle Safety Advisory Council. The subcommittees will meet on April 14 from 1 p.m. to 5 p.m. and on April 15 from 8 a.m. to 12 noon at the Sheraton National Motor Hotel in Arlington, Virginia.

The subcommittees will divide into three task forces to discuss the following topics: (1) 100, 200 and 300 Series FMVSS; (2) R&D and Government Agencies; (3) Operations and Driver.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Subcommittees at any time. This meeting is subject to the approval of the appropriate DOT officials.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, S.W. (DOT Headquarters Building), Washington, D.C. 20590, telephone 202-426-2872.

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

WM. H. MARSH,
Executive Secretary.

[FR Doc.77-8905 Filed 3-25-77;8:45 am]

Saint Lawrence Seaway Development Corporation

TARIFF OF TOLLS

Request for Cost Information

The purpose of this notice is to request information which may be useful to the Saint Lawrence Seaway Development Corporation in its discussions with the Saint Lawrence Seaway Authority of Canada regarding the adjustment of rates and charges in the Joint Tariff of Tolls.

The Saint Lawrence Seaway Development Corporation, U.S. Department of Transportation, is a wholly owned government corporation which operates entirely on non-appropriated funds raised by means of tolls on vessels and cargoes which move through the St. Lawrence Seaway. The Corporation is required by statute (33 U.S.C. 988) to collect from users sufficient funds to cover all costs of operating and maintaining the works under its administration and amortize the principal of its debts and obligations over a period not to exceed fifty years.

The Corporation operates and maintains the St. Lawrence Seaway in conjunction with the St. Lawrence Seaway Authority of Canada. Charges at both the Montreal-Lake Ontario section and the Welland Canal section of the Saint Lawrence Seaway are assessed under a joint Tariff of Tolls and the revenues resulting therefrom are divided between the two Seaway entities in accordance with a formula upon which they agree.

The level of tolls on the Montreal-Lake Ontario section of the Seaway (.90/ton general cargo; .40/ton bulk cargo; .04/gross registered ton of vessel) have remained constant since the Seaway opened in 1959. Presently a lockage charge of $100 per vessel is assessed at each of the eight locks in the Welland Canal section.

Both Seaway entities presently project a need for additional revenues beginning with the 1978 navigation season. Accordingly, the Corporation is seeking to develop as much information as possible to draw upon in discussions with Canada relative to amending the Tariff of Tolls.

The Canadian Seaway Authority has suggested that tolls on the St. Lawrence Seaway be assessed at approximately the following level:

For transit of the Montreal-Lake Ontario section: general cargo—$1.05/ton; bulk cargo—.45/ton; vessel—.04/gross registered ton.

For transit of the Welland Canal section: general cargo—$.90/ton; bulk cargo—.40/ton; vessel—.04/gross registered ton.

The present tariff of tolls together with definitions of general cargo and bulk cargo and the rules for the measurement of tonnages of cargoes and vessels are published in 33 CFR Part 402.

The Corporation invites written comments on the suggested toll schedule presented above. Shippers, carriers, and other concerned parties are requested to furnish the Corporation with specific and detailed transportation cost analyses of all specific commodity movements, either bulk or general, which they consider would be diverted by an additional toll assessment of the amount suggested.

Data provided should include total transportation costs for movements of cargo via the St. Lawrence Seaway and should detail individually all pertinent components thereof including all inland freight costs (rail, truck or water), terminal or elevator charges and handling costs, ocean freight costs, and other significant transportation costs. Each analysis should also detail similar transportation costs by alternative routes in order that the potential for diversion can be adequately evaluated. A narrative explanation of the effect on each commodity movement analyzed in the data furnished should accompany its submission.

The Corporation is also considering proposing to Canada the adoption of a tariff of tolls which would differentiate among a greater number of commodities than does the present two commodity classification of general cargo and bulk cargo. These classifications would be made so that due consideration can be given to the encouragement of increased utilization of the navigation facilities. Comments on this general approach are also requested.

Proprietary information furnished in response to this request for information should be identified as such and will be treated confidentially as provided for in 5 USC 552(b)(4). Comments received by April 29, 1977, will be considered by the Corporation. Comments received after that date will be considered to the extent practicable.

Written comments should be sent to Saint Lawrence Seaway Development Corporation, U.S. Department of Transportation, Room 814, 800 Independence Avenue, S.W., Washington, D.C. 20591 where, to the extent they are not confidential, they will be available for public inspection from 8:30 a.m. to 5:00 p.m., local time, Monday through Friday except Federal holidays.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION
D. W. OBERLIN,
Administrator.

[FR Doc.77-9089 Filed 3-25-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

EMPLOYEES OF BEHAVIORAL RESEARCH INSTITUTE

Research on Mental Health; Authorization of Confidentiality; Correction

In FR Doc. 76-34509 appearing at page 51652 in the FEDERAL REGISTER of November 23, 1976, the grant number "MH 27552-01" appearing at lines 14, 44, and 51 of the document as published in the FEDERAL REGISTER is corrected, effective November 23, 1976, to read "RO1 MH 27552".

Dated: March 8, 1977.

BERTRAM S. BROWN,
Director, National Institute of Mental Health.

Dated: March 10, 1977.

ROBERT I. DUPONT,
Director, National Institute on Drug Abuse.

Dated: March 14, 1977.

FRANCIS N. WALDROP,
Deputy Administrator, Alcohol, Drug Abuse and Mental Health Administration.

[FR Doc.77-9072 Filed 3-25-77;8:45 am]

Health Care Financing Administration

PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

Designation of Conditional Professional Standards Review Organization in PSRO Area I of Tennessee

I have determined that the Memphis and Shelby County Medical Society has a membership of 1,100 doctors of medicine who are engaged in practice in PSRO Area I of the State of Tennessee from a total of 1,523 such doctors in PSRO Area I, so that the Memphis and Shelby County Medical Society is the membership association representing the largest number of doctors of medicine in PSRO Area I of the State of Tennessee. I have further determined that the Memphis and Shelby County Medical Society has adopted a resolution, entitled "resolution on PSRO" on November 6, 1973, which was reaffirmed in subsequent correspondence to a representative of this Department on June 21, 1976 and March 21, 1974 by the President of the Society, which constitutes a formal policy position of opposition to, or noncooperation with, the established program of professional standards review, as provided under Title XI, Part B of the Social Security Act. Therefore, under section 108(b)(1) of Public Law 94-182, the notification and polling requirements of the Social Security Act are not applicable with respect to the making of an agreement designating an organization as the Professional Standards Review Organization for Area I of Tennessee.

Accordingly, an agreement will be entered into with the Shelby County Foundation for Medical Care, Inc., designating it as the conditional Professional Standards Review Organization for PSRO Area I of the State of Tennessee.

Dated: March 22, 1977.

DON WORTMAN,
Acting Administrator, Health Care Financing Administration.

[FR Doc.77-8983 Filed 3-25-77;8:45 am]

Assistant Secretary for Education

EDUCATIONAL AGENCIES AND INSTITUTIONS

Comments on Collection of Information and Data Acquisition Activity

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education, and the National Institute of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Managment and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the the specific sponsoring agency and form number and must be received on or before April 27, 1977 and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: March 22, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center For Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. *Title of Proposed Activity.* Survey of Secondary School Principals (public and private nationwide).

2. *Agency/Bureau/Office.* National Institute of Educaiton.

3. *Agency Form, No. 175.*

4. *Legislative Authority for This Activity.* "The Institute shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Institute on the following priority research and development needs—

(A) Improvement in student achievement in the basic educational skills, including reading and mathematics;

(B) Overcoming problems of finance, productivity, and management in educational institutions (emphasis added);

(C) Improving the ability of schools to meet their responsibilities to provide equal educational opportunities for students of limited English-speaking ability, women, and students who are socially, economically, or educationally disadvantaged;

(D) Preparation of youths and adults for entering and progressing in careers; and

(E) Improved dissemination of the results of, and knowledge gained from, educational research and development, including assistance to educational agencies and institutions in the application of such results and knowledge." (Section 405(b(2 of the General Education Provisions Act as amended, 20 U.S.C. 1221e.)

"In order to carry out the objectives of the Institute, the Director is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes." (Section 405(e)(1) of the General Education Provisions Act as amended, 20 U.S.C. 1221e.)

5. *Voluntary/Obligatory Nature of Response.* Voluntary.

6. *How Information to be Collected Will Be Used. Condition of Education:* In April, 1976, the Office of Education and the National Association of Secondary School Principals directed a conference on Federal and State policymakers, principals; superintendents and chief state school officers. Key issues discussed related to high school size and organization, educational program offerings for high school students, com-

pulsory attendance, competency exams, and early-exit and college-integrated programs. It became apparent that there is a critical shortage of current and relevant data with which to inform policy decisions relating to these issues. This dearth of data makes it extremely difficult to determine what actions to take to improve the education of adolescents.

The last extensive survey of high schools was conducted by James B. Conant in 1967 "The Comprehensive High School", (McGraw-Hill). He was primarily interested in the relationship between school size and the comprehensiveness of curricular offerings. It is important now, ten years later, to establish accurate and relevant baseline data about high schools. To this end, the School Finance and Organization Division of NIE plans to conduct a comprehensive survey of the nation's public and nonpublic high school principals. The National Association of Secondary School Principals and the Council for American Private Education will administer the survey.

This study will generate information on (a) school organizational structure, (b) program offerings, (c) school rules and decisionmaking practices, (d) school district and community characteristics, and (e) principal, school staff, and students. Survey results will provide a basis for comparative studies in the areas of sponsorship (public, nonpublic), school size (large, medium, small), urbanism (urban, suburban, rural), and region (four regions of the country).

In addition, the information generated by the survey will be used to perform descriptive and statistical analysis of the nature of secondary school organizations and how various environmental factors are related to them.

NIE plans to publish a databook that will serve as an abbreviated guide to the survey results and will highlight the major findings. In addition, an analytical paper will be prepared, examining the broad implications of the data set and suggesting a national research agenda for secondary education.

These two reporting methods will provide educational policymakers at all levels with accurate and relevant information about the nature of contemporary high school organization, management, and educational programs. Furthermore, the findings will be useful to the respondents themselves. Secondary school principals and other school-related professionals will be able to compare conditions, trends and problems of their own schools with those of similar schools.

Research: NIE will use the results to provide a sound basis for future research and policy analysis on secondary education. The sample of schools surveyed will supply baseline data for two proposed studies: (1) School Size Study. The research will examine the costs, the structure and work environment of different-sized schools. An assessment will be made of tradeoffs in terms of such variables as program breadth, costs, and student participation in schools of various sizes. (2) Schools of Excellence Conference. A conference of heads of schools whose programs show indications of excellence will be convened to determine what characteristics these schools have in common, what the consequences of stimulating the creation of similar schools might be, and how practitioners in other schools may benefit from their expertise.

The research above, regarded as Phase II, will attempt to relate the knowledge gained from the high school survey to outcome variables.

7. (a) *Method of Collection:* Mail; (b) *Time of Collection:* Spring 1977; (c) *Frequency:* Single time.

8. (a) *Type:* Principals, public secondary schools; (b) *Number:* Sample (2,000); (c) *Estimated Average Person-Hours per Respondent:* .5.

(a) *Type:* Principals, nonpublic secondary schools; (b) *Number:* Sample (600); (c) *Estimated Average Person-Hours per Respondent:* .5.

9. *INFORMATION TO BE COLLECTED.* The study will collect from public and nonpublic high school principals information describing the nature and organization of respondent schools. Information will be sought relating to:

(1) the school's size, organization, scheduling and grading systems, senior high curricular and extracurricular programs, and faculty specialization;

(2) rules governing normal school activities and management;

(3) the involvement (by school administrators, faculty, parents, students, central office, etc.) in decisionmaking;

(4) school district and community demographic information;

(5) the school principal, faculty, and students.

The data will be comparable for all respondent types. Separate instruments will be used for public and for private high schools, differing slightly in terminology.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. *Title of Proposed Activity:* A Study of the Use of Education and Training Funds in the Private Sector (Second Mail Survey)—Worker Form.

2. *Agency/Bureau/Office:* National Institute of Education.

3. *Agency Form Number:* NIE 180.

4. *Legislative Authority for this Activity:* "(2) The Institute (National Institute of Education) shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Institute on the following priority research and development needs—

(A) improvement in student achievement in the basic educational skills, including reading and mathematics;

(B) overcoming problems of finance, productivity ,and management in educational institutions;

(C) improving the ability of schools to meet their responsibilities to provide equal educational opportunities for students of limited English-speaking ability, women, and students who are socially, economically, or educationally disadvantaged;

(D) preparation of youths and adults for entering and progressing in careers; and

(E) improved dissemination of the results of, and knowledge gained from, educational research and development, including assistance to educational agencies and institutions in the application of such results and knowledge." (Section 405(b)(2) of the General Education Provisions Act (GEPA), 20 USC 1221e) * * *

"In order to carry out the objectives of the Insttitue, the Director is authorized, through the Institute, to conduct educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes." (Section 405(e)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1221e).

5. *Voluntary/Obligatory Nature of Response:* Voluntary.

6. *How Information Collected Will Be Used:* The study will describe the characteristics of tuition-aid programs and identify and analyze the factors that affect the level of participation in them. It will also include efforts to develop measures of "low," "medium" and "optimum" utilization of tuition-aid programs. Depending on the findings of the study, a second phase may be conducted that would involve experimental projects to determine ways to achieve more desirable levels of worker participation in these programs.

If undertaken, the second phase will involve tests of plan modifications to determine their impact on worker participation rates. Whether or not an experimental phase is conducted will be decided by the National Institute of Education with the advice of the National Manpower Institute's National Advisory Panel. This panel is composed of representatives of unions, employers and educators.

7. *Data Acquisition Plan*—(a) *Method of Collection:* Mail or personal interview; (b) *Time of Collection:* Spring 1977; (c) *Frequency:* One time only.

8. *Respondents*—(a) *Type:* Individuals; (b) *Number:* Sample 10,096; (c) *Estimated Average Man-Hours per Respondent:* 0.5 hour.

(a) *Type:* Employers; (b) *Number:* Sample 24; (c) *Estimated Average Man-hours per Respondent:* 1 hour.

(a) *Type:* School administrators and supervisors; (b) *Number:* Sample 40; (c) *Estimated Average Man-Hours per Respondent:* 1 hour.

(a) *Type:* Other (labor unions); (b) *Number:* Sample 24; (c) *Estimated Average Man-Hours per Respondent:* 1 hour.

9. *Information To Be Collected*—(a) *Individuals:* Attitudinal and experiential data; (b) *Employers:* Attitudinal and experiential data; (c) *School and Administrators and Supervisors:* Attitudinal and experiential data; (d) *Other (labor unions):* Attitudinal and experiential data.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. *Title of Proposed Activity:* Cross Project Evaluation of the *R&D* Utilization Program.

2. *Agency/Bureau/Office:* National Institute of Education.

3. *Agency Form Number:* NIE–181.

4. *Legislative Authority for this Activity:* "* * * The Institute shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Institute on the following priority research and development needs—

"(A) Improvement in student achievement in the basic educational skills, including reading and mathematics;

"(B) Overcoming problems of finance, productivity, and management in educational institutions;

"(C) Improving the ability of schools to meet their responsibilities to provide equal educational opportunities for students of limited English-speaking ability, women, and students who are socially, economically, or educationally disadvantaged;

"(D) Preparation of youths and adults for entering and progressing in careers; and

"(E) Improved dissemination of the results of, and knowledge gained from, educational research and development, including assistance to educational agencies and institutions in the application of such results and knowledge."

(Section 405(b)(2) of the General Education Provisions Act as amended, Pub. L. 94–482, 20 U.S.C. 1221e).

"* * * (2) Funds appropriated pursuant to subsection (b) for any fiscal year may be expended on projects and activities to disseminate (A) information on the results of educational research and development; and (B) other educational information. Projects and activities funded under this paragraph may include cooperative and jointly funded arrangements for such dissemination utilizing individuals who may be designated as 'Education Extension Agents'." (Section 405(e)(2) of the General Education Provisions Act as amended, Pub. L. 94–482, 20 U.S.C. 1221e.)

5. *Voluntary/Obligatory Nature of Response:* Voluntary.

6. *How Information Collected Will Be Used:* The evaluation design tries to balance attention given to policy, management and research interests.

Policy Planning: The R&D Utilization Program provides small scale categorical assistance for a selected set of services to support local school problem solving and program improvement. Creation of linkages among existing federal, state and local resources is an essential part of the support system. Examination of the success or failure of different mixes of change support services is vital to guide future Federal and state legislative and NIE policy initiatives affecting a variety of dissemination activities. This includes consideration of the viability of a system of educational extension agents, the usefulness of R&D products in education, the need for more extensive in-service training of school faculties in areas like problem-solving, and many others.

Program Management: School managers need much more information about and training in change processes. The R&D Utilization program will supply answers to questions about the usefulness of various linkage arrangements, change strategies, types of skills, training programs, R&D products and the like which will be made available in suitable form to assist managers to more successfully cope with their tasks.

Research and Development: The program will provide important data to feed several dimensions of R&D. The first involves the pertinence and availability of existing R&D curriculum products in meeting specific local problems. Information of this type will help shape future R&D agendas of research agencies. The second concerns the process of change in educational organizations where much more needs to be understood about the implementation process and the tactics and strategies which lead up to implementation. The few relevant earlier studies have concentrated on only a portion of this continuum.

7. *Data Acquisition Plan*—(a) *Method of Collection:* Mail and personal interview; (b) *Time of Collection:* Spring 1977–December 1978; (c) *Frequency:* Three times during interval noted.

8. *Respondents*—(a) *Type:* Principals (school); (b) *Number:* Universe; (c) *Estimated Average Man-Hours per Respondent:* 1.5.

(a) *Type:* Teachers, elementary/secondary; School administrators and supervisors; Parents; (b) *Number:* Sample (300); (c) *Estimated Average Man-Hours Per Respondent:* 1.5.

9. *Information to be Collected*—The study is designed to collect information about respondents' view points on important aspects of educational change at several points during the school site's involvement with the project. The data to be collected will be comparable for all respondent types although the form of the instrument will be altered to accommodate the difference in respondent and time of collection. Questions obviously unsuitable for particular respondent types will be omitted from the respective instrument version.

Information is sought about respondents':

(1) Understanding of the nature and causes of local educational problem to be addressed; (2) Knowledge about any history of previous efforts to solve the problem; (3) Perceptions of barriers to problem-solving, (4) Knowledge of resources available to help solve the problem; and (5) Familiarity with specific educational R&D products.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. *Title of Proposed Activity.* Sharing Educational Success: A Handbook of Educational Practices. (A handbook for the validation of educational practices to facilitate constructive educational change in the Nation's public and nonprofit private elementary and secondary schools.)

2. *Agency/Bureau/Office.* U.S. Office of Education, Bureau of Elementary and Secondary Education.

3. *Agency Form Number.* OE 4552.

4. *Legislative Authority for this Activity.* "The Commissioner shall * * * collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving their purpose * * *" (Pub. L. 93–380, Sec. 422(a)(3); 20 USC 1231a).

5. *Voluntary/Obligatory Nature of Response.* Voluntary.

6. *How Information to be Collected Will be Used.* The Identification, Validation, Dissemination (IVD) process, contained in Sharing Educational Success, provides a standard system of ascertaining the success of Federally funded projects. Through the IVD process, successful projects are identified, validated, and disseminated. The U.S. Office of Education has assumed National responsibility to gather all reports and abstracts of the validated projects and prepare a finally edited description of each validated project for publication. This publication enables educators to adopt innovative and exemplary projects with a degree of certainty that their educational significance will make a difference in the classroom.

7. *Data Acquisition Plan.* (a) Method of collection: On-site visit; (b) time of collection: Spring and Fall; (c) frequency: Annually.

8. *Respondents.* (a) Types: Local Educational Agencies; (b) number: 114 (estimated); (c) estimated average man-hours per respondent: 60.

9. *Information to be Collected.* This instrument will be used to collect data and validate the effectiveness of successful programs and projects. Its focus will be in three areas:

(1) Effectiveness/Success — evidence which shows statistically and educationally significant gains in the performance of the learner: Measurability of objectives, needs determination, intervention process, evaluation design, data collection, sampling technique, evidence of effectiveness, control group selection, evaluation instruments, qualified personnel, data accuracy, data analysis procedures, statistical evidence, educational significance, and learner change and generalizability;

(2) Resource Specifications—information about start-up, operational, and management resources combined with data on effectiveness/success and exportability which facilitates decision-making of school districts: Information on per

learner start-up, operational and management costs, and

(3) Exportability—information which demonstrates the feasibility of successful adoption/adaption by other school districts: Description of learner needs, continuation of learner elements with State or local funds, willingness to serve as a demonstration site, description of target group, learner involvement, institutional variables, community and home variables, activities critical to projects' success, essential materials (software), essential equipment (hardware), procedures for training, qualifications of personnel, and description of problems and solutions.

DESCRIPTION OF PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Institutional and Individual Applications for the Faculty and Doctoral Dissertation Research Abroad programs.

2. Agency Bureau Office/Bureau. Office of Education/Bureau of Postsecondary Education/Division of International Education.

3. Agency Form Number, OE 7628, –1, –2, –3.

4. Legislative Authority for this Activity: "In the case of any application for assistance under any applicable program * * * each such application shall be submitted to the Commissioner at such time, in such manner, and containing such information as the Commissioner shall prescribe by regulation * * *" (20 U.S.C. 1232c.)

5. Voluntary/Obligatory Nature of Response. Required to obtain benefits.

6. How Information to be collected Will be Used. Information requested is needed in order to consider the candidate for overseas research and/or study. In this process, the information is used by the Office of Education, the Department of State, American Embassies, binational commissions, host country officials and the Board of Foreign Scholarships in determining academic qualifications and suitability of the candidate for grants to conduct research and/or study overseas primarily in the non-Western world and in assisting successful applicants to secure appropriate research clearances.

7. Data Acquisition Plan. (a) Method of collection: Mail; (b) time of collection: Fall; (c) frequency: Annually.

8. Respondents. (a) Type: Graduate Students and Faculty; (b) number: 600; (c) estimated average man-hours per respondent: 3½ (a) type: Institutions of Postsecondary Education; (b) number: 170; (c) estimated average man-hours per respondent: ¼.

9. Information to be collected. a. Institutional Application is the Standard Form 424 plus a list of individual applicants, preferably in order of priority, their countries of research, and the amount of each fellowship. b. Individual application consists of biographical data and project description, a language reference, and references to be completed on behalf of student applicants. Biographical data consist of such information as the applicant's current and permanent addresses, citizenship, career/career goal, veteran's status, educational background, previous overseas travel, application made to other organizations for support, proposed project title and budget estimates. It also includes a health statement to be completed by a physician.

The project description, requests information on the topic to be investigated such as a statement of purpose, survey of previous work on the same topic, scope and methodology, need for research in a foreign country, overseas contacts, proposed travel outside country of major research project's relevance to priority concerns, and a brief curriculum vitae.

The language reference requests the referee to comment on the applicant's present foreign language ability in relation to his project in the categories of understanding, speaking, reading and writing.

The reference requests referees to comment on the applicant in terms of academic excellence and personal suitability.

[FR Doc.77-9061 Filed 3-25-77;8:45 am]

EDUCATIONAL AGENCIES AND INSTITUTIONS

Comments on Collection of Information and Data Acquisition Activity

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education has proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before April 27, 1977 and should be addressed to Administrator, National Center for Education Statistics, Attn: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202–245–1022.

Dated: March 22, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Institutional Progress Report.

2. Agency/Bureau/Office. Office of Education/Bureau of Postsecondary Education/Division of Basic and State Student Grants.

3. Agency Form Number. OE 255–3.

4. Legislative Authority for This Activity. "Payments under this Section shall be made in accordance with Regulations promulgated by the Commissioner for such purpose, in such manner as will best accomplish the purposes of this Section." (Pub. L. 92–3318; 20 USC 1070a(b)(3)(A).)

"The institution shall submit such reports and information as the Commissioner may reasonably require in connection with the funds advanced to it in accordance with § 190.74 and shall comply with such procedures as the Commissioner may find necessary to ensure the correctness of such reports." (45 CFR 190.81.)

5. Voluntary/Obligatory Nature of Response. Voluntary.

6. How Information To Be Collected Will Be Used. Allocation of Funds: The allocation process is intended to provide for a gradual increase of obligation ceilings in accordance with current institutional reports of actual demand. Since the deadline for student applications for Basic Educational Opportunity Grant Program (BEOG) assistance is March, 1978, institutional requirements for funds are not finalized until after the application deadline. In addition, the gradual increase of authorization will avoid allocation of funds which are in excess of actual need. For these reasons, periodic submission of the Progress Report is essential to assure allocation of funds in accordance with actual need and to maintain close monitoring of program funds.

In the context of the program processes and requirements described above, the Progress Report basically serves two major purposes. First, it is a financial report whereby periodic adjustments may be effected in the authorizations of BEOG funds for a particular institution. Adjustments are based on cumulative payments to BEOG students and estimated demands for additional funds.

Second, the Progress Report requests certain data that is necessary to make accurate projections of the total demand for Program funds assuming full funding. This estimate of demand will be used to develop a payment schedule for the calculation of students' awards. Because of the entitlement concept of the Program, where all eligible students will receive awards, the data used to develop the payment schedule must be highly ac-

curate to prevent a mismatch of the appropriation with Program needs.

7. Data Acquisition Plan. (a) Method of collection: Mail; (b) time of collection: October 31, February 28, June 30; (c) frequency: Three times per year.

8. Respondents. (a) Type. Financial Aid Officers; (b) number: 5,000; (c) estimated average man-hours per respondent: 1.

9. Information to be collected. General information: Type of institution and control, enrollment (full-time, part-time), length of academic year, and cost of education. Operational data: BEOG expenditures, additional funds needed, number of student eligibility reports submitted, and number of BEOG recipients.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. A Study of Library Cooperatives, Networks, and Demonstration Projects.

2. Agency/Bureau/Office. U.S. Office of Education, Office of Planning, Budgeting, and Evaluation.

3. Agency Form Number. OE 521.

4. Legislative Authority for this Activity. "* * * the Secretary shall transmit to (appropriate Congressional committees) an annual evaluation report which evaluates the effectiveness of applicable programs * * * such report shall * * * contain information on progress being made * * * describe the cost and benefits of the applicable program * * * identify which sectors of the public receive the benefits of such programs * * *" (20 U.S.C. 1226C.)

5. Voluntary/Obligatory Nature of Response. Voluntary.

6. How Information to be Collected Will be Used. The purpose of this study is to assess the impact of Title III of the Library Services and Construction Act (LSCA) (Pub. L. 91-600) dealing with interlibrary cooperation and networks and Title II-B of the Higher Education Act (HEA) (Pub. L. 89-329, Pub. L. 92-318), concerned with library research and demonstration, with the view toward future Federal direction in these areas.

Both programs have an underlying goal of producing change in the library service delivery system. How changes have been produced, whom they affect, and how effective they have been are the prime concerns of this study.

The data will be used by the U.S. Office of Education to determine future Federal direction in the areas of interlibrary cooperation and networks, and library research and demonstration.

7. Data Acquisition Plan. (a) Method of collection: Mail and Interviews; (b) time of collection: Summer, 1977; (c) frequency: Single time.

8. Respondents. (a) Type: Chief State Librarians; (b) number: 56 (universe); (c) estimated average man-hours per respondent: 0.75.

(a) Type: Chief State Librarians and Staff; (b) number: 10 (sample); (c) estimated average man-hours per respondent: 1.5.

(a) Type: Director of Projects Funded under LSCA III; (b) number: 102 (universe); (c) estimated average man-hours per respondent: 0.75.

(a) Type: State Research Director and Equivalent; (b) number: 12 (sample); (c) estimated average man-hours per respondent: 0.50.

(a) Type: Director and Staff of Projects Funded under LSCA III; (b) number: 10 (sample); (c) estimated average man-hours per respondent: 1.25.

(a) Type: Individual Libraries Participating in a LSCA III Funded Project; (b) number: 90 (sample); (c) estimated average man-hours per respondent: 0.33.

(a) Type: Individual Libraries Not Participating in a LSCA III Funded Project; (b) number: 80 (sample); (c) estimated average man-hours per respondent: 0.33.

(a) Type: Individuals Involved in Library Research and Demonstration; (b) number: 36 (sample); (c) estimated average man-hours per respondent: 0.50.

(a) Type: Directors of Projects Funded under the Research and Demonstration Component of HEA II-B; (b) number: 120 (universe); (c) estimated average man-hours per respondent: 0.75.

(a) Type: Satellite Sites of Projects Funded under the Research and Demonstration Component of HEA II-B; (b) number: 24 (sample); (c) estimated average man-hours per respondent: 0.33.

(a) Type: Members of the U.S. Office of Education's Application Review Panel for the Research and Demonstration Component of the HEA II-B Program; (b) Number: 50 (sample); (c) estimated average man-hours per respondent: 0.33.

9. Information to be Collected—Chief State Librarians. Impact of projects funded under LSCA III in the State.

Procedures for determining policy, assessing needs and setting priorities for allocating LSCA III funds.

Impact of Federal regulations regarding LSCA III funds on the State Library Agency.

Impact of State legislation on networking activities in the State.

Assessment of the LSCA III program.

Membership in Interstate Compacts and Multistate networks.

Chief State Librarians and staff. Impact of the LSCA III program on networking activities in the State.

Management of LSCA III projects in the State.

Role of the Advisory Council and State library personnel in LSCA III in the State.

Assessment of technical assistance provided by USOE.

Directors of Projects Funded under LSCA III. Characteristics of projects funded under LSCA III Impact of LSCA III policy on projects.

State Research Director and Equivalent. Assessment of the specific HEA II-B Research and Demonstration project that is being conducted in the State.

State's involvement in HEA II-B Research and Demonstration projects.

Impact of Federal control of the HEA II-B program.

Evaluation of the process of selecting and awarding grants.

Assessment of the Research and Demonstration Component of the HEA II-B program and its impact on the state-of-the-art and the common practices in library cooperation and networking.

Director and Staff of Projects Funded under LSCA III. Assessment of interaction between the project and the State library agency.

Involvement of the Advisory Panel in the planning and implementation of project.

Project's relationship with other library networks or cooperative projects.

Procedures and results of project evaluation.

Funding changes planned for the project.

Characteristics of project.

Individual Libraries Participating in a LSCA III Funded Project. Participation in, services received from and the impact of the LSCA II project on the individual library participating in the network.

Specific characteristics of the LSCA III project.

Impact of LSCA III policy on the state-of-the-art and the common practices in library cooperation.

Individual Libraries Not Participating in a LSCA III Funded Project. Assessment of LSCA III project used for case study.

Impact of LSCA III policy on state-of-the-art and the common practices in library cooperation and networking.

Individuals Involved in Library Research and Demonstration. Assessment of a specific HEA II-B Research and Demonstration project.

Impact of Federal control of the HEA II-B program.

Evaluation of the process of selecting and awarding grants.

Assessment of the Research and Development Component of the HEA II-B program and its impact on the state-of-the-art and the common practices in library cooperation and networking.

Directors of Projects Funded under the Research and Demonstration Component of HEA II-B. Characteristics of the project.

Assessment of the Federal monitoring of the project.

Procedures and results of project evaluation.

Project's interaction with other Research and Demonstration projects.

Assessment of technical assistance provided by USOE.

Activities carried out to disseminate information about the project.

Satellite Sites of Projects Funded under the Research and Demonstration Component of HEA II-B. Reason for participating with the HEA II-B project.

Characteristics of site's relationship to the project headquarters.

Staffing characteristics.

Funding characteristics.

Procedures and results of project evaluation.

Assessment of technical assistance provided by project headquarters.

Interaction with other Research and Demonstration projects.

Impact of Federal control of the HEA II-B program.

Assessment of the Research and Demonstration Component of the HEA II-B program and its impact on the state-of-the-art and the common practices in library cooperation and networking.

Members of the U.S. Office of Education's Application Review Panel for the Research and Demonstration Component of the HEA II-B Program. Role of the panel members in the process of selecting applications.

Impact of Federal control of the HEA II-B program.

Assessment of the Research and Demonstration Component of the HEA II-B program and its impact on the state-of-the-art and the common practices in library cooperation and networking.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity. Endorsement of Defaulted Note(s)—National Defense Student Loan Program.

2. Agency/Bureau/Office. U.S. Office of Education, Bureau of Postsecondary Education.

3. Agency Form Number. OE 553.

4. Legislative Authority for this Activity. * * * "Sec. 463(a). An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall * * * (4) Provide that where a note or written agreement evidencing a loan has been in default for at least 2 years despite due diligence on the part of the institution in making collection thereon, the institution may assign its rights under such note or agreement to the United States, without recompense, and that in that event any sums collected on such a loan shall be deposited in the General Fund of the Treasury." * * * (Pub. L. 89-329, as amended by Pub. L. 92-318; 20 USC 1087cc). Referrals of uncollectible debts to the Claims Division, General Accounting Office, will be reported in the following manner:

"(1) Individual administrative reports containing the debtor's full name and current address. If more than one party is liable for the debt and the current address of any party is unknown, the report will include a listing of the prior known addresses of such a party and a statement of the steps taken to locate that party.

(2) The debtor's date of birth and social security number will be shown, if known.

(3) The reports will contain a complete statement of the facts and computations which are pertinent under the laws and regulations on the basis of which the debt was administratively determined.

(4) A summary of the actions taken to collect or compromise the indebtedness as required will be furnished.

(5) Reasonable current credit data in the form of (a) commercial credit reports, (b) an agency investigative report showing the debtor's assets and liabilities and income and expenses, or (c) the debtor's own financial statement." Part 105, Sec. 3, U.S.C. 952, CFR 31, 13384—The Federal Claims Collection Act of 1966.

5. Voluntary/Obligatory Nature of Response: Voluntary.

6. How Information To Be Collected Will Be Used—Program Management: The primary use of these forms will be to provide information required by the General Accounting Office should the outstanding balance assigned to the U.S. Government be referred to that Office for litigation in accordance with standards contained in the Federal Claims Collection Act of 1966 and the implementing joint standards, and to ascertain the performance of due diligence on the part of the lending institution as required. These forms will also provide historical data which will be collected and summarized for informational purposes regarding defaulted notes legally assigned to the U.S. Government by lending institutions under the authority cited in Item 4 above. These data will include the principal amount loaned, repayment or legal cancellation of principal and interest, and the outstanding balance being assigned to the U.S. Government. Summary reports will be categorized by institutional type and control, and used to determine default patterns.

7. Data Acquisition Plan—(a) *Method of Collection:* Mail; (b) *Time of Collection:* Voluntary submission at discretion of institution; (c) *Frequency:* Unknown.

8. Respondents—(a) *Type:* Institutions of Postsecondary Education—Colleges, Universities, Vocational Technical and Proprietary; (b) *Number:* 1,500; (c) *Estimated Average Man-Hours per Respondent:* .5.

9. Information To Be Collected: A separate form for each borrower whose defaulted promissory note is being assigned to the U.S.: Name and address of institution and identifying numbers; Borrower's name, address, date of birth and social security number; Present status of defaulted note: Date executed, amount of note, amount repaid, amount of default, default date; Certification of specific loan collection efforts—due diligence; Current credit information, such as commercial credit report, individual debtor's own financial statement or institution investigation.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity: Lenders Manifest for Federally Insured Student Loans.

2. Agency/Bureau/Office: U.S. Office of Education, Office of Guaranteed Student Loans.

3. Agency Form Number: OE 1151.

4. Legislative Authority for This Activity: "If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Commissioner may require, and otherwise in conformity with this section, the Commissioner finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance."

(20 U.S.C. 1079 Sec. 429(a)(1).)

"An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Commissioner pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Commissioner may prescribe by or pursuant to regulation."

(20 U.S.C. 1079 Sec. 429(a)(3).)

5. Voluntary/Obligatory Nature of Response: Required to obtain or maintain benefits.

6. How Information To Be Collected Will Be Used: This information will be used to determine when the Student Loan has been disbursed, when the student enters the repayment period, and when all loans for the student have been paid in full.

7. Data Acquisition Plan—(a) *Method of Collection:* Mail; (b) *Time of Collection:* Continuously; (c) *Frequency:* Monthly.

8. Respondents—(a) *Type:* Financial Institutions; (b) *Number:* 12,000; (c) *Estimated Average Man-Hours per Respondent:* 5.

9. Information To Be Collected: Type of transaction, Name, Social Security Number, Date of Transaction, Amount of Disbursement, Anticipated Graduation Date, School Code.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity: Certification as to use of federally assisted facilities under Title VII of the Higher Education Act of 1965, as amended.

2. Agency/Bureau/Office: Office of Education/Bureau of Postsecondary Education/Division of Training and Facilities.

3. Agency Form Number: OE 1398.

4. Legislative Authority for this Activity: "If within twenty years after completion of construction of an academic facility which has been constructed in part with a grant or grants under Part A or B of this title— * * * (2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term 'academic facility', * * * the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the then value of the facility * * * the same ratio as the amount of

such Federal grant or grants bore to the development cost of the facility * * *"

(20 U.S.C. 1132e.)

5. *Voluntary/Obligatory Nature of Response:* Required to maintain benefit.

6. *How Information to be Collected Will Be Used:* To determine that statutory requirements regarding space utilization of Title VII, HEA, constructed academic facilities, have been met. In case of noncompliance with Federal requirements, the information will serve as a basis for a followup for further action.

7. *Data Acquisition Plan*—(a) *Method of Collection:* Mail; (b) *Time of collection:* Throughout the year; (c) *Frequency:* Annually.

8. *Respondents*—(a) *Type:* Institutions of Postsecondary Education; (b) *Number:* 300; (c) *Estimated Average Man-Hours per Respondent:* 1.

9. *Information to be Collected:* Four questions are asked concerning whether or not: (1) the facilities are being fully utilized and continue to be used for the original purpose as set forth in the approved application; (2) the facilities are being adequately maintained with maintenance and repairs performed on a timely basis; (3) the equipment in the facilities is adequate in terms of quantity and condition to permit function of the facilities; and (4) the facilities are covered by fire and extended coverage insurance, and boiler insurance if applicable. If any answer is no, an explanation is requested.

[FR Doc.77-9062 Filed 3-25-77;8:45 am]

Office of Education

DOMESTIC MINING AND MINERAL AND MINERAL FUEL CONSERVATION FELLOWSHIPS

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Title IX of the Higher Education Act of 1965, as amended, applications for a fellowship allocation under the Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program are being accepted from institutions of higher education. Processing of these applications will be subject to the availability of an appropriation for this program.

Applications must be received by the U.S. Office of Education Application Control Center on or before May 6, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202. Attention: 13.567. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than May 2, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* Instructions containing an application form and other information may be obtained from the Graduate Training Branch, Division of Training and Facilities, Bureau of Postsecondary Education, Room 3060, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. 20202. The telephone number is (202) 245-2347.

D. *Estimated distribution of program funds.* During 1976-77, 375 one-year fellowships were awarded, using the fiscal year 1976 appropriation, to students attending 48 approved institutions. Though there currently is no final appropriation for fiscal year 1977, an appropriation of $3,000,000 is anticipated. This would permit the award of approximately 400 fellowships for the 1977-1978 academic year. An applicant institution will apply for an allocation of a specified number of fellowships. Only one application per institution will be accepted. Students currently receiving assistance under this program who were making satisfactory progress in their courses of study will be given high priority for reaward of a fellowship for the 1977-78 academic year. It is expected that about half of the 375 currently supported fellows will continue on into 1977-78.

The Education Amendments of 1976 (Pub. L. 94-482) authorize the Commissioner to set stipends and dependency allowances to fellowship recipients and educational allowances to institutions at rates consistent with prevailing practices under comparable federally supported programs. A notice of proposed rulemaking proposing these amounts is published in this issue of the FEDERAL REGISTER. The proposed amounts are as follows: Stipend, $3,600 per year; dependency allowances, $300 per year for each dependent; and educational allowances, $3,600 per year.

E. *Applicable regulations.* Final regulations governing this program were published in the FEDERAL REGISTER on July 15, 1976 (41 FR 29123), with technical corrections on October 13, 1976 (41 FR 44860). The Education Amendments of 1976 (Pub. L. 94-482) include several amendments to the statutory provisions authorizing this program. Proposed changes implementing these provisions are contained in a notice of proposed rulemaking published elsewhere in this issue of the FEDERAL REGISTER. Applicants should base their applications on the regulations as modified by the notice of proposed rulemaking. If the final regulations contain any changes to the proposed rules which affect the making of fellowship allocations, applicants will be permitted to amend their proposals.

(20 U.S.C. 1134n-1134r.)

Dated: March 3, 1977.

(Catalog of Federal Domestic Assistance Number 13.567; Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program).

WILLIAM F. PIERCE,
Acting United States Commissioner of Education.

[FR Doc.77-9075 Filed 3-25-77;8:45 am]

Office of Human Development

[Program Announcement No. 13.631-771]

DEVELOPMENTAL DISABILITIES OFFICE; REGIONAL SPECIAL PROJECTS GRANTS

Announcement of Grants for FY '77

The Developmental Disabilities Office, Office of Human Development, announces that applications will be accepted until May 31, 1977 from public or nonprofit private agencies or organizations wishing to compete for grants in Fiscal Year 1977 under the Regional Special Project Grants Program authorized by Part D, Sec. 145 of the Developmental Disabilities Services and Facilities Construction Act, as amended (42 U.S.C. 6001-6081).

All applications received by the closing date which are complete and conform to the requirements of this program announcement will be accepted for review and consideration for an award.

Regulations applicable to this program include the Developmental Disabilities general regulations, 45 CFR Parts 1385 and 1386 and the regulations governing Discretionary Grant Programs, 45 CFR Part 1387, Subpart B.

Scope of this Program Announcement: This program announcement identifies the general program objectives and funding priorities of the Regional Special Project Grants Program for Fiscal Year 1977.

A. PROGRAM PURPOSE

The purpose of the Regional Special Project Grants Program is to enhance the scope and quality of services provided developmentally disabled persons. These grants seek to improve the coordination and quality of services for developmentally disabled persons, to provide technical assistance and training, to facilitate the exchange of information in order to improve methods and to assist in the national use of project findings.

Grants made under the Regional Special Projects contribute to the cost of developing or operating statewide, regional, metropolitan area, county, city or community projects which will expand or improve services, activities or programs that are intended and designed to benefit developmentally disabled people. These projects test and demonstate new methods, systems and approaches that can be used promptly, effectively and efficiently.

B. ELIGIBLE APPLICANTS

Application may be made by public and other nonprofit agencies, organizations, and institutions of higher education including junior and community colleges.

C. AVAILABLE FUNDS

Of the $18.5 million appropriated by the Congress for Special Project Grants in Fiscal 1977, the Developmental Disabilities Office expects to award $4,072,485 for new grants in the program areas identified below. (A new grant is the initial grant made in support of a project requested on an application.)

The anticipated regional allocation of these grants is as follows.

Region:	
I	272,981
II	468,698
III	457,023
IV	657,042
V	695,448
VI	429,371
VII	266,221
VIII	210,302
IX	410,935
X	204,464
Total	4,072,485

It is expected that some 50 grants will be awarded pursuant to this announcement. The range of funds per grant is expected to be from $50,000 to $150,000 with the average award expected to be approximately $80,000. Generally, projects will be supported for periods of one to three years. The funds currently available will sustain the budget for the first year of the project. Support for any additional time remaining in the project depends on funds available, the grantee's satisfactory performance on the project for which the grant was awarded, and the grantee's continued promise of contributing to the priorities of the Regional Special Project Grant Program.

D. PROGRAM OBJECTIVES AND PRIORITIES FOR FUNDING

In accordance with Section 145 of Pub. L. 94-103, applications are solicited for projects with the following objectives.

1. COORDINATION OF STATE SERVICES PROJECTS

To establish a coordinated service delivery system for serving developmentally disabled individuals. This system will be a demonstration effort to provide appropriate services, and may cover a state or sub-state area.

2. PERSONAL AND LEGAL ADVOCACY PROJECTS

To provide, on a cost efficient basis, technical assistance to states and regions in resolving problems that may arise in connection with the operation of Protection and Advocacy (P&A) systems, or to develop evaluation techniques and methods by which the efficiency of states' P&A systems may be gauged, or to develop curricula and provide tarining for professional, para-professional and lay advocates to work in the network of the states' P&A systems.

3. RECREATION AND LEISURE TIME PROJECTS

To give explicit instructional procedures for training and implementing recreation and leisure time programs for persons with developmental disabilities in communities or other settings. The population to be served can include adolescents and adults as well as children. These projects may focus on a wide range of recreation and leisure time activities aimed at facilitating the development of the social and vocational skills of the developmentally disabled.

4. RURAL POPULATION PROJECTS

To demonstrate cost-effective methods of delivering individualized services to developmentally disabled persons living in sparsely populated areas.

5. TRAINING AND TECHNICAL ASSISTANCE PROJECTS

To develop and/or improve regional office capacity for delivering training and technical assistance in state or local planning or administration for services to developmentally disabled people.

E. GRANTEE SHARE OF PROJECT

Although the Act does not include mandatory cost sharing on the part of the grantees, it has always been the policy of the Developmental Disabilities Office to require that the grantees pay a part of the project. It is, therefore, expected that the grantee's share of the cost of the project will not be less than 10 percent of the total cost of the project. As provided for in Section 103(b) of the Act, the non-Federal share of the cost of a project may be provided in kind. For this purpose, "in-kind" has the same meaning as contained in Chapter 2, Office of Human Development Grants Administration Manual. Grantee contributions must be project-related and allowable under the Department's applicable cost principles.

F. THE APPLICATION PROCESS

A-95 Clearinghouse Notice. In compliance with the Office of Human Development's implementation of Management and Budget Circular No. A-95 Revised, applicants who request grant support must, prior to submission of an application, notify both the State and Areawide A-95 Clearinghouses of the intent to apply for Federal assistance.

Employment of Handicapped Individuals. As a condition for the receipt of financial assistance under the Special Projects provision of the Act, each application shall contain an affirmative action plan to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals by the provisions of Sections 501 and 503 of the Rehabilitation Act of 1973.

Application Submission. In order to be considered for a grant under the Regional Special Project Grants Program, all applications must be submitted on standard forms provided for this purpose and in accordance with guidelines established herein. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations for Special Project Grants.

One signed original and two copies of the grant application, including all attachments, are required and 10 additional copies are requested with the original. The original and the 10 additional copies, which are for review purposes, are to be submitted to OHD Grants Management Office, Department of Health, Education, and Welfare regional office. See attached list for addresses of DHEW regional offices.

Developmental Disabilities State Planning Council Review. Simultaneously, the other two copies of the application are to be submitted to the appropriate State Planning Council for review and comment in order to ensure that the proposed project is consistent with the State plan goals and objectives and the comprehensive planning and monitoring responsibilities of the State Planning Council.

Comments with regard to a particular application must be submitted to the Regional DDO by the State Planning Council within 30 days from the date of submission by the applicant in order to assure consideration of such comments.

Application Consideration. The Regional DD Program Director determines the final action to be taken with respect to each grant application, after consultation and review. Applications which do not conform to this announcement or are late or are not complete are not accepted and applicants are notified accordingly. Otherwise, all applications will be considered for funding.

All accepted grant applications are subjected to a competitive review and evaluation conducted by qualified persons outside of the Regional Special Project Grants Program. The results of the competitive review supplement and assist the Regional Program Director's consideration of the competing applications. The RPD's consideration also takes into account the moments of the A-95 Clearinghouses, State DD Planning Council and the headquarters program office. Comments on the applications may also be requested from appropriate specialists and consultants inside and outside of the Government.

After the RPD has reached a decision either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified of that decision.

Grant Awards. The RPD makes grant awards consistent with the purposes of the Act, the regulations, and program announcements within the limits of Federal funds available. The official grant award document is the Notice of Grant Award. The Notice of Grant Award sets forth in writing to the grantee the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the total grantee participation. The initial award also specifies the total project period for which support is contemplated.

G. CRITERIA FOR REVIEW AND EVALUATION OF APPLICATIONS

Completing grant applications will be reviewed and evaluated against the following criteria:

1. Project addresses one of the program objectives listed above in this program announcement.

2. Project is consistent with the State DD plan for the state in which the grant will be carried out.

3. Project does not supplant activities that are funded under other Federal programs (e.g., Administration on Aging programs, Rehabilitation Services Administration programs).

4. Project is intended to provide only model services, and should produce output to facilitate replication.

5. Project's proposed design is complete and feasible, and includes measurable objectives and an evaluation component.

6. Project's proposed staff is capable; applicant organization's facilities and resources are adequate.

7. Applicant organization has a good track record in the conduct of similar and related activities.

8. Project's budget is feasible, and reasonable; all costs are well justified.

9. Project seems likely to be completed within the proposed time schedule.

10. Project shows promise of good potential for replicability.

11. Projects which will utilize other public resources (in addition to this grant) will receive special consideration.

H. CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this program announcement is May 31, 1977. Applications may be mailed or hand delivered to the appropriate Grants Management Office, Office of Human Development, DHEW Regional Office.

An application will be considered to have arrived by the closing date if:

1. The application is at the OHD Regional Grants Management Office on or before the closing date, or

2. The application is postmarked at least two days prior to the closing date.

I. LATE APPLICATIONS

Late applications are not accepted and applicants are notified accordingly.

J. AVAILABILITY OF APPLICATION FORMS

Application kits which contain the prescribed application forms and information for the applicant may be obtained by writing:

Regional Grant Management Office, Office of Human Development, Department of Health, Education, and Welfare, Address (see attached list).

(Catalog of Federal Domestic Assistance Program Number: 13631-771 Developmental Disabilities Special Projects.)

Dated: March 21, 1977.

FRANCIS X. LYNCH,
Director, Developmental Disabilities Office.

Approved: March 23, 1977.

JERRY SUTTON,
Acting Assistant Secretary for Human Development.

DEVELOPMENTAL DISABILITIES REGIONAL OFFICES

Mr. Robert Briggs, Director, Developmental Disabilities Office, DHEW, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Phone: (617) 223-5746.

Mr. John Conti, Director, Developmental Disabilities Office, DHEW, Region II, Federal Building, 26 Federal Plaza, New York, New York 10007, Phone: (212) 264-5763.

Ms. Elizabeth Schoenfeld, Director, Developmental Disabilities, Office, DHEW, Region III, 3535 Market Street, Philadelphia, Pennsylvania 19101, Phone: (215) 596-1224.

Mr. John Smith, Director, Developmental Disabilities Office, DHEW, Region IV, 50 Seventh Street NE., Atlanta, Georgia 30323, Phone: (404) 257-2382.

Mr. Robert J. Vogt, Director, Developmental Disabilities Office, DHEW, Region V, 300 South Wacker Drive, Chicago, Illinois 60607, Phone: (312) 353-8416.

Mr. Marvin Layne, Director, Developmental Disabilities Office, DHEW, Region VI, 1507 Pacific, Avenue, Room 500, Dallas, Texas 75201, Phone: (214) 749-3574.

Mr. William Ferguson, Director, Developmental Disabilities Office, DHEW, Region VII, 601 East 12th Street, Kansas City, Missouri 64106, Phone: (816) 758-5211.

Mr. Howard Rosen, Director, Developmental Disabilities Office, DHEW, Region VIII, Federal Office Building, 19th and Stout Streets, Denver, Colorado 80202, Phone: (303) 327-4106.

Ms. Martha Hislop, Director, Developmental Disabilities Office, DHEW, Region IX, Federal Office Building, 50 United Nations Plaza, Room 483, San Francisco, California 94102, Phone: (415) 556-7774.

Dr. R. S. Justice, Director, Developmental Disabilities Office, DHEW, Region X, Arcade Building, Room 615, 1321 Second Avenue (MS 622), Seattle, Washington 98101, Phone: (206) 399-5462.

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Office of the Secretary

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

Part S (formerly Part 4) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions and Delegations of Authority for the Social Security Administration (SSA). Sections SP.00, SP.10 and SP.20 (formerly sections 4-05-00 through 4-05-20, respectively) of the SSA Statement describe the Mission; Organization; Order of Succession; and Functions for SSA's Office of Program Operations (OPO). These sections were originally published in the FEDERAL REGISTER on January 30, 1975 (40 FR 4476-77) and subsequently amended by the material which appeared in the FEDERAL REGISTER on December 2, 1975 (40 FR 55885-88) and September 20, 1976 (41 FR 40531-32). A minor correction pertaining to the material appearing on December 2, 1975 was published in the FEDERAL REGISTER on December 18, 1975 (40 FR 58679).

Notice is hereby given that the subject material for OPO is amended further. This amendments is necessitated by numerous editorial changes throughout the material; modifications in nomenclature and order of display for OPO organizational components previously listed in section 4-05-10 (now section SP.10), as well as the addition of more components in this section; revisions in various functional statements previously set forth in section 4-05-20 (now section SP.20); and the addition of functional statements in section SP.20 for those OPO components newly listed in section SP.10. For ease of reference, sections SP.00, SP.10 and SP.20 are hereby republished in their entirety as amended. This restatement supersedes all previous material concerning OPO and its components published in the FEDERAL REGISTER. The updated OPO material reads as follows:

SEC. CP.00 OFFICE OF PROGRAM OPERATIONS—(MISSION)

The Office of Program Operations (OPO) provides executive direction and coordination to all aspects of SSA's cash benefit program operations. It provides line direction to a nationwide field organization of ten regional offices, six SSA program service centers and over 1,300 local offices. The Office also directs four headquarters bureaus responsible for retirement and survivors insurance operations; disability insurance operations; supplemental security income operations; and data processing. OPO implements policy decisions and directives through development and issuance of procedures and program instructions for cash benefit operations. It plans and directs procedural, systems, and direct management support activities. OPO assures that regional offices provide effective leadership to field operations, relationships with States, and implementation of SSA public affairs programs at the regional level. The Office is responsible for evaluating the operational effectiveness of all of the above activities.

SEC. SP.10 OFFICE OF PROGRAM OPERATIONS—(ORGANIZATION)

The Office of Program Operations (SP), under the leadership of the Asso-

ciate Commissioner for Program Operations, consists of the:

A. *Associate Commissioner for Program Operations (SP).*

B. *Deputy Associate Commissioner for Program Operations (SP).*

C. *Immediate Office of the Associate Commissioner for Program Operations (SP)*, which includes the:

(1) OPO Executive Officer (SP).

(2) Equal Opportunity Staff (SPE).

D. *Office of Evaluation and Standards (SPF)*, which consists of the: (1) Immediate Office of the Director (SPF).

(2) Division of Quality Maintenance and Standards (SPF1).

(3) Division of Survey and Analysis (SPF2).

E. *Office of Management (SPG)*, which consists of the: 1. Immediate Office of the Director (SPG), which includes the:

(a) Management Planning Staff (SPG1).

(b) Labor-Management Relations Staff (SPG2).

(2) Division of Financial Management (SPG3).

(3) Division of Management Information (SPG4).

(4) Division of Manpower Management (SPG5).

(5) Division of Operating Facilities and Equipment (SPG6).

F. *Office of Operations, Systems and Coordination (SPH)*, which consists of the: 1. Immediate Office of the Director (SPH), which includes the:

(a) Central Coordination Staff (SPH1).

(b) Systems Security Staff (SPH2).

(2) Division of Field Operations (SPH3).

(3) Division of Instructions (SPH4).

(4) Division of Interprogram Activities (SPH5).

(5) Division of Systems and Data Communications (SPH6).

G. *Bureau of Data Processing (SPP)*, which consists of the: (1) Immediate Office of the Bureau Director (SPP), which includes the:

(a) Equal Employment Opportunity Staff (SPP7).

(b) Technical Liaison Staff (SPP8).

(2) Office of the Assistant Bureau Director, Administration (SPP3), which consists of the: (a) Immediate Office of the Assistant Bureau Director (SPP3), which includes the: Labor-Management Relations Staff (SPP34).

(b) Division of Management Services (SPP35).

(c) Division of Resources Analysis and Appraisal (SPP36).

(3) Office of the Assistant Bureau Director, EDP Operations (SPP1), which consists of the: (a) Immediate Office of the Assistant Bureau Director (SPP1).

(b) Division of EDP Central Operations (SPP11).

(c) Division of EDP Network Operations (SPP12).

(4) Office of the Assistant Bureau Director, Operations (SPP4), which consists of the: (a) Immediate Office of the Assistant Bureau Director (SPP4).

(b) Division of Adjustment Operations (SPP42).

(c) Division of Claims Operations (SPP41).

(d) Division of Earnings Operations (SPP45).

(e) Division of Health Insurance Operations (SPP44).

(f) Division of Registration Operations (SPP43).

(g) Data Operations Centers (SPP4F6-ADOC and SPP4F8-SDOC) (located at selected geographical locations throughout the U.S.)

5. Office of the Assistant Bureau Director, Systems (SPP2), which consists of the: (a) Immediate Office of the Assistant Bureau Director (SPP2).

(b) Integrated Systems Redesign Staff (SPP29).

(c) General Policies Staff (SPP22).

(d) Planning and Technological Development Staff (SPP2A).

(e) Division of Computer Technology (SPP23).

(f) Division of Earnings Systems (SPP25).

(g) Division of Health Insurance Systems (SPP26).

(h) Division of RSDI Claims Systems (SPP2B).

(i) Division of RSDI Post-Entitlement Systems (SPP2C).

(j) Division of SSI Claims and Post-Entitlement Systems (SPP2D).

(k) Division of SSI Recipient Contact, Control and Accounting Systems (SPP-2E).

H. *Bureau of Disability Insurance (SPT)*, which consists of the: (1) Immediate Office of the Bureau Director (SPT), which includes the: (a) Equal Opportunity Staff (SPT9).

(b) Medical Consultant Staff (SPT2).

2. Office of the Assistant Bureau Director, Administration (SPT6), which consists of the:

(a) Immediate Office of the Assistant Bureau Director (SPT6), which includes the: Labor Relations Staff (SPT65).

(b) Division of Employee Relations and Training (SPT66).

(c) Division of Management Services (SPT67).

(3) Office of the Assistant Bureau Director, Federal-State Programs (SPTA), which consists of the:

(a) Immediate Office of the Assistant Bureau Director (SPTA).

(b) Professional Relations Staff (SPTA1).

(c) Division of Field Evalution, Liaison and Special Projects (SPTA2).

(d) Division of Rehabilitation Programs (SPTA3).

(e) Division of State Standards (SPTA4).

(4) Office of the Assistant Bureau Director, Disability Operations (SPT5), which consists of the:

(a) Immediate Office of the Assistant Bureau Director (SPT5).

(b) Division of Benefit Payments (SPT53).

(c) Division of Benefit Services (SPT-54).

(d) Division of Continuing Entitlement (SPT56).

(e) Division of Initial Claims (SPT55).

(f) Division of Operations Analysis (SPT58).

(g) Division of Reconsideration (SPT-57).

(h) Division of Sensitive Inquiries (SPT59).

(5) Office of the Assistant Bureau Director, Program Evaluation (SPTB), which consists of the:

(a) Immediate Office of the Assistant Bureau Director (SPTB).

(b) Division of Program Evaluation and Planning (SPTB1).

(c) Division of Quality Assurance (SPTB2).

(6) Office of the Assistant Bureau Director, Systems and Methods (SPTC), which consists of the:

(a) Immediate Office of the Assistant Bureau Director (SPTC).

(b) Division of Disability Systems (SPTC1).

(c) Division of Initial Methods (SPTC 2).

(d) Division of Post-Adjudicative Methods (SPTC3).

I. *Bureau of Retirement and Survivors Insurance (SPR)*, which consists of the:

(1) Immediate Office of the Bureau Director (SPR), which includes the:

(a) Equal Opportunity Staff (SPR7).

(b) Labor Relations Staff (SPR6).

(c) Liaison and Review Staff (SPR8).

(2) SSA Program Service Centers (SPRF2/SPRF9) (located at six appropriate geographical locations throughout the U.S.

(3) Division of International Operations (SPR5).

(4) Office of the Assistant Bureau Director, Administration and Appraisal (SPR9), which consists of the:

(a) Immediate Office of the Assistant Bureau Director (SPR9).

(b) Operations Research and Planning Staff (SPR91).

(c) Division of Management Information and Administrative Systems (SPR 92).

(d) Division of Management Services (SPR93).

(e) Division of Quality Appraisal (SPR94).

(5) Office of the Assistant Bureau Director, Division of Operational Policy and Standards (SPRA).

(6) Office of the Assistant Bureau Director, Systems and Methods (SPR4), which consists of the:

(a) Immediate Office of the Assistant Bureau Director (SPR4), which includes the:

(1) Critical Case Staff (SPR44).

(2) Systems Development and Accounting Staff (SPR43).

(b) Division of Claims Operations (SPR41).

(c) Division of Payment Operations (SPR42).

J. *Bureau of Supplemental Security Income (SPE)*, which consists of the:

(1) Immediate Office of the Bureau Director (SPS), which includes the:

(a) Management Services Staff (SPSE).

(b) State Operations Staff (SPSG).

(2) Office of the Assistant Bureau Director, Operating Polices, Standards and Systems (SPSH), which consists of the:
(a) Immediate Office of the Assistant Bureau Director (SPSH), which includes the: Systems Validation Staff (SPSH1).
(b) Division of Operating Policies (SPSH2).
(c) Division of Systems and Procedures (SPSH3).
(3) Office of the Assistant Bureau Director, Program Operations and Control (SPSJ), which consists of the:
(a) Immediate Office of the Assistant Bureau Director (SPSJ).
(b) Division of Operational Quality Maintenance (SPSJ1).
(c) Division of Program Management (SPSJ2).

K. *Office of the Regional Commissioner (SPD1/SPDX)* located in each of SSA's 10 geographical regions nationwide), which consists of the:
(1) Immediate Office of the Regional Commissioner (SPD1/SPDX), which includes the:
(a) External Affairs Staff (SPD19/SPDX9).
(b) Special Projects Staff (SPD16/SPDX6).
(2) Division of Management and Administration (SPD17/SPDX7).
(3) Division of Operational Support (SPD18/SPDX8).
(4) Office of the Assistant Regional Commissioner, Disability Insurance (SPD11/SPDX1).
(5) Office of the Assistant Regional Commissioner, Field Operations (SPD14/SPDX4).
(6) Office of the Assistant Regional Commissioner, Retirement and Survivors Insurance (SPD12/SPDX2).
(7) Office of the Assistant Regional Commissioner, Supplemental Security Income (SPD13/SPDX3).

SEC. SP. 20 OFFICE OF PROGRAM OPERATIONS—(FUNCTIONS)

A. (1) The Associate Commissioner for Program Operations (SP) is directly responsible to the Commissioner of Social Security (the Commissioner) for performance of OPO's mission and provides general supervision to the principal components of OPO.
(2) During the absence or disability of the Associate Commissioner for Program Operations (the Associate Commissioner), or in the event of a vacancy in this position, the Deputy Associate Commissioner for Program Operations (the Deputy Associate Commissioner) shall act as Associate Commissioner.
(3) In the event of the absence or disability of both the Associate Commissioner and the Deputy Associate Commissioner, an OPO executive designated by the Associate Commissioner shall serve as acting head of OPO.
(4) Should both the positions of Associate Commissioner and Deputy Associate Commissioner become vacant, an SSA official designated by the Commissioner shall serve as acting head of OPO.

B. *The Deputy Associate Commissioner for Program Operation (SP)* assists the Associate Commissioner in carrying out his responsibilities and perform such other duties as the Associate Commissioner may prescribe.

C. *The Immediate Office of the Associate Commissioner for Program Operations (SP):* (1) *The OPO Executive Officer (SP)* assists the Associate Commissioner and Deputy Associate Commissioner in the overall management of OPO.
(2) *The Equal Opportunity Staff (SPE):* a. Serves as the personal staff to the Associate Commissioner in directing and coordinating formulation of the SSA approved OPO Affirmative Action Plan at headquarters and in the field, and tracks accomplishment of affirmative action goals for the Associate Commissioner.
(b) Provides technical expertise to the Associate Commissioner in the exercise of equal opportunity (EO) responsibilities and, through a continuing analysis of EO activities, identifies significant trends in the Staff's assigned areas of responsibility and recommends projects and programs to the Associate Commissioner to assure the fulfillment of OPO's EO objectives.

D. *The Office of Evaluation and Standards (SPF)* oversees OPO appraisal activities, both at headquarters and in the field; assures that OPO bureau quality appraisal systems meet national objectives and the data needs of the Associate Commissioner. The Office maintains continuing liaison with OMA's Office of Quality Assurance (OMA/OQA), and serves as a focal point for OPO quality assurance data. It designs and directs an OPO-wide program of surveys and, in cooperation with OPO bureaus, sets and monitors performance goals and standards. The Office includes the following major components, whose functions are as indicated:
(1) *The Immediate Office of the Director (SPF)*, which provides executive-level leadership and direction to the Office of Evaluation and Standards and its components.
(2) *The Division of Quality Maintenance and Standards (SPF1):* (a) Provides the Associate Commissioner with an overview of OPO quality assurance data; establishes qualitative and processing time standards, as well as criteria for objective management and evaluation of the total OPO workload process, in coordination with OPO bureaus; and conducts ongoing analyses of workload performance reports to identify problems.
(b) Maintains close relations with OMA/OQA on quality assurance matters; and reviews and monitors existing, revised or new OPO quality appraisal systems to assure accomplishment of national objectives.
(c) Designs national guidelines for the district/branch office quality control system and assures its effective implementation.
(3) *The Division of Survey and Analysis (SPF2):* (a) Directs a comprehensive operations and management analysis program; designs and conducts a regular appraisal program for the Offices of the Regional Commissioner (ORCs); and assures that appropriate actions are taken on OPO regional review reports.
(b) Furnishes guidelines to ORCs for use in regional appraisal operations; and maintains direct contact and liaison with Special Projects Staffs in the ORCs.
(c) Conducts management appraisals of OPO headquarters components; assures that OPO components conduct effective and efficient internal self-appraisal programs; and, participates in such programs, as necessary.

E. *The Office of Management (SPG)* directs, plans, and coordinates overall management functions for OPO at the headquarters, regional and field levels. Its specific areas of responsibility include: labor-management relations; financial management, management information; facilities management; training; organization management and planning; and manpower utilization management and planning. The Office includes the following major components, whose functions are as indicated:
(1) *The Immediate Office of the Director (SPG)*, which provides executive-level leadership and direction to the Office of Management and its components. It includes:
(a) *The Management Planning Staff (SPG1):* (1) Develops and maintains the OPO operational planning/work planning system.
(2) Designs, conducts and coordinates OPO management programs.
(3) Develops and coordinates administrative planning for legislation.
(4) Prepares the OPO position and planning for OPO component issues.
(b) *The Labor-Management Relations Staff (SPG2):*
(1) Develops, coordinates, and implements an OPO labor-management relations program including, as appropriate, contract negotiations and training activities.
(2) Serves as the OPO liaison with employee unions on matters of concern to OPO components.
(3) Provides guidance, advice and information to OPO supervisors and management officials on labor management issues.
(4) Maintains liaison with HEW–SSA labor-management relations staffs in the field to ensure effective application of labor-management relations policy.
(2) *The Division of Financial Management (SPG3):* (a) Provides staff assistance to the Associate Commissioner in development, coordination, preparation, and execution of the OPO budget.
(b) Develops operational procedures for determining funding requirements and financial patterns for OPO components at headquarters and in the field.
(c) Negotiates the OPO budget with OMA.
(3) *The Division of Management Information (SPG4):* (a) Plans and coordinates the compilation; analysis and interpretation of statistical data and operational reports for use by OPO top staff.

b. Oversees the design, implementation and operation of an OPO management information system that provides all levels of management with accurate, timely and relevant information required to measure the magnitude, accuracy and overall efficiency of cash benefits program operations.

4. *The Division of Manpower Management (SPG5):* a. Plans, organizes and directs OPO's internal manpower utilization, organization and training programs, in accordance with Federal, HEW and SSA personnel management regulations, policies and procedures.

b. Develops and administers the basic rules, procedures and guidelines through which OPO components satisfy their manpower requirements and manage manpower resources.

c. Analyzes the organizational effectiveness of OPO components and insures uniform and effective position management.

d. Develops and coordinates OPO-wide training plans.

5. *The Division of Operating Facilities and Equipment (SPG6):* a. Analyzes the facilities, space and equipment needs of OPO components.

b. Prepares OPO long- and short-range space plans; assesses facility planning needs; and sets telephone standards policy.

c. Assesses procurement needs for all OPO components.

d. Directs the paperwork management program for OPO.

F. *The Office of Operations, Systems and Coordination (SPH)*, develops and/or coordinates a broad range of OPO operational/systems policies and procedures that relate to more than one OPO bureau. It coordinates systems development and planning activities within OPO, and with other SSA components, to assure that OPO systems needs are met and effectively coordinated with SSA-wide systems development and planning. The Office develops and recommends OPO operational priorities and objectives, and provides overall guidance and coordination for the development and issuance of operational instructions and issuances required to implement SSA program and operational policies. It monitors and appraises OPO efforts in meeting systems and operational planning objectives. The Office includes the following major components, whose functions are as indicated:

1. *The Immediate Office of the Director (SPH)*, which provides executive level leadership and direction to the Office of Operations, Systems and Coordination and its components. It includes:

a. *The Central Coordination Staff (SPH1):* (1) Coordinates, integrates and oversees activities related to OPO headquarters components and assists the Associate Commissioner in assuring that available headquarters resources are effectively utilized in pursuit of overall OPO/SSA operational priorities.

(2) Serves as the OPO focal point for analysis and action respecting SSA operational activities outside OPO that impact on OPO headquarters operations across program lines, and acts as OPO liaison with organizations external to SSA, on operational matters that cut across OPO bureau or program lines.

(3) Monitors and coordinates individual OPO bureau efforts to assure effective implementation of approved OPO objectives.

(4) Leads OPO-level planning for operational implementation of proposed new programs and extensions of existing programs.

b. *The Systems Security Staff (SPH2):* (1) Develops, manages and coordinates the SSA-wide systems security program; develops, applies and interprets policies, standards, techniques, guidelines, criteria and procedures for assuring adherence to all statutory and regulatory requirements for the security of personal and program data gathered, processed, maintained and disposed of by SSA.

(2) Develops and conducts studies, analyses and audits to determine the security status of SSA systems, as well as the appropriateness and effectiveness of limitations on access to systems data; and evaluates ADP equipment and software acquisition proposals for adequacy of security controls.

(3) Develops procedures for recording security violations; records and assesses such violations; recommends corrections of violations and remedies for systems vulnerabilities, through modifications of systems, programs, procedures or controls; and recommends long- and short-range solutions to security problems.

(4) Advises the Associate Commissioner and the Commissioner on systems security matters, and represents OPO and SSA on systems security matters in dealings with higher authorities and other agencies and organizations, through service on committees, panels, etc.

2. *The Division of Field Operations (SPH3):* a. Working with the ORC's and all OPO bureaus, integrates, coordinates and monitors OPO field operations to assure that OPO-level operational interests and priorities are uniformly communicated, understood and properly considered in the field; assures national consistency so that regional variations in service to the public are minimized; and plans, initiates and conducts operational analyses to assure effective and uniform implementation of policies and procedures.

b. Serves as the headquarters focal point for the operations of OPO field installations and provides oversight review of such operations; reviews field operations priorities and objectives of OPO components and assists in establishing revisions where such priorities or objectives are in conflict, or result in excessive demands upon field operations; reviews instructional material for field offices to assure that such material can be implemented; and participates in studies and special projects aimed at assuring that procedures set out in instructions are not impacting too heavily on the field.

c. Acts as the advocate for OPO field operations in securing changes to policies, procedures or performances.

d. Evaluates the effectiveness of OPO field operations as they impact on non-SSA organizations.

3. *The Division of Instructions (SPH4):* a. Assumes total OPO responsibility for the review, consolidation and publication of all OPO operational instructions to ensure uniformity, lack of duplication and ready access to such instructional material by OPO audiences.

b. Performs a technical review of program operating instructions to assure integration of changes into the appropriate section(s) of the Program Operations Manual System (POMS); and analyzes procedures and use of instructional publications.

c. Assures the printing, distribution and indexing of all written instructional material, and is responsible for the conversion into the POMS of all existing SSA operating instruction material directed to OPO staff and for maintenance of the POMS.

4. *The Division of Interprogram Activities (SPH5):* a. Is responsible for the development and implementation of broad OPO operational policies and operational procedures to carry out substantive policy in areas that involve more than one program, and for ongoing assessment of OPO bureau implementation of these policies. Examples of such policy areas include: appeals; administrative finality; confidentiality/disclosure; privacy; freedom of information; information and referral outreach/leads programs; and social security number enumeration.

b. Serves as the focal point within OPO for interprogram operational policy concerning overpayments and underpayments.

c. Directs and monitors all OPO headquarters and field activities involving significant class action suits; potential contempt citation cases; and other court cases of an unusually sensitive nature.

d. Serves as the OPO focal point for program integrity activities.

5. *The Division of Systems and Data Communications (SPH6):* a. Directs OPO-wide systems management, development and implementation activities; has lead responsibility within OPO for exploration of creative systems designs and recommendations for innovative technology and processes; and analyzes proposed legislation and policy changes for impact on OPO systems resources.

b. Determines systems priorities among OPO programmatic areas to ensure maximum utilization of OPO resources; prepares OPO policies, procedures and standards which define requirements for project development and management of OPO's ADP resources; insures OPO compliance with HEW, GSA and other higher monitoring authority requirements; and specifies OPO approval levels, need for feasibility studies and cost benefit analyses, format and detail level of documentation, and tracking requirements.

c. Oversees the OPO implementation of systems changes to insure their orderly implementation; conducts post implementation reviews to insure that overall OPO objectives are being met; and coordinates these activities among OPO headquarters and field components.

d. Initiates and proposes systems improvements and modifications in order to bring about optimum OPO systems usage and effectiveness; coordinates with SSA's Office of Advanced Systems (OAS) to insure compatibility of OPO plans with longer range objectives; and provides staff support to the Associate Commissioner and assistance to other OPO components concerning systems management/development requirements.

G. *Bureau of Data Processing (SPP)*, provides direction for the nationwide operation of a centralized ADP and telecommunications facility for SSA, including systems analysis; programming; computer operations; and data transmission. It establishes and maintains the basic records supporting Social Security programs, including records and accounts for determining entitlement to, and computation of, retirement, survivors and disability insurance benefits; determining entitlement to and utilization of health insurance benefits; and determining entitlement to, computation and payment of, supplemental security income (SSI) benefits. The Bureau develops earnings reporting standards and procedures for employers and the self-employed; investigates and resolves reporting and earnings record discrepancies; and furnishes necessary data to the Department of the Treasury for proper crediting of contributions to Social Security Trust Funds. It compiles necessary data for the control of SSI payments and for proper accounting as to the expenditure of general funds for the SSI program. The Bureau includes the following major components, whose functions are as indicated:

1. *The Immediate Office of the Bureau Director (SPP)*, which provides executive level leadership and direction to the Bureau of Data Processing (BDP) and its components. It includes:

a. *The Equal Employment Opportunity Staff (SPP7):* (1) Develops, prepares and directs the BDP Affirmative Action Plan designed to overcome identified equal opportunity (EO) problems at BDP headquarters and in its Data Operations Centers.

(2) Monitors recruitment, promotion and training activities and makes recommendations to BDP management for EO improvements.

(3) Conducts special studies on dead-end positions, job restructuring and experimental efforts to improve employee opportunities.

(4) Manages SSA approved technical EO training for all BDP Supervisors and managers.

b. *The Technical Liaison Staff (SPP8):* Provides and/or coordinates the delivery of a broad range of technical assistance on BDP systems to SSA field components and, as appropriate, with other Federal and State agencies; public and private employers; and military organizations.

2. *The Office of the Assistant Bureau Director, Administration (SPP3)* directs, coordinates and implements BDP's general management and service functions; employee relations; training and career development; resources management; ADP security programs, and union-management relations programs. The Office is also responsible for BDP's operational evaluation; quality appraisal; and audit liaison programs. It evaluates the necessity for, and usefulness of, BDP functions, services and products to assure proper manpower utilization. The Office directs BDP's planning efforts; management information and analysis program; and production control program. It serves as the principal resource for the Bureau Director in the above areas, and as the focal point and BDP liaison with OPO and OMA on these activities. The Office includes the following major components, whose functions are as indicated:

a. *The Immediate Office of the Assistant Bureau Director, Administration (SPP3)*, which provides executive-level leadership and direction to the Office of the Assistant Bureau Director, Administration and its components. It includes:

(1) *The Labor-Management Relations Staff (SPP34):* (a) Directs, coordinates and implements BDP's labor relations programs at headquarters and in the Data Operations Centers.

(b) Provides guidance, advice and technical assistance to supervisors and managers on labor relations problems, contract interpretations and related activities or actions.

(c) Conducts day-to-day consultations between union and management under headquarters and Data Operations Center union-management agreements, and participates in the preparation and negotiation of revised headquarters agreements.

b. *The Division of Management Services (SPP35):* (1) Acts in a liaison capacity with other OPO components, OMA and other SSA components in the areas of facilities; space; personnel; classification; and position management.

(2) Provides management services in the areas of forms; issuances; mail; reports; travel; tort claims; safety; records; and property management.

(3) Directs the development, implementation and delivery of technical training programs in BDP; directs studies appraising BDP's training needs; and evaluates the effectiveness of training programs conducted.

(4) Coordinates employee relations activities; identifies BDP concerns in areas of grievances and adverse actions; and monitors grievance resolution activities within BDP.

c. *The Division of Resources Analysis and Appraisal (SPP36):* (1) Develops BDP's short-range financial program and operating plans, and allocates funds, manpower, equipment and materials in accordance with such plans; prepares budget estimates and financial plans; and monitors and controls BDP's budget.

(2) Performs ADP contractual and operational cost analyses; develops and maintains Bureau-wide systems for production control, and for compiling workload and manpower data; and provides decisionmaking information on all parameters that affect workflow and scheduling.

(3) Develops, coordinates and implements BDP's operational evaluation; quality appraisal; and audit liaison programs, and serves as the BDP focal point in coordinating audits and reports by GAO; HEW; and other third parties.

3. *The Office of the Assistant Bureau Director, EDP Operations (SPP1)* plans and directs the nationwide operation of BDP's complex large scale computer processing operation and wire data transmission system, which is connected to over 1,300 field stations ranging from Hawaii to Puerto Rico. It exercises technical surveillance over EDP equipment in PSCs, including use, scheduling and configuration. The Office utilizes a large variety of sophisticated EDP equipment for the establishment and maintenance of earnings accounts and beneficiary rolls; preparation of benefit computations and awards; provision of data to PSCs from benefit-in-force rolls; and establishment and maintenance of health insurance rolls and data. It generates, processes and maintains the basic data utilized throughout SSA. The Office includes the following major components, whose functions are as indicated:

a. *The Immediate Office of the Assistant Bureau Director (SPP1)*, which provides executive-level leadership and direction to the Office of the Assistant Bureau Director, EDP Operations and its components.

b. *The Division of EDP Central Operations (SPP11):* (1) Maintains an extensive, multi-system complex of computers, with responsibility for accomplishing SSA's EDP operations on a nationwide basis.

(2) Performs benefit computations; posts several hundred million earnings items yearly to approximately 200 million master accounts; reinstates incorrectly or incompletely reported earnings; prepares form correspondence; furnishes earnings statements to social security number holders; and produces statistical data for SSA and other government agencies.

(3) Processes health insurance data, including enrollment cards and premium billing materials; maintains master files; and performs statistical operations.

(4) Performs computer operations in connection with updating beneficiary records; file referencing and post-entitlement processes.

c. *The Division of EDP Network Operations (SPP12):* (1) Conducts the coordination and scheduling of electronic data processes for SSA headquarters and PSCs and provides technical surveillance over EDP equipment in PSCs (including use, scheduling and configuration).

(2) Overviews the operation of the nationwide EDP and telecommunications network systems, including head-

quarters, PSCs and district offices; coordinates and facilitates the expeditious flow of data and administrative traffic between all points of the systems; develops emergency routing procedures; and assists in development of configuration changes to insure proper utilization of EDP facilities.

4. *The Office of the Assistant Bureau Director, Operations (SPP4)* directs BDP's clerical, electronic accounting machine, and data entry operations (preceding and subsequent to electronic data processing), which involve the establishment and maintenance of employee applications for social security numbers; employer applications for identification numbers; beneficiary applications for hospital insurance identification cards; the receipt and processing of social security earnings reports; adjustments or corrections to posted earnings items; the maintenance of eligibility records for the health insurance program; the identification and reintroduction into operations of health insurance bills and hospital notices improperly identified; and the analysis and certification of all data concerning individual earnings records maintenance of eligibility records for and insured status. The Office includes the following major components, whose functions are as indicated:

a. *The Immediate Office of the Assistant Bureau Director (SPP4)*, which provides executive-level leadership and direction to the Office of the Assistant Bureau Director, Operations and its components.

b. *The Division of Adjustment Operations (SPP42):* (1) Reinstates earnings items reported incorrectly or incompletely; resolves discrepancies between SSA records and statements of earnings and employment held by individuals; processes notices received from the Internal Revenue Service correcting prior reports; and adjusts records when the identities of individuals have been confused.

(2) Reviews district office determinations, or makes determinations based on evidence submitted by district offices, as to whether alleged employment is employment as defined by the Social Security Act as amended.

(3) Maintains registers of social security numbers established; files of suspended and reinstated items; employer wage reports; self-employed income reports; detailed earnings listings; and answers or initiates corrspondence relating to earnings records.

c. *The Division of Claims Operations (SPP41):* (1) Analyzes and reviews earnings data; determinations of quarters of coverage; first quarter of eligibility; increment years; total earnings; closing dates; divisor months; primary insurance amounts; and, in disability cases, determinations of whether work requirements are met.

(2) Certifies earnings record data to district offices and PSCs for adjudication of RSI and DIB cases.

(3) Combines and certifies earnings data from Railroad Retirement Board and SSA records.

(4) Certifies to the Railroad Retirement Board earnings data from BDP records and makes preliminary findings of jurisdiction on handling claims involving both agencies.

d. *The Division of Earnings Operations (SPP45):* (1) Receives, examines and microfilms reports of earnings covered under the Social Security Act, as amended, prior to ADP operations; transfers earnings data from reports to punch cards; and performs all required sorting, testing, blocking and auditing operations.

(2) Prepares correspondence to employers and the Internal Revenue Service regarding the correction and processing of employer wage reports and self-employment income reports.

(3) Performs clerical operations necessary for the audit and control of the quarterly updating of employer earnings accounts, and for reinstating improperly reported earnings items.

e. *The Division of Health Insurance Operations (SPP44):* (1) Receives and examines health insurance bills; audits and controls the processing of payment records; analyzes discrepancies; and reconciles differences.

(2) Audits beneficiary microfilm records, and reviews and corrects notices of hospital utilization before mailing to beneficiaries.

(3) Maintains health insurance records and answers or initiates correspondence relating to them; identifies and reinstates health insurance inquiries, doctor bills and hospital notices reported incorrectly or incompletely as to name or account number; and issues replacements for lost or incorrect health insurance identification cards.

f. *The Division of Registration Operations (SPP43):* (1) Establishes and maintains the files of employee applications for social security numbers; employer applications for identification numbers; and BDP correspondence files.

(2) Controls the printing and distribution of prenumbered social security cards, after determining the correct social security number.

(3) Answers correspondence concerning individual and employer numbers; initiates BDP's processing of claims and rejected actions; establishes and maintains State and local government records; and provides and maintains a storage area for key duplicate records to be used in the event basic records are destroyed.

g. *The Data Operations Centers (SPP 4F6–ADOC and SPP4F8–SDOC):* (1) Process source data through computer controlled data entry and telecommunications systems, for input to the central computer complex at SSA headquarters.

(2) Convert data from applications for social security numbers, employer's quarterly earnings reports, health insurance utilization records and a variety of other source documents; perform electronic editing, validating and balancing functions; and transmit completed work products to the BDP headquarters computer complex, for processing in a critically time controlled environment.

(3) Operate a large complex of data entry terminals, computers and communications equipment.

5. *The Office of the Assistant Bureau Director, Systems (SPP2):* directs the design, development, installation and maintenance of large EDP operational systems and is responsible for their operation. It is also responsible for the effective use of EDP and telecommunications resources and microphotographic facilities. The Office plans and directs a systems (IDP and ADP) program for the design, development and implementation of policies, procedures, methods and systems for all BDP functions, as well as the data processing needs of all other SSA components. It participates in continuing research involving the latest techniques and technological developments in the fields of office machines; wire transmission; microphotographic and EDP equipment, and considers possible applications to meet SSA needs. The Office includes the following major components, whose functions are as indicated:

a. *The Immediate Office of the Assistant Bureau Director (SPP2)*, which provides executive-level leadership and direction to the Office of the Assistant Bureau Director, Systems and its components.

b. *The Integrated Systems Redesign Staff (SPP29):* (1) Plans and directs integrated EDP systems design and development efforts calculated to achieve new levels and operational processing capability in short to intermediate time frames.

(2) Prepares comprehensive and detailed project plans; schedules the completion and approval of major projects; manages phases of the development and installation of systems within an EDP operational framework; and coordinates project efforts with ongoing systems support efforts during and at the conclusion of projects.

(3) Evaluates the applicability of available technological requirements in data processing and associated disciplines to the redesign of specific operational EDP systems, and recommends and advises management on courses of action in EDP systems development.

c. *The General Policies Staff (SPP22):* (1) Develops policies and designs systems in a variety of areas, such as: services to health/sociological research; pension funds; State and Federal projects; bureau correspondence preparation and management; photography/microphotography; security storage; fraud; and special activities.

(2) Negotiates agreements and prepares contracts for all systems reimbursement undertakings, and develops policies and prepares and reviews proposals and submittals on laws, regulations and statements involving confidentiality and disclosure of records.

(3) Provides technical advice and assistance on microphotography equipment and systems to other SSA components; private industry; and other Fed-

eral, State, local and foreign government agencies, as appropriate.

(4) Conducts analyses; develops policies; designs and improves administrative and management information systems for the BDP systems complex; provides principal BDP liaison and control regarding systems staffing and promotional policies; and provides a variety of systems management and library services.

d. *The Planning and Technological Development Staff (SPP2A)*: (1) Is responsible for BDP activity related to hardware and software research, and evaluation for applicability to SAA data processing services, in the areas of computer technology; telecommunications; input/output tools; and peripherals.

(2) Performs hardware and network monitoring; utilization and performance reviews; modeling; simulation work; and configuration design.

(3) Is responsible for initiation and control of ADP procurement actions within BDP.

(4) Acts as the BDP focal point for broad systems planning and interfaces with other SSA planning groups.

(5) Develops staff proposals and recommendations for changes in systems operating policies and standards, and in systems development procedures.

e. *The Division of Computer Technology (SPP23)*: (1) Designs, adapts, and maintains all EDP utility programs and systems; provides advice and assistance with respect to the technical aspects of EDP systems to: SSA components; other Federal agencies; States; and domestic/foreign organizations, as appropriate.

(2) Evaluates, assesses and recommends acquisition of data processing equipment and software systems; conducts appraisals of record and voice telecommunications systems to support SSA progams, and makes recommendations as to the acquisition of such systems.

(3) Develops and implements policies and procedures to assure efficient, economical and effective communications services and facilities, and develops and issues technical operating manuals, directories and training programs.

f. *The Division of Earnings Systems (SPP2-5)*: (1) Designs systems, operating policies, procedures and instructions for earnings systems, and develops systems for: establishment, correction and maintenance of social security number records; issuance of new and duplicate social security cards; processing of all earnings data and adjustments to update summary earnings records; issuance of earnings statements; and reconciling disagreements regarding earnings statements.

(2) Provides instructions and procedures for clerical operations which reinstate improperly reported eanings items and correspond with employers, employees and self-employed individuals on improperly reported items, and develops and implements methods for contacting employers to encourage magnetic tape reporting.

(3) Administers BDP responsibilities with respect to social security coverage of State and local government employees, including collection of and accounting for, all related payments; determinations as to the degree of compliance with the terms of the particular State/local coverage agreement; and furnishing Trust Fund (Tax Accountability) information to the Department of the Treasury.

(4) Designs systems, operating policies and procedures for the electronic establishment, correction and maintenance of a vested pension rights identification and notification system.

(5) Develops communications media and controls to assure compliance with established policies imposed by Privacy and Freedom of Information legislation.

g. *The Division of Health Insurance Systems (SPP26)*: (1) Designs operating policies, procedures, systems and instructions for health insurance systems.

(2) Develops systems for maintaining a master file of all individuals eligible for health insurance (HI) benefits; enrolling beneficiaries; issuing identification cards; processing utilization queries and provider bills to master utilization files; and issuing notices of utilization.

(3) Maintains systems accounting controls for audits of providers of Medicare services and HI fiscal intermediaries and carriers, and for trust fund accounting; provides EDP support for the operations of HI fiscal intermediaries; and assists other SSA components, as necessary.

h. *The Division of RSDI Claims Systems (SPP2B)*: (1) Designs operating policies, procedures, systems and instructions for processing earnings records information requests and claims actions, and provides appropriate service and control operations for initial claims.

(2) Plans and directs the design of systems for initial establishment and maintenance of the master beneficiary record file, and the preparation and maintenance of related subsidiary tape and microfilm files.

(3) Develops systems for securing data necessary to the preparation of operational and administrative reports.

i. *The Division of RSDI Post-Entitlement Systems (SPP2C)*: (1) Designs operating policies, procedures, systems and instructions for post-entitlement systems; effectuates post-entitlement actions; adjusts related master benefit records to reflect changes; and handles premium billing, collection and accounting functions for the supplementary medical insurance program.

(2) Maintains a record of outstanding SSA benefit overpayments and provides accounting control for this file, and provides a file reference capability to service daily requests for data from the master benefit file.

(3) Provides numerous services, control subsystems and data files concerned with the total post-entitlement system, and furnishes related statistical, management and study data.

j. *The Division of SSI Claims and Post-Entitlement Systems (SPP2D)*: (1) Designs, develops and maintains SSI recipient files involving both claims and post-entitlement actions, and is responsible for the operation of this system.

(2) Provides operating policies, instructions and procedures for the electronic and manual processing of SSI data in BDP.

(3) Designs and develops EDP systems and related BDP procedures for the exchange of data with internal SSA operational processes and with other governmental agencies, to verify and maintain recipient income information.

(4) Supports an online and offline file reference capability through the Social Security Administration Data Acquisition and Response System (SSADARS) for field office retrieval of SSI data, and provides for audit trail microfiche of SSI transactions.

k. *The Division of SSI Recipient Contact, Control and Accounting Systems (SPP2E)*: (1) Designs, develops and maintains EDP processes for: initiating recipient contacts and other systems output; controlling SSI claims, recipient reports and all pending actions; and computation, payment and accounting functions, and is responsible for the operation of these processes.

(2) Provides operating policies, instructions and procedures for the electronic and manual processing of SSI workloads in BDP.

(3) Is responsible for: control of material being returned to district offices; folder retirement; overpayment accounting and control; and producing records to be sent to States.

(4) Provides internal SSI controls and subsystems for BDP, and produces data files for SSI validation, statistical and management information purposes.

II. *The Bureau of Disability Insurance (SPT)* develops, coordinates and issues implementing instructions, consistent with program policy directives and specifications, for carrying out the claims and benefits processes of the disability insurance (DI) program and related responsibilities for the supplemental security income and black lung programs. It develops, coordinates and issues technical medical policies and standards for these programs, and evaluates the operational effectiveness of the DI claims process and related actions. The Bureau manages central disability operations, including review and authorization of disability claims; certification of benefit payments; and maintenance of disability beneficiary rolls. It develops, evaluates, recommends and coordinates operating systems, methods, procedures and instructions for central disability operations. The Bureau provides technical guidance and advise to SSA regional offices concerning the disability determination process. It develops, in cooperation with HEW's Rehabilitation Services Administration (RSA), policies and procedures for administration of the disability beneficiary rehabilitation program and maintains relationships with national organizations of State Vocational Rehabilitation Directors and other related organizations. The Bureau in-

cludes the following major components, whose functions are as indicated:

1. *The Immediate Office of the Bureau Director (SPT)*, which provides executive-level leadership and direction to the Bureau of Disability Insurance (BDI) and its components. It includes: a. *The Equal Opportunity Staff (SPT9)*: (1) Plans, coordinates, and evaluates BDI's equal opportunity (EO) program, and develops policies and guidelines for the operation of this program.

(2) Previews proposed BDI management policies and procedures to ensure that they give due consideration to EO concerns.

(3) Maintains liaison with OPO/SSA Equal Opportunity Officers and the Special Staff for Equal Opportunity in SSA's Office of Management and Administration (OMA), and represents BDI at intercomponent meetings.

b. *The Medical Consultant Staff (SPT2)*: (1) Develops broad medical concepts and policies for BDI program administration; provides consultation on all medical aspects of BDI program planning and administration; and directs and/or provides consultation for research studies to develop improved medical techniques for reevaluating and measuring disability.

(2) Prepares and conducts orientation and training programs for medical personnel in BDI and in State agencies, and develops medical evaluation/development policies and guides.

(3) Promotes BDI program goals by providing medical leadership in the establishment and maintenance of sound relationships at the national level with professional medical organizations.

2. *The Office of the Assistant Bureau Director, Administration (SPT6)* provides overall direction to BDI's employee relations and development; labor relations; financial management; and management improvement programs. The Office directs program and technical training, and other management support activities. It ensures that BDI fiscal, manpower, equipment and other resources meet BDI's current and future needs. The Office includes the following major components, whose functions are as indicated:

a. *The Immediate Office of the Assistant Bureau Director (SPT6)*, which provides executive-level leadership and direction to the Office of the Assistant Bureau Director, Administration and its components. It includes:

(1) *The Labor Relations Staff (SPT65)*: (a) Plans, coordinates, and evaluates BDI's labor relations program; handles sensitive labor relation situations, within the context of established OPO/SSA policies, guidelines and points of emphasis; and develops BDI working arrangements to handle individual complaints brought up by the Union.

(b) Identifies policies or procedures that cause complaints to arise and recommends their modification or elimination.

(c) Reviews proposed BDI management policies or procedures to ensure that they give due consideration to labor relations concerns.

(d) Maintains liaison with OPO/SSA Labor Relations Officers and the Division of Labor Relations in OMA's Office of Human Resources, and represents BDI at intercomponent meetings.

b. *The Division of Employee Relations and Training (SPT66)*: (1) Provides Bureau-wide leadership, guidance and direction to various BDI programs designed to promote and maintain equitable employee-management relations and fair employment practices.

(2) Ensures that BDI employee and management rights are safeguarded in the process of filling positions and taking disciplinary actions.

(3) Directs BDI's employee incentive awards and suggestions programs.

(4) Gives overall direction to various training programs designed to fulfill the needs of the DI program.

c. *The Division of Management Services (SPT67)*: (1) Provides overall direction to BDI's financial management and management services programs.

(2) Directs a variety of projects and/or special studies relating to organization and management practices; staff structure; equipment; emergency planning; delegations of authority; etc.

(3) Insures that BDI's fiscal and equipment resources meet its current and future needs, and directs staff development activities.

3. *The Office of the Assistant Bureau Director, Federal-State Programs (SPTA)* provides national leadership for BDI in directing Federal-State relationships in programs under BDI's purview. It develops and maintains a continuing program of surveillance and evaluation of program operations at the regional and State agency levels for which BDI is responsible; provides guidance and assistance to regional offices in carrying out their responsibilities for direction of such programs in the field; and develops and carries out BDI activities to stimulate vocational rehabilitation of the disabled. The Office cooperates with RSA in the formulation of regulations, policies and procedures governing payment for rehabilitation services provided to the disabled. It develops and maintains a comprehensive national system of policies, standards and procedures for the administrative and fiscal management contracting State agencies. The Office includes the following major components, whose functions are as indicated:

a. *The Immediate Office of the Assistant Bureau Director (SPTA)* which provides executive-level leadership and direction to the Office of the Assistant Bureau Director, Federal-State Programs and its components.

b. *The Professional Relations Staff (SPTA1)*: (1) Develops and implements plans for effective communication with medical and related professions to enhance their understanding of programs for which BDI is responsible; encourage their participation in such programs, as required; and to foster sound professional relationships.

(2) Coordinates professional relations programs of State Disability Determination Services, and acts as liaison for BDI with committees in the medical community.

(3) Provides or obtains technical consultation in the preparation and clearance of public information materials relating to BDI programs.

(c) *The Division of Field Evaluation, Liaison and Special Projects (SPTA2)*: (1) Develops and maintains a system of continuing evaluation of program operations at the regional and State agency levels for which BDI is responsible; provides guidance and assistance to regional personnel in carrying out their responsibilities for direction of such programs in the field; and conducts periodic comprehensive reviews of these program operations in regional offices and State agencies.

(2) Arranges for BDI medical, policy, procedural and evaluation specialist staff assistance to regional and state personnel involved in administration of programs for which BDI is responsible; maintains adequate communications and coordination among OPO headquarters components, regional offices and State agencies; and participates in the development of program policies, systems and procedures affecting State agency operations on behalf of BDI.

(3) Plans, designs, and directs special tests, projects, experiments, model organizations and workflow processes aimed at improving work processes in State agencies and regional offices which affect BDI program administration.

(4) Represents the DI program and serves as BDI liaison with the National Association of Disability Examiners; serves as liaison with State agencies for activities and projects involving State agencies which are planned in other BDI components; and executes such activities and projects.

d. *The Division of Rehabilitation Programs (SPTA3)*: (1) Develops and carries out programs to stimulate the vocational rehabilitation of the disabled, and reviews BDI program policies and operations for consistency with rehabilitation objectives.

(2) Formulates national regulations, policies, procedures and guides regarding payment for rehabilitation services provided to the disabled from trust funds and general revenues, in cooperation with RSA; formulates SSA policies for the expenditure of trust fund monies and general revenues for rehabilitation purposes; and appraises rehabilitation program operations.

(3) Represents BDI in its relationships with the Council of State Administrators for Vocational Rehabilitation and its Committee on Social Security relationships; coordinates with RSA in overall rehabilitation program matters; and works with other public/private agencies and programs to develop, organize and coordinate rehabilitation services programs.

e. *The Division of State Standards (SPTA4)*: (1) Develops specifications for agreements with States under which State agencies perform services on behalf of BDI; recommends appropriate action on such agreements by SSA officials; develops and maintains a com-

prehensive national system of policies, standards, procedures and guides for the program, administrative and fiscal management of State Disability Determination Services; and administers a comprehensive fiscal management program for State agencies performing services on behalf of BDI.

(2) Provides a continuing appraisal of the effectiveness of Federal-State administrative relationships in areas of BDI responsibility; appraises policies, standards, procedures and guides in areas of responsibility assigned to DSS; and, as appropriate, represents BDI in its efforts to achieve a coordinated approach to Federal-State administration through maintenance of relationships with other Federal programs and agencies.

(3) Develops policies and guides for State agency implementation of governing Federal policies as to equal opportunity and equality of treatment for applicants, and provides guidance to Regional Commissioners in these areas.

4. *The Office of the Assistant Bureau Director, Disability Operations (SPT5)* administers the review and authorization of disability claims; certification of benefit payments; and maintenance of beneficiary rolls. It directs the review and reconsideration of State agency disability determinations, and negotiates issues with State agencies relating to the quality of their disability determinations and their conformance with BDI requirements. The Office directs BDI's reconsideration activities, and maintains a program for response to public and congressional correspondence. It analyzes appellate decisions for BDI operational implications, and prepares the SSA position on disability determinations in litigation. The Office includes the following major components, whose functions are as indicated:

a. *The Immediate Office of the Assistant Bureau Director (SPT5)* which provides executive-level leadership and direction to the Office of the Assistant Bureau Director, Disability Operations and its components.

b. *The Division of Benefit Payments (SPT53):* (1) Operates and maintains BDI's benefit payment system; adjusts, suspends and terminates benefits; prepares benefits payment data for introduction into the computer system; maintains accounting controls, using ADP techniques, manual and other methods; and processes all actions to maintain beneficiary payment rolls.

(2) Assures, by sample audit, that magnetic tape records reflect actual authorized payment actions, and coordinates computer operations with BDP.

(3) Coordinates the Division's operations with other SSA components; State agencies; the Department of the Treasury and GAO, as appropriate.

c. *The Division of Benefit Services (SPT54):* (1) Operates and maintains a comprehensive workflow management system for the Office of the Assistant Bureau Director, Disability Operations; operates BDI's case control and folder location systems; assures the timely association of claims-related material; processes incoming and outgoing mail; prepares and releases award certificates, denial letters and other claims-related notices; and establishes and maintains BDI's files of claims folders.

(2) Examines disability cases to determine whether a review of continuing entitlement is necessary, and receives and processes payee accounting reports.

(3) Coordinates the Division's operations with other SSA components; State agencies; and the U.S. Postal Service, as appropriate.

d. *The Division of Continuing Entitlement (SPT56):* (1) Reviews State agency disability determinations in cases involving issues of continuing eligibility; reviews district office determinations of nondisability factors for entitlement to primary or auxiliary benefits; and authorizes allowance or disallowance of awards prepared after adjudication of the initial claim or after a favorable reconsideration determination.

(2) Negotiates issues arising from the Division's review of State agency disability determinations.

(3) Evaluates and reports on the quality of State agency continuing disability determinations.

e. *The Division of Initial Claims (SPT55):* (1) Reviews initial State agency and non-State disability determinations; reviews districts office determinations of nondisability factors for entitlement to primary or auxiliary benefits and authorizes allowance or disallowance; and reviews black lung claims and authorizes allowance or disallowance of nondisability factors.

(2) Evaluates and reports on the quality of State agency disability determinations; provides guidance to assure conformity in initial disability determinations; and negotiates issues arising from the Division's review of State agency determinations.

(3) Coordinates with the Railroad Retirement Board on disability determinations involving the social security and railroad retirement programs, as appropriate.

f. *The Division of Operations Analysis (SPT58):* (1) Studies, analyzes and evaluates past, current and proposed activities of the Office of the Assistant Bureau Director, Disability Operations (OABD, DO) and advises the Assistant Bureau Director, Disability Operations (the Assistant Bureau Director), and other members of BDI's top staff on operating conditions and problems.

(2) Serves as the Assistant Bureau Director's planning staff, developing both short and long-range plans for improving OABD, DO's operational capabilities.

(3) Plans, directs and carries out operational analyses of OABD, DO workflow; the operation of the BDI Case Control System; and present or proposed changes in operating techniques, methods, work alignments and/or time schedules.

(4) Assesses OABD, DO internal controls, work processing methods and procedures, and makes recommendations for overcoming operational problems.

(5) Provides operational leadership in experimenting with modular case processing, and coordinates activities among OABD, DO components and operating modules.

(6) Represents OABD, DO in continuing liaison activities with technical specialists of various BDI, OPO and SSA staff components, and reviews and evaluates disability policies and procedures having intercomponent or SSA-wide implications.

g. *The Division of Reconsideration (SPT57):* (1) Reviews disability determinations reconsidered by State agencies, in cases where claimants disagree with the initial determination, and approves, revises or reverses such State agency determinations in accordance with authority granted by the Social Security Act, as amended; negotiates issues arising from the review of State agency disability determinations; and reconsiders disability cases excluded from State agency jurisdiction, and those cases contested for issues other than existence and/or duration of disability.

(2) Recovers or waives amounts incorrectly paid to beneficiaries.

(3) Analyzes decisions by Administrative Law Judges and the Appeals Council in SSA's Bureau of Hearings and Appeals, and by the courts, for impact upon BDI program administration.

(4) Evaluates and recommends the SSA position on disability determinations in litigation.

h. *The Division of Sensitive Inquiries (SPT59):* (1) Develops and maintains a program for responding to inquiries received by BDI which gives recognition to the divergent interests of Congressmen; professional groups; social welfare organizations; and the general public.

(2) Identifies problem areas in BDI policies and procedures, through review and analysis of reactions and opinions expressed in correspondence directed to BDI.

(3) Prepares replies to inquiries regarding individual case situations and BDI program-related matters which are received from beneficiaries; their representatives; and a variety of other sources.

(4) Arranges for the expeditious processing of time-consuming actions involving disability, authorization or post-entitlement issues, where inquiries have been received that indicate claimant hardship or the need for special handling.

(5) Coordinates with other SSA components to assure that Division responses to inquiries are consistent with SSA goals and objectives.

5. *The Office of the Assistant Bureau Director, Program Evaluation (SPTB)* directs BDI's program evaluation and quality assurance programs. It provides continuing information on all phases of program activities, wherever performed, for which BDI is responsible. The Office directs a continuing program of quality control, encompassing all aspects of the adjudicative process, to assure proper integration of quality assurance operating procedures and methods in the overall claims process. It evaluates the efficiency and integrity of existing methods, operations reviews and reporting

systems, and develops recommendations for improvements in BDI program administration. The Office provides Bureau-wide leadership, guidance and direction in BLI's short- and long-range planning programs. It unifies and coordinates meaningful and ongoing analyses and reports for BDI management decisionmaking, based on data derived from a variety of information sources. The Office includes the following major components, whose functions are as indicated:

a. *The Immediate Office of the Assistant Bureau Director (SPTB)*, which provides executive-level leadership and direction to the Office of the Assistant Bureau Director, Program Evaluation and its components.

b. *The Division of Program Evaluation and Planning (SPTB1)*: (1) Provides Bureau-wide leadership, guidance and direction to BDI's short- and long-range planning.

(2) Conducts in-depth substantive analyses to evaluate problems surfaced by various operating and evaluative experiences in BDI headquarters; district offices; State Disability Determination Services; PSCs, and regional offices.

(3) Evaluates and develops recommendations that may involve major reviews of existing disability concepts to better carry out congressional intent.

(4) Validates the effectiveness of BDI policies, systems, procedures and administrative controls in preventing potential fraud, program abuse or criminal activity by claimants, members of the general public and/or employees who have access to claims.

(5) Provides management information and statistics on all aspects of BDI program operations for management decisionmaking purposes.

c. *The Division of Quality Assurance (SPTB2)*: (1) Plans, designs and maintains a continuing program of quality control encompassing all phases of the disability adjudicative process:

(2) Maintains surveillance of quality assurance recording, measurement, and reporting systems to ensure that quality control activities meet the objectives of BDI's quality control program.

(3) Provides consultative services to appraisal, management, policy and procedural components on the utilization and interpretation of quality control data.

(4) Participates in the development of training materials and makes training presentations on quality assurance to employees in district offices; State agencies; regional offices; BDI headquarters; and other SSA components, who are involved in the quality assurance process.

6. *The Office of the Assistant Bureau Director, Systems and Methods (SPTC)*, provides national leadership in interpreting established program policies and standards for administering and carrying out benefit programs for which BDI is responsible. It designs, develops, applies, interprets and evaluates systems, methods and operating policies/standards governing the conduct of BDI's SSA-wide program operations. The Office evaluates the need for new disability systems in State agencies and other SSA components involved in the disability claims process; identifies areas amenable to improvement by automated processing; and assists BDP in evaluating the impact and feasibility of using new equipment affecting the disability claims process. It issues BDI operating policies and standards, guides and instructional material for disability claims processing in State agencies; district offices; regional offices; BDI headquarters; and other SSA components. The Office adapts SSA-wide operating policies and standards for authorizing and paying claims to BDI's special program needs, and intergrates BDI claims processes and control systems with related activities of other SSA components to insure compatibility. It works with the BDI Medical Consultant Staff and OPPP in recommending and commenting on proposed disability program policy issuances; serves as an interface between disability policy and disability claims operations to insure that the policies and claims processes mesh; coordinates the overall use of ADP in disability claims processes with BDP; other OPO components; OMA; and other SSA components. The Office includes the following major components, whose functions are as indicated:

a. *The Immediate Office of the Assistant Bureau Director (SPTC)*, which provides executive-level leadership and direction to the Office of the Assistant Bureau Director, Systems and Methods and its components.

b. *The Division of Disability Systems (SPTC1)*: (1) Provides nationwide leadership for planning and overseeing the implementation of new or modified systems for disability case processing, and develops specifications for the design and application of automated systems to claims, payment and case control operations in BDI and in State agencies.

(2) Evaluates the need for new systems in State agencies and other SSA components involved in the disability claims process; plans for the development and implementation of such systems; and prepares performance requirements or specifications for these systems, as required.

(3) Provides staff support to the Office of the Bureau Director in systems-related matters; represents BDI in the coordination and managing of SSA's systems security effort; and coordinates BDI planning and use of ADP for claims processing with the Office of Operations, Systems and Coordination, BDP and other OPO and SSA components.

c. *The Division of Initial Methods (SPTC2)*: (1) Provides national leadership in the development of BDI operating policies and standards, and the formulation and issuance of procedures, to carry out substantive policy in the following areas: medical and vocational documentation and evaluation; medical reexaminations; onset of disability; willful failure to follow prescribed treatment; substantial gainful activity; blacklung; drug addiction and alcoholism; and presumptive disability.

(2) Also provides national leadership in the development of BDI operating policies and standards, and in the formulation and issuance of procedures in the following areas: development of evidence; disability determination processing (titles II and XVI); jurisdiction and routing; disability adjudication and authorization; claims filing; and the systems supporting the claims filing, case flow, adjudication, and payment processes.

(3) Coordinates the Division's areas of responsibility with the BDI Medical Consultant Staff; other OPO components; and with other components within and outside SSA, to ensure compatibility with SSA objectives.

d. *Division of Postadjudicative Methods (SPTC3)*: (1) Provides national leadership in the development of BDI operating policies, standards and methods, and in the formulation and issuance of procedures, to carry out substantive policy in the following areas: continuing disability; vocational rehabilitation refusal; due process; attorney and other party representation; fraud; compliance; and program integrity.

(2) Also provides national leadership in the development of BDI operating policies, standards and methods, and in the formulation and issuance of procedures for: post-adjudicative sample review; notices; and correspondence.

(3) Provides technical advice on disability issues; evaluates and analyzes reports, position papers and other information relating to disability; conducts studies and analyses on the effectiveness of instructional material; confers and negotiates with other OPO and non-OPO components to resolve issues affecting disability; makes recommendations based on studies and analyses conducted; and provides liaison within BDI in the following areas: appeals; administrative finality; litigation; confidentiality and disclosure; the Privacy Act; and the Freedom of Information Act.

4. Coordinates with the BDI Medical Consultant Staff; other OPO components; and non-OPO components, to ensure compatibility of the Division's areas of responsibility with related SSA activities.

I. *The Bureau of Retirement and Survivors Insurance (SPR)* develops, coordinates and issues implementing instructions, consistent with program policy directives and specifications, for carrying out the claims and benefit payment processes of the retirement and survivors insurance (RSI) program, and evaluates the operational effectiveness of the RSI claims process and related actions. The Bureau manages a network of six SSA program service centers (PSCs) responsible for review and authorization of RSI claims and of health insurance entitlement; supplementary medical insurance premium collection; certification of RSI benefit payments; and maintenance of RSI benefit rolls. It develops, evaluates and implements operating systems, methods and instructions governing the claims

and postadjudicative processes and folder control activities of the PSCs, and directs RSI critical case and benefit accounting programs. The Bureau provides technical advice and guidance to SSA regional offices concerning the RSI determination process. It coordinates PSC operating procedures, including ADP operations, with other SSA components and Federal agencies having responsibility in related work areas, and directs administration of U.S. social security programs abroad. The Bureau includes the following major components, whose functions are as indicated:

1. *The Immediate Office of the Bureau Director (SPR)*, which provides executive-level leadership and direction to the Bureau of Retirement and Survivors Insurance (BRSI) and its components. It includes:

a. *The Equal Opportunity Staff (SPR7):* (1) Plans and administers BRSI's equal opportunity (EO) program, within the context of established SSA policies; develops and monitors the BRSI Affirmative Action Plan; and reviews and monitors PSC Plans.

(2) Promotes the effectiveness of EO programs at BRSI headquarters and in the PSCs; assists the Bureau Director in developing concepts and goals to assure equal employment opportunities within BRSI; and insures BRSI compliance with EO obligations under the OPO-Union Master Agreement.

(3) Reviews all discrimination complaints filed in BRSI and attempts to effectuate informal resolutions at all stages of the complaint process.

(4) Conducts in-depth reviews of PSC and headquarters component adherence to BRSI EO goals and objectives.

b. *The Labor Relations Staff (SPR6):* (1) Plans and administers BRSI's labor relations program, within the context of established SSA policies and guidelines; represents BRSI in negotiations and consultations with the National Council of Social Security Program Service Center Locals; provides guidance to PSC management officials in situations arising under the exclusive recognition relationships; and promotes the effectiveness of labor relations programs in the PSCs.

(2) Establishes a framework of concepts and objectives to improve the practice and understanding of labor relations in BRSI, under the guidance of the Bureau Director.

(3) Plans and conducts training on BRSI's labor relations philosophy and Master Agreement changes.

c. *The Liaison and Review Staff (SPR8):* (1) Plans and directs a visit program designed to provide comprehensive reviews of PSC performance; performs or manages a varitey of ad hoc assignments of special urgency or interest to the Bureau Director; and plans, develops agendas for, and directs or approves logistical arrangements for conferences and meetings essential to BRSI's operational effectiveness.

(2) Acts as the BRSI focal point for audit activities by external organizations and for matters requiring coordination with the Assistant Regional Commissioners, RSI.

(3) Establishes guidelines for the processing of high priority correspondence; conducts a program aimed at improving the quality and timeliness of that correspondence; and performs a substantive review of correspondence having special sensitivity.

2. *The SSA Program Service Centers (SPRF2/SPRF9):* a. Review and authorize, or disallow, claims for RSI benefits and health insurance entitlement; certify RSI benefit amounts to the Department of the Treasury for payment; and maintain RSI benefit and HI entitlement records.

b. Determine when eligibility and/or payments should be terminated, suspended, continued, increased or reduced in amount, and reconsider challenged determinations on initial claims and continuing eligibility.

c. Receive, record and deposit supplementary medical insurance premiums.

d. Provide technical guidance concerning the RSI determination process to other SSA components in the regions, and appraise the quality of RSI determinations.

3. *The Division of International Operations (SPR5):* a. Administers the U.S. Social Security Program in foreign countries; develops, adjudicates and authorizes claims filed by persons living in foreign countries, and determines their continuing eligibility; and establishes, evaluates and recommends modifications in foreign claims operating policies and procedures.

b. Provides centralized translation services for SSA.

c. Serves as SSA liaison and coordination on administration of the U.S. Social Security Program abroad with HEW; the Department of State; other Federal agencies; agencies of foreign governments; and private organizations.

4. *The Office of the Assistant Bureau Director, Administration and Appraisal (SPR9)* directs BRSI's management and quality assurance programs, and provides a continuing assessment of all phases of the RSI program in district/branch offices and PSCs. It provides a management services program to meet PSC needs and coordinates these activities with SSA management programs. The Office directs the development of criteria, techniques and systems for appraising the effectiveness of RSI work processes and operations, and provides manpower/workload management information for BRSI. It assists the Bureau Director in setting operational and administrative goals and in developing long-range management plans for BRSI. The Office includes the following major components, whose functions are as indicated:

a. *The Immediate Office of the Assistant Bureau Director (SPR9)*, which provides executive-level leadership and direction to the Office of the Assistant Bureau Director, Administration and Appraisal and its components.

b. *The Operations Research and Planning Staff (SPR91):* (1) Provides direction, leadership and cordination to exploring and forecasting the impact of changing conditions on BRSI and PSC operations.

(2) Formulates, oversees and tracks major BRSI projects and objectives, and assures that BRSI objectives are in accord with SSA and HEW plans.

(3) Conducts special studies of new processing techniques and identifies those having potential for improvement of BRSI operations and management through work simplification and better manpower utilization.

(4) Manages specific BRSI projects, and those interbureau projects of an unusual nature and of special interest to the Bureau Director.

c. *Division of Management Information and Administrative Systems (SPR92):* (1) Directs the BRSI management information program; designs, implements and evaluates programs for management information and other administrative systems; establishes workload goals and procedures for PSCs; and monitors the workflow, productivity, manpower usage and operational impact of new policies, procedures and systems on PSC workloads.

(2) Provides a full range of management information services, including statistical, operational and management analyses of the RSI program, as administered in the field and in the PSCs.

(3) Supplies forecasted BRSI workloads for both operational and budgetary needs, and conducts analyses and programming activities for time-critical special studies and short-term informational needs.

d. *Division of Management Services (SPR93):* (1) Conducts the BRSI management services program; evaluates and controls the allocation and utilization of manpower and resources throughout BRSI; develops BRSI operating cost estimates and justifications; and monitors budget expenditures for which the Bureau Director has responsibility.

(2) Directs the BRSI manpower management program, and provides general staff support in the areas of employee development and resource utilization.

(3) Provides financial advice and instructions to the PSCs, and provides direction to the PSCs in the acquisition and use of resources.

e. *Division of Quality Appraisal (SPR 94):* (1) Directs the development of criteria, techniques and systems for appraising the effectiveness of RSI program administration; directs a continuing appraisal as to the application of RSI policies and procedures, and compliance with such policies and procedures; and identifies problem areas and deficiencies in policy application, methods and procedures.

(2) Evaluates the effectiveness of RSI work processes and operations, and the quality of RSI claims and payment processes.

(3) Provides technical direction to PSC Directors and PSC Quality Assurance staffs in their conduct of national and local studies regarding uniformity of approach and consistency of results.

(4) Supplies technical assistance, to Assistant Regional Commissioners, RSI on matters relating to their quality improvement activities in the field.

5. *The Offiwce of the Assistant Bureau Director, Division of Operational Policy and Standards (SPRA)* directs the development, evaluation and promulgation of all operating policies and related procedures for the RSI program, as well as those policies and procedures common to all Social Security benefit programs (e.g., proof of age and death; coverage; etc.). It coordinates RSI operating program activities with various Federal and State agencies, and provides operating policy guidance to PSCs and other SSA components. The Office provides overall operating policy guidance for all subject areas falling within its jurisdiction.

6. *The Office of the Assistant Bureau Director, Systems and Methods (SPR4)* directs the planning, development, evaluation and implementation of operating systems and methods for the adjudication and payment of RSI claims; postadjudicative actions; Health Insurance entitlement; supplementary medical insurance premium collection; and various program and folder control activities required in the PSCs, DIO, district/branch offices and teleservice centers. It directs RSI critical case and benefit accounting programs, and evaluates systems and operational changes, legislative proposals and changing technology for impact on PSC activities. The Office coordinates BRSI operating procedures with other SSA components and Federal agencies having responsibility in related work areas. It serves as the SSA contact on RSI matters with the Department of the Treasury and the Railroad Retirement Board. The Office includes the following major components, whose functions are as indicated:

a. *The Immediate Office of the Assistant Bureau Director (SPR4)*, which provides executive-level leadership and direction to the Office of the Assistant Bureau Director, Systems and Methods and its components. It includes:

(1) *The Critical Case Staff (SPR44)*:

(a) Develops procedures and systems for processing critical/sensitive cases in district offices and PSCs.

(b) Responds to critical case inquires of a sensitive nature from a wide range of sources, including Congress; HEW and the public.

(c) Provides direction to, and oversees the activities of, PSC Inquiry and Expediting Staffs and the Sensitive Case Staff in BRSI's Division of International Operations.

(2) *The Systems Development and Accounting Staff (SPR43)*:

(a) Provides BRSI leadership in the development, validation and implementation of RSI program systems.

(b) Supplies technical advice and guidance to BRSI components on systems development and on the balancing of benefit payment and premium collection operations.

(c) Prepares instructions for internal BRSI fiscal control and audit operations.

b. *The Division of Claims Operations (SPR41)*:

(1) Directs the planning, development and implementation of systems, methods and procedures for initial and subsequent claims operations.

(2) Provides systems for automatic processing of all types of awards in district/branch offices and PSCs.

(3) Develop systems and methods to handle Health Insurance entitlement and Supplementary Medical Insurance (SMI) enrollment, and SMI premium billing and collection activities.

(4) Provides direction to PSCs regarding the content and format of outgoing correspondence.

(5) Directs the development and implementation of systems and methods related to material receipt, and to systems control of claims, folders and district/branch office queries.

c. *The Division of Payment Operations (SPR42)*:

(1) Directs development, analysis, validation and implementation of systems and methods for all RSI postadjudicative processes in PCSs, such as: The Automatic Earnings Reappraisal Operation; the Annual Retirement Test; and the student process.

(2) Provides systems and methods for a variety of postadjudicative maintenance programs.

(3) Directs development and implementation of program control operations.

(4) Provides operating instructions for scheduling, and control of, the processing of various records, and for processing computer exceptions from various computer operations.

(5) Directs performance of onsite evaluations in PSCs, the Division of International Operations, district/branch offices, and teleservice centers.

J. The Bureau of Supplemental Security Income (SPS) develops, coordinates and issues implementing instructions, consistent with program policy directives and specifications, applicable to the supplemental security income (SSI) program and its claims and benefit payment processes. The Bureau provides technical advice and assistance to SSA regional offices concerning the SSI determination process, and in negotiations and continuing interfaces with State welfare agencies. It manages the certification of SSI payments and evaluates the operational effectiveness of the SSI claims process and related actions. The Bureau includes the following major components, whose functions are as indicated:

1. *The Immediate Office of the Bureau Director (SPS)*, which provides executive-level leadership and direction to the Bureau of Supplemental Security Income (BSSI) and its components. It includes:

a. *The Management Services Staff (SPSE)*:

(1) Prepares, monitors and executes the BSSI budget, and provides necessary fiscal accounting operations for State costs incurred in the administration of the SSI program.

(2) Coordinates BSSI participation in SSA training and career development; manpower management; labor relations; and equal opportunity programs.

(3) Conducts BSSI management and operational planning activities, and develops unique SSI operational training materials.

b. *The State Operations Staff (SPSG)*:

(1) Provides guidance on SSI program matters to Regional Commissioners, in their negotiations and continuing interaction with State Governors, legislators and State/local welfare departments.

(2) Plans, develops and maintains instruments, policies and strategies for Federal/State agreements relating to titles XVI and XIX of the Social Security Act, as amended.

(3) provides liaison with SRS and other HEW agencies for ongoing SSI operational matters, and coordinates with SSA's Office of External Affairs (OEA) on matters involving national external affairs policies and procedures and those specific OEA activities of particular interest to the SSI program.

(4) Plans, develops and implements policies and procedures governing SSI fiscal areas, and provides technical support to regional office staff working with various State assistance programs.

2. *The Office of the Assistant Bureau Director, Operating Policies, Standards and Systems (SPSH)* directs a comprehensive program for the development of systems, methods, operating policies, procedures and standards for the SSI program, in the areas of: program eligibility; claims processes; determinations and appeals; redeterminations; and payment operations. The Office manages the certification of SSI payment data to the Department of the Treasury; assures effective monitoring of SSI operating systems and processes; and directs a Bureau-wide publication and issuance system for SSI program and technical materials. It directs and coordinates the activities of subordinate components in providing input to the SSI legislative planning and policy development activities of SSI's Office of Program Policy and Planning (OPPP), and in providing expertise and interpretation of operational procedures to regional offices. The Office includes the following major components, whose functions are as indicated:

a. *The Immediate Office of the Assistant Bureau Director (SPSH)*, which provides executive-level leadership and direction to the Office of the Assistant Bureau Director, Operating Policies, Standards and Systems and its components. It includes:

The Systems Validation Staff (SPSH1):

(a) Plans and conducts analyses of SSI systems.

(b) Designs separate validation mechanisms to parallel SSI systems; monitors validation outputs on a continuing basis, to detect processing problems; and recommends corrective action and improvements.

b. *The Division of Operating Policies (SPSH2)*:

(1) Develops, articulates and promulgates operating policies and standards relating to the SSI program; establishes evidentiary, documentation and verification requirements; and develops guidelines and instructions to be used by operating components in implementing basic SSI program policies.

(2) Provides input into SSI program policy development in OPPP; assures that operating procedures properly reflect program policy requirements; serves as the primary source of information and interpretation of operating procedures in its assigned areas; and provides assistance and expertise to regional offices.

(3) Develops operating policies and implementing instructions relative to the broad range of income and resource limitations, other eligibility factors and the application process, and develops, articulates and promulgates unique SSI operating policies and standards concerning due process rights; the appeals process; administrative finality; fraud; and litigations.

c. *The Division of Systems and Procedures (SPSH3)*:

(1) Plans, develops and controls EDP systems necessary to assure efficient and effective operation of the SSI program; develops, articulates and promulgates procedures necessary to assure effective interaction between operating components and the EDP processing system; develops new systems and modifications of existing systems to meet SSI program requirements; tests and evaluates new or modified systems; and certifies acceptance of systems performance.

(2) Develops, negotiates and monitors implementation of the State Data Exchange System and SSI systems interfaces with other SSA systems and systems outside SSA, including those at the Civil Service Commission; the Railroad Retirement Board; and the Veterans Administration.

(3) Plans, develops, implements and controls accounting processes for the SSI program, including accounting for disbursement of State and Federal funds; directs the Financial Accounting Exchange System, which provides user accounting data to the States; certifies the accuracy of SSI benefit payment tapes to the Department of the Treasury; and prepares periodic accounting reports for SSA's Office of Management and Administration.

3. *The Office of the Assistant Bureau Director, Program Operations and Control (SPSJ)* directs a comprehensive program for the monitoring, analysis and appraisal of SSI program administration and operations. It develops, monitors and reports on BSSI's short and long-range program goals and objectives. The Office carries out an ongoing program involving studies and appraisals of SSI program administration and operations; makes recommendations for corrective management action; and assures that corrective actions are implemented. It establishes and maintains SSI management information systems and performs continuing analyses of SSA data to identify problem areas. The Office includes the following major components, whose functions are as indicated:

a. *The Immediate Office of the Assistant Bureau Director (SPSJ)* which provides executive-level leadership and direction to the Office of the Assistant Bureau Director, Program Operations and Control and its components.

b. *The Division of Operational Quality Maintenance (SPSJ1)*:

(1) Plans, develops and conducts a program which, through the review of initial claims, redeterminations and other actions, provides data necessary to assess the adequency of SSI operating policies and procedures, and compliance with these policies and procedures.

(2) Determines where SSI policies and procedures are deficient, based on operational quality data, and recommends necessary corrective action; assures reliable feedback to line managers on individual office quality and identifies special problems and trends; works with regional offices on improving SSI quality in the field; and coordinates with OMA's Office of Quality Assurance and other SSA components involved with SSI quality appraisal.

(3) Conducts operational analyses and program studies relating to SSI operating policies, systems and procedures, on an ongoing basis.

c. *Division of Program Management (SPSJ2)*:

(1) Establishes and maintains SSI management information systems; identifies data sources; prepares performance specifications to secure essential data; and analyses that data to provide meaningful management information.

(2) Monitors, analyzes and reports to BSSI management on operating problems identified through the Division's management information activities, and works with the ORC and other SSA components on developing recommendations for improving SSI program performance.

(3) Develops and monitors BSSI's short and long-range program/operating goals and objectives; analyzes and reports on the effectiveness of SSI program activities in meeting BSSI goals and objectives; and recommends corrective action, where necessary.

K. *The Office of the Regional Commissioner (SPD1/SPDX)* serves as the principal SSA component at the regional level and assures effective SSA interface with HEW Regional Offices (HEWROs); other Federal agencies in the regions; State Welfare Agencies; State Disability Determination Services; and other regional and local organizations. The Office provides regional program leadership and technical direction for the retirement, survivors and disability insurance programs, the black lung benefits program, and the supplemental security income program; issues regional operating policy and procedures for these programs; and evaluates program effectiveness. It implements national operational and management plans for providing direct SSA service to the public; directs a regionwide network of district offices, branch offices and teleservice centers, which provide such service; and provides management support to OPO field operations. The Office manages and coordinates an effective OPO regional operation; establishes regional priorities and issues policy directives, consistent with national program objectives, operational requirements and systems; and implements a regional SSA public affairs program. It maintains a broad administrative overview of regional offices of SSA's Bureau of Health Insurance; Bureau of Hearings and Appeals; PSCs; and data operations centers, to assure effective coordination of SSA activities at the regional level. The Office includes the following major components, whose functions are as indicated:

1. *The Immediate Office of the Regional Commissioner (SDP1/SPDX)*, which provides executive-level leadership and direction to the Office of the Regional Commissioner (ORC) and its components. It includes: a. *The External Affairs Staff (SPD19/SPDX9)*:

(1) Provides overall leadership and direction to the regional SSA external affairs program; analyzes and evaluates regional public affairs activities; enunciates regional public affairs policies, consistent with nationally-issued policies in this area; and directs the operations of the Regional Public Affairs Council.

(2) Serves as the primary regional interface with news media, community organizations and Congressional staff on questions and problems of a regionwide nature.

(3) Plans, directs and coordinates the development of regional policies, directives and procedures concerning the relationships of SSA programs to public/private welfare and community service programs, and coordinates SSA's regional interaction with other agencies and organizations on the extension and improvement of social services.

(4) Manages and oversees the regional public information program; prepares and disseminates public information materials; coordinates the development and implementation of regional information and referral programs; and serves as liaison with SSA's Office of External Affairs.

b. *Special Projects Staff (SPD16/SPDX6)*: (1) Provides the Regional Commissioner with independent counsel and recommendations developed from a variety of highly complex and sensitive research, analytical and coordinative management support projects and special assignments concerning SSA program administration in the region.

(2) Carries out special assignments to evaluate program administration problems in the region; examines the effectiveness of interaction between program and operational components; identifies operating problems affecting more than one SSA regional component; and initiates or conducts other studies and analyses of problem areas.

2. *The Division of Management and Administration (SPD17/SPDX7)*: a. Directs the regional OPO management program; assures effective and economical OPO management activities at the regional level; develops and implements

regional OPO management policies and procedures; and appraises the overall effectiveness of OPO regional management programs.

b. Assures that Assistant Regional Commissioners and their staffs are operating in accordance with national and regional policies regarding financial, manpower and organization management, as well as other areas of administrative concern.

c. Serves as the focal point for OPO regional administrative planning; and conducts ongoing studies and analyses to improve OPO administrative practices in the region.

d. Coordinates SSA administrative management activities in the region with the HEWRO, and serves as SSA's regional liaison with HEWRO on matters of mutual interest in the management area.

3. *The Division of Operational Support (SPD18/SPDX8)*: a. Provides support to OPO regional personnel on program operations and systems; plans, directs and coordinates regional OPO operational activities that cross program lines; conveys regional operational and systems concerns to OPO headquarters and to other SSA regional components; and represents ORC in the resolution of such concerns.

b. Assesses the state of OPO's ADP operations and systems security in the region; develops and carries out an ongoing OPO regional systems planning activity; assures integration of regional operating and management systems; and coordinates and monitors OPO regional implementation of major changes to national systems.

c. Conducts operations analyses and provides support to OPO regional office personnel and field office managers in the resolution of operating, workflow and systems problems.

d. Consolidates, reviews and distributes OPO regional program instructions, and develops systems instructional material and implementing instruction for OPO operational activities that cross program lines in the region.

4. *The Office of the Assistant Regional Commissioner, Disability Insurance (SPD11/SPDX1)*: a. Provides program leadership and technical direction for SSA disability, blindness and black lung activities in the region; issues regional operating policies and procedures necessary to insure adequate an deffective implementation of national policy relating to these activities; conducts visits to, and ongoing liaison with, district offices and State agencies, to determine the operational effectiveness of disability, blindness and black lung policies and procedures, and to provide technical assistance in the resolution of operational problems in these areas; and evaluates the effectiveness of disability, blindness and black lung programs regionwide.

b. Approves State agency budgets; provides technical consultation on fiscal and other administrative aspects of State agency operations; and conducts comprehensive reviews and analyses of State agency operations.

c. Coordinates with regional representatives of HEW's Rehabilitation Services Administration and other agencies on rehabilitation, disability, blindness, and black lung program matters, and establishes and maintains relationships with professional medical organizations to promote the goals of these programs.

5. *The Office of the Assistant Regional Commissioner, Field Operations (SPD14/SPDX4)*: a. Serves as the focal point of line authority through which management and operational aspects of district/branch office and teleservice center responsibility and performance are supervised and coordinated. These field offices are responsible for informing people of the purposes and provisions of programs administered by SSA, and their rights and responsibilities under such programs; assisting individuals in filing claims for benefits under the retirement, survivors, and disability insurance programs, the black lung program, and the supplemental security income program; assisting individuals in establishing entitlement to health insurance benefits; developing and adjudicating claims; assisting certain beneficiaries in claiming reimbursement for medical expenses; conducting development of cases involving earnings record, coverage or fraud-related questions; making rehabilitation service referrals; and assisting claimants in filing for reconsiderations, hearings and/or appeals of decisions relating to benefit entitlement or amount.

b. Provides leadership, guidance and direction to district/branch offices, and teleservice centers, through area directors.

c. Insures the consistency of field operations in the region with national/regional policies and procedures, and is accountable to the Regional Commissioner for the effectiveness of these operations.

6. *The Office of the Assistant Regional Commissioner, Retirement and Survivors Insurance (SPD12/SPDX2)*: a. Provides program leadership and technical direction for RSI program activities in the region; issues regional operating policies and procedures necessary to insure adequate and effective implementation of national RSI program policy; conducts visits to, and ongoing liaison with, district offices, to determine the effectiveness of RSI policies and procedures, and to provide technical assistance in the resolution of RSI operational problems; and evaluates RSI program effectiveness regionwide.

b. Resolves differences of opinion on RSI program matters between district/branch offices and PSCs.

c. Plans, directs and coordinates regional activities under social security coverage agreements between SSA and State or local entities; negotiates with State/local authorities on coverage agreements and makes recommendations to final approving officials regard the execution of new coverage agreements, modifications in existing agreements or the termination of agreements; processes requests for extension of coverage agreements; supplies information with respect to wage coverage questions; and provides final SSA approval for modifications to coverage agreements which are amendments of previous agreements with States or localities within the region.

7. *The Office of the Assistant Regional Commissioner, Supplemental Security Income (SPD13/SPDX3)*: a. Provides program leadership and technical direction for SSI program activities in the region; issues regional operating policies and procedures necessary to insure adequate and effective implementation of national SSI program policy; conducts visits to, and ongoing liaison with, district offices, to determine the effectiveness of SSI policies and procedures, and to provide technical assistance in the resolution of SSI operational problems; and evaluates SSI program effectiveness regionwide.

b. Negotiates and maintains agreements with States relative to the administration of statutory and regulatory provisions concerning optional State supplementation, mandatory minimum State supplementation and Medicaid eligibility determination; evaluates and monitors budgets developed by States pursuant to these agreements; maintains an ongoing dialogue with States, and negotiates with States on SSI program matters and related concerns, such as determinations pertaining to adjusted payment levels, hold harmless levels and the operational aspects of the Food Stamp Program.

c. Interacts with outside groups representing SSI program constituencies; consults with State/local officials, and representatives of community/private organizations, on SSI operational matters; and, representing SSI program concerns, participates in the development of regional public affairs/public information programs, including information and referral services.

Dated: March 7, 1977.

THOMAS S. MCFEE,
Acting Assistant Secretary for Administration and Management.

[FR Doc.77-9096 Filed 3-25-77;8:45 am]

Social Security Administration

DISTRICT AND BRANCH OFFICES

Redelegations of Authority

Under section 205(b) of the Social Security Act, as amended (the Act), the Secretary of Health, Education, and Welfare (the Secretary) may make find-

ings of fact and decisions affecting the rights of individuals to benefits under the provisions of title II of the Act, as well as determinations not affecting the rights of individuals to such benefits. Under section 204(b) of the Act, the Secretary is authorized to waive the recovery of incorrect payments of benefits made under the provisions of title II, in cases where the overpaid individual is without fault and where recovery of the overpayment would defeat the purpose of title II, or would be against equity and good conscience. The Secretary has delegated authority to perform all of the functions specified above to the Commissioner of Social Security (the Commissioner), with authority to redelegate (33 FR 5836-37).

To comply with an order issued by the U.S. District Court for the Western District of the State of Washington, in the case of *Buffington-Biner* v. *Weinberger* (Civil No. 734-73C2) (now on appeal to the U.S. Court of Appeals for the Ninth Circuit), the Social Security Administration (SSA) has established interim procedures, to provide individuals who incur an overpayment of benefits under section 202 of the Act the opportunity for an oral hearing (preadjustment review conference), before SSA takes any action to recover the overpayment by adjusting future benefit payments under section 202. An opportunity for a preadjustment review conference will also be provided to individuals receiving disability insurance benefits under section 223 of the Act, in cases where their auxiliary beneficiaries receive benefits under section 202 of the Act and where all such auxiliary beneficiaries and the disabled wage earner live in the same household. Each preadjustment review conference must be conducted by an SSA employee who did not participate in the prior determination that an overpayment had been made. Based on the preadjustment review conference, a decision may be made as to the correctness of an overpayment decision; whether recoupment of the particular overpayment will be initiated; or whether recoupment will be waived.

I. Notice is hereby given that the Commissioner has redelegated, to the SSA positions specified below, the following authorities in conjunction with preadjustment review conferences regarding overpayments of benefits under section 202 of the Act and, in certain cases, under section 223 of the Act:

A. Authority to conduct preadjustment review conferences;

B. Authority, under section 205(b) of the Act, to make findings of fact and decisions affecting the rights of individuals;

C. Authority, under section 205(b) of the Act, to make determinations not affecting the rights of individuals; and

D. Authority, under section 204(b) of the Act, to approve or deny waiver of adjustment or recovery of incorrect payments.

Delegates	*Scope of authority*
1. District Managers and Assistant District Managers, Office of Program Operations.	1. Any overpayment case handled under the preadjustment review conference procedure.
2. Branch Managers, Office of Program Operations.	2. and 3. Those overpayment cases handled under the preadjustment review conference procedure which involve overpayments of $10,000 or less.
3. Operations Supervisors, District and Branch Offices, Office of Program Operations.	
4. Claims Representatives, GS-9 and above) and Field Representatives, District and Branch Offices, Office of Program Operations.	4. Those overpayment cases handled under the preadjustment review conference procedure which involve overpayments of $5,000 or less.

CONDITIONS

(a). Preadjustment review conferences may not be conducted, and case decisions based on such conferences may not be made, by any SSA employee who participated in the prior determination that an overpayment existed in the particular case.

(b). The subject delegations exclude authority to make decisions under section 223 of the Act in cases where any medical factor would need to be evaluated in order to determine benefit entitlement.

II. The redelegations described in Section I above shall be effective as of March 28, 1977. Any actions taken by the incumbents of the positions identified in Section I above which, in effect, involve the exercise of authority delegated by this document prior to March 28, 1977, are hereby affirmed and ratified. These redelegations may not be further redelegated.

Dated: March 21, 1977.

J. B. CARDWELL,
Commissioner of Social Security.

[FR Doc.77-9099 Filed 3-25-77;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Meeting; Addendum

This notice is an addendum to the January 4, 1977 notice of the meetings of the National Advisory Council on the Education of Disadvantaged Children, which listed all planned meeting dates of the Council for the entire year.

The meeting scheduled for April 1-2 will be held at the District of Columbia Board of Education, 415 Twelfth Street, NW., Board Room, 12th floor, Washington, D.C. 20004.

The agenda of the two-day meeting will consist of:

(a) Discussion of Zero-based Review of the NACEDC (deadline, March 31, 1977); (b) Discussion of amicus curiae brief, Civil Action No. 18248-2, U.S. District Court, Western District of Missouri—Barrera vs. Wheeler; (c) Discussion of amendments to Title I, ESEA; (d) Development of response to request by Congressman Quie on Draft Bill; (e) Discussion of 1978 Annual Plan and review of discussion draft of plan; (f) Discussion and update on activities of OE/Office of Program Planning and Budgeting—Title I ESEA Research and Technical Assistance Centers; (g) Review of sketches of annual report covers and layouts; (h) Discussion of Travel Regulations; (i) Discussion of Certificate Nominations; and, (j) Review of draft 1978 annual plan and adoption.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

All meetings of the Council are open to the public. Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 Thirteenth Street, NW., Suite 1012, Washington, D.C. 20004. For any additional information concerning this meeting or any other questions you may have, please call the office at area code 202/382-6945.

Signed at Washington, D.C. on March 24, 1977.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.77-9431 Filed 3-25-77;11:11 am]

National Institutes of Health

VISION RESEARCH PROGRAM PLANNING SUBCOMMITTEE OF THE NATIONAL ADVISORY EYE COUNCIL

Meeting

Pursuant to Public Law 92-463 notice is hereby given of the meeting of the Vision Research Program Planning Subcommittee of the National Advisory Eye Council, National Eye Institute, on Monday, April 11, 1977, National Institutes of Health, Building 31, Room 6A-23, Bethesda, Maryland.

The meeting will convene at 6:30 p.m., and will be open to the public until adjournment, approximately 10 p.m. The meeting will be devoted to review of the status of ongoing vision research program planning activities. Attendance by the public will be limited to space available.

Substantive information may be obtained from Mr. Julian Morris, Head, Office of Scientific Reports and Program Planning, National Eye Institute, National Institutes of Health, Bethesda, Maryland 20014, Building 31, room 6A-27, telephone (301) 496-5248.

Dated: March 22, 1977.

MRS. SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-9425 Filed 3-25-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

INDIVIDUAL INCOME TAX RETURNS—FORMS 1040 AND FORM 1040A

Public Hearings

The Internal Revenue Service will hold public hearings to receive comments and suggestions concerning the individual income tax returns Form 1040 (and related schedules and Form 1040A in three separate cities on Thursday, April 28. The hearings will be held in Boston, Massachusetts; Oklahoma City, Oklahoma; and Portland, Oregon, beginning at 10:00 AM local time.

A person wishing to speak at one of these hearings should write or call the Internal Revenue Service at the address or phone number given below for the city of the particular hearing he or she plans to attend. If IRS is contacted by letter, the letter should be marked "Attention: Public Hearings on Forms" and should give both the return address and telephone number of the person desiring to speak.

The addresses and phone numbers to contact IRS regarding the hearings, as well as the hearing locations, are listed below:

BOSTON

Internal Revenue Service, P.O. Box 9112, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203, Phone: (617) 223-1145, Hearing Location: Room 2003, same address.

OKLAHOMA CITY

Internal Revenue Service, P.O. Box 66, 200 N.W. 4th Street, Oklahoma City, Oklahoma 73102, Phone: (405) 231-5091, Hearing Location: GSA Conference Room, 9th Floor, New Federal Building, 200 N.W. Fifth Street.

PORTLAND

Internal Revenue Service, P.O. Box 3341, 1220 S.W. Third Avenue, Portland, Oregon 97208, Phone: (503) 221-3194, Hearing Location: Bonneville Power Administration Auditorium, 1002 N.E. Holladay Street.

Although not required, it would be helpful to receive a copy of any written comments and suggestions a speaker may prepare. Also, written comments and suggestions from those unable to attend the hearings are welcome. The written comments and suggestions should be sent to the appropriate mailing address listed above or may be left with the hearing panel on the day of the hearings.

In order to afford as many speakers as possible a chance to participate, each speaker's remarks will be limited to 10 minutes. Persons who have advised IRS that they wish to speak at the hearings will be notified in advance concerning the approximate time for their scheduled appearance. The last date for submitting requests to speak is April 20. However, if there is time remaining after scheduled speakers have been heard, the remaining time will be offered to persons in attendance not previously scheduled who wish to speak.

The panel for each hearing will be made up of representatives from the District Director's Office concerned and the National Office in Washington, D.C.

Dated: March 22, 1977.

JOHN L. WITHERS,
Assistant Commissioner (Technical).

[FR Doc.77-9132 Filed 3-25-77;8:45 am]

Office of the Secretary

PRESSURE SENSITIVE PLASTIC TAPE FROM WEST GERMANY

Antidumping; Amendment of Withholding of Appraisement Notice

A "Withholding of Appraisement Notice" with respect to pressure sensitive plastic tape from West Germany was published in the FEDERAL REGISTER of March 3, 1977 (42 FR 12285-12286). In that notice paragraph (f) under the caption "Statement Of Reasons On Which Determination Is Based" contained certain errors and is hereby amended to read:

(f) *Result of Fair Value Comparison.* Using the above criteria, preliminary analysis suggests that purchase price and/or exporter's sales price probably will be lower than the home market price of such or similar merchandise. Comparisons were made on approximately 85 percent of the subject merchandise exported to the United States by the three West German manufacturers during the investigative period. Margins were tentatively found ranging from 3 to 18 percent for sales made by Braas on nearly 100 percent of the sales compared; from 3 to 12 percent for sales made by Nopi on 29 percent of the sales compared; and from 1 to 28 percent for sales made by Beiersdorf on 80 percent of the sales compared. Weighted average margins across each firm's sales compared were approximately 11 percent for Braas, 2 percent for Nopi and 15 percent for Beiersdorf.

In addition, all references in the aforementioned notice to "Brass and Co. GMBH, (Brass)", should have read and are hereby amended to read "Braas and Co. GMBH, (Braas)".

This notice supersedes the correction notice published in the FEDERAL REGISTER of March 14, 1977 (41 FR 13892).

PETER O. SUCHMAN,
Acting Assistant Secretary of the Treasury.

MARCH 21, 1977.

[FR Doc.77-9090 Filed 3-25-77;8:45 am]

Office of the Secretary

[Public Debt Series No. 8-77]

TREASURY NOTES OF MAY 15, 1982
Series E-1982

MARCH 22, 1977.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,250,000,000 of United States securities, designated Treasury Notes of May 15, 1982, Series E-1982 (CUSIP No. 912827 GQ 9). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated April 4, 1977, and will bear interest from that date, payable on a semiannual basis on November 15, 1977, and each subsequent 6 months on May 15 and November 15 until the principal becomes payable. They will mature May 15, 1982, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Securities held in one form (coupon, registered, or book-entry) may be exchanged for like securities held in another form in the same denomination or for different denominations. The transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect or those issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, March 29, 1977. Noncompetitive tenders, as defined below, will be considered timely if postmarked no later than Monday, March 28, 1977.

3.2. Each tender must state the face amount of securities desired. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%.

Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers, if the names of the customers and the amount for each customer are furnished. Other bidders are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened. Subsequently there will be a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After determining which tenders to accept, a coupon rate will be established at an increment of ⅛ of one percent which has an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the average price of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Monday, April 4, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, April 1, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, April 1, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Otherwise, the presented securities should be assigned by the registered payees or their assignees as provided in the general regulations governing United States securities. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for bearer securities, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue appropriate notices, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77-9166 Filed 3-25-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 355]

ASSIGNMENT OF HEARINGS

MARCH 23, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument ap-

pear 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 52704 (Sub-132), Glenn McClendon Trucking Co., Inc., now assigned April 12, 1977 at Atlanta, Georgia, will be held in Room 305, 1252 West Peachtree Street NW.

MC 142231 (Sub-1), Tri-L Contract Carrier, Inc., now assigned April 13, 1977 at Atlanta, Georgia, will be held in Room 305, 1252 West Peachtree Street NW.

MC 114552 (Sub-118), Senn Trucking Company, now assigned April 14, 1977 at Atlanta, Georgia, will be held in Room 305, 1252 West Peachtree Street NW.

MC 136155 (Sub-4), Gay Trucking Company, now assigned April 18, 1977 at Atlanta, Georgia, will be held in Room 305, 1252 West Peachtree Street NW.

MC 142206, Easy Travel Tours, Inc., now assigned April 20, 1977 at Atlanta, Georgia, will be held in Room 305, 1252 West Peachtree Street NW.

MC 28551 Sub No. 5, General Cartage Co., now being assigned May 24, 1977 (3 days) at Madison, Wisconsin in a hearing room to be later designated.

MC 130392, Travel-eez, Inc. now being assigned May 24, 1977 (3 days) at Lansing, Michigan in a hearing room to be later designated.

MC 130420, Bruce Thompson, dba Virginia Ski Travel Service now assigned March 28, 1977 at Norfolk, Virginia is cancelled.

MC-F-12822, Overnite Transportation Company—Purchase—O'Nan Transportation Company Incorporated and MC 109533 (Sub-75), Overnite Transportation Company now assigned continued hearing April 7, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 123023 (Sub-6), Di Pietro Trucking Company, now assigned April 18, 1977, at Olympia, Washington, hearing canceled and the application is dismissed.

MC 109533 Sub 78, Overnite Transportation Co. now being assigned June 7, 1977 (9 days) at Lexington, Kentucky and will be held at the Campbell House Inn, 1375 Harrodsburg Road.

MC 2202 Sub 518, Roadway Express, Inc. now being assigned May 25, 1977 (1 day) at Montgomery, Alabama in a hearing room to be later designated.

MC 22179 Sub 19, Freeman Truck Line, Inc. now being assigned June 6, 1977 (3 weeks) at Jackson, Mississippi in a hearing room to be later designated.

MC 140484 (Sub-19), Lester Goggins Trucking, Inc., now assigned April 12, 1977 at Columbus, Ohio, will be held in Room 235 Federal Office Building, 85 Marconi Boulevard.

MC 118756 (Sub-4), McCandlish, Inc., now assigned April 14, 1977 at Columbus, Ohio, will be held in Room 235 Federal Office Building, 85 Marconi Boulevard.

MC 141759 (Sub-4), Ohio Pacific Express, Inc., now assigned April 13, 1977 at Columbus, Ohio, will be held in Room 235 Federal Office Building, 85 Marconi Boulevard.

MC 59728 (Sub-28), Morrison Motor Freight, Inc., now assigned April 18, 1977 at Cincinnati, Ohio, will be held in Room 3026 Federal Office Building, 550 Main Street.

MC 142370, Paul Londino, dba Scranton Transfer now being assigned May 23, 1977 (1 week) at Little Rock, Arkansas in a hearing room to be later designated.

MC 136275 Sub 21, Whitfield Associated Transport, Inc. now being assigned May 23, 1977 (1 week) at El Paso, Texas in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-9125 Filed 3-25-77;8:45 am]

[No. 36500]

KANSAS

Intrastate Freight Rates and Charges—1977

In the matter of petition for investigation of intrastate freight rates and charges within the State of Kansas.

By joint petition authorized under section 13(3) of the Interstate Commerce Act, filed January 10, 1977, petitioners, nine common carriers by railroad[1] subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in the State of Kansas, request that this Commission institute an investigation of their Kansas intrastate freight rates and charges, under section 13 and 15a of the Interstate Commerce Act, wherein they will seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte Nos. 330 and 336.

By applications filed with the State Corporation Commission of the State of Kansas, petitioners sought to make the increases granted in Ex Parte Nos. 330 and 336 applicable on Kansas intrastate traffic. Said Commission denied the applications en toto.

Petitioners contend that present interstate freight rates from, to, and within Kansas are just and reasonable and that the proposed intrastate rates will not exceed a just and reasonable level; that transportation conditions for intrastate traffic in Kansas are not more favorable than for interstate traffic; that traffic moving under present Kansas intrastate rail freight rates and charges fails to provide its fair share of earnings; and, that the present Kansas intrastate rail freight rates and charges create undue and unreasonable advantage, preference, and prejudice between persons and localities in intrastate commerce within Kansas and interstate and foreign commerce, and result in undue, unreasonable, and unjust discrimination against and an undue burden on interstate commerce in violation of section 13 and 15a of the Interstate Commerce Act, among others, to the extent that they do not include the increases authorized in Ex Parte No. 330 and Ex Parte No. 336.

Under section 13 of the Interstate Commerce Act, this Commission may institute an investigation, into the lawfulness of intrastate rail freight rates and charges for the purpose of adjusting such rates and charges to those charged on similar traffic moving in interstate or foreign commerce. This Commission may act notwithstanding the laws or constitution of any State.

Wherefore, and good cause appearing therefore; *It is ordered*, That the petition be, and it is hereby, granted; and that an investigation, under section 13 and 15a of the Interstate Commerce Act, be, and it is hereby, instituted to determine whether the Kansas intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 330, and Ex Parte No. 336; and to determine if any rates or charges, or maximum or minimum charges, or both, shall be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

It is further ordered, That all common carriers by railroad operating in the State of Kansas, subject to the jurisdiction of this Commission, be, and they are hereby, made respondents in this proceeding.

It is further ordered, That all persons who wish to actively participate in this proceedings and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before 15 days from the FEDERAL REGISTER publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

It is further ordered, That as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

[1] The Atchison, Topeka and Santa Fe Railway Company; Chicago, Rock Island and Pacific Railroad Company; Union Pacific Railroad; Missouri Pacific Railroad Company; St. Louis-San Francisco Railway Company; Missouri-Kansas-Texas Railroad Company; Burlington Northern, Inc.; The Garden City Western Railway Company; and the Kansas City Southern Railway Company.

And it is further ordered, That a copy of this order be served upon each of the petitioners and respondents herein; that the State of Kansas be notified of the proceeding by sending copies of this order of the instant petition by certified mail to the Governor of the State of Kansas and the Corporation Commission of the State of Kansas; and that further notice of this proceeding be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 17th day of March, 1977.

By the Commission, Commissioner Hardin.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-9124 Filed 3-25-77;8:45 am]

[Notice No. 140]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 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 on or before April 27, 1977. 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-76792, filed March 11, 1977. Transferee: The Minuteman Lines, Inc., P.O. Box 382, Winchendon, Massachusetts 01475. Transferor: Haigis Transport, Inc., 74 Fairview Street, Greenfield, Massachusetts 01301. Applicant's Representative: George C. O'Brien, Attorney at Law, 15 Court Square, Boston, Massachusetts 02108. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC-97784 (Sub-No. 1), issued December 30, 1963, as follows: General commodities anywhere within the Commonwealth of Massachuetts. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76985 filed February 25, 1977. Transferee: Birk Transfer, Inc., 360 Wheatland Avenue, Conemaugh, Pennsylvania 15909. Transferor: H H & S Company, Inc., 1140 Glass Run Road, Pittsburgh, Pennsylvania, 15236. Transferee's Representative: John A. Vuono, Esquire, 2310 Grant Building, Pittsburgh, Pennsylvania, 15219. Transferor's Representative: Arthur J. Diskin, Esquire, 806 Frick Building, Pittsburgh, Pennsylvania, 15219. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate Nos. MC-89107 and MC-89107 (Sub-No. 2), issued May 8, 1964, and April 7, 1971, respectively, as follows: *Bituminous or asphaltic macadam mixture*, commonly known as "hot mix" or "black top", used in road building, From Weirton and Benwood, W. Va., and Martins Ferry, Ohio, to points in Hancock, Brooke, Ohio, Marshall, Wetzel, and Tyler Counties, W. Va., and Columbiana, Jefferson, Belmont, Monroe, Guernsey, and Harrison Counties, Ohio and *Sand, gravel, slag, asphalt, tile, cement, bricks*, and *road building materials* transported in dump trucks, Between Wheeling, Benwood, New Martinsville, Sistersville, and Weirton, W. Va., and Martins Ferry, Ohio, on the one hand, and, on the other, points in Hancock, Brooke, Ohio, Marshall, Wetzel, Tyler, Marion, Pleasants, Doddridge, Harrison, and Monongalia Counties, W. Va., Greene, Washington, Allegheny, and Beaver Counties, Pa., and Columbiana, Carroll, Jefferson, Harrison, Tuscarawas, Belmont, Guernsey, Monroe, Washington, and Noble Counties, Ohio; *Building and construction materials, supplies, machinery, and equipment*, Between Pittsburgh, Pa., and points in Pennsylvania within 50 miles of Pittsbugh, on the one hand, and, on the other, points in that part of West Virginia on and north of U.S. Highway 50, and those in that part of Ohio on and east of U.S. Highway 23. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76986 filed February 25, 1977. Transferee: George A. Jordan Doing Business as Jordan's Truck Service, P.O. Box 554, McKeesport, Pennsylvania, 15132. Transferor: Kasardo Garage, Inc., 7515 Ardmore Street, Swissvale, Pennsylvania, 15218. Transferee's Representative: John A. Vuono, Esq., 2310 Grant Building, Pittsburgh, Pennsylvania, 15219. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-138577, issued September 18, 1974, as follows: (1) Wrecked, disabled, and abandoned motor vehicles (except trailers designed to be drawn by passenger automobiles), in truckaway service by use of wrecker equipment only, From points in Maryland, New Jersey, New York, Ohio, Virginia, West Virginia, and the District of Columbia, to points in Allegheny County, Pa.; and (2) Replacement vehicles for wrecked and disabled motor vehicles, From points in Allegheny County, Pa., to points in Maryland, New Jersey, New York, Ohio, 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-76993, filed February 24, 1977. Transferee: Utah Carriers, Inc., P.O. Box 298, Salt Lake City, Utah 84110. Transferor: Bray Lines Incorporated, 1401 North Little St., Cushing, Okla. 74023. Transferee's Representative: David R. Parker, Attorney at Law, 2310 Colorado State Bank Bldg., 1600 Broadway, Denver, Colo. 80202. Transferor's Representative: Edward T. Lyons, Jr., Attorney at Law, 1660 Lincoln St., Suite 1600, Denver, Colo. 80264. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificates No. MC-112822 (Sub-No. 58), MC-112822 (Sub-No. 59), MC-112822 (Sub-No. 104), MC-112822 (Sub-No. 106), MC-112822 (Sub-No. 113), MC-112822 (Sub-No. 125), MC-112822 (Sub-No. 139), MC-112822 (Sub-No. 149), MC-112822 (Sub-No. 156), MC-112822 (Sub-No. 164), MC-112822 (Sub-No. 188), MC-112822 (Sub-No. 205), and MC-112822 (Sub-No. 252) and specified portions of the operating rights set forth in Certificates No. MC-112822 (Sub-No. 83) and MC-112822 (Sub-No. 155), issued August 1, 1967, May 11, 1971, June 9, 1969, July 21, 1969, April 30, 1970, November 12, 1970, October 1, 1970, December 7, 1970, May 25, 1971, June 24, 1971, January 18, 1973, January 16, 1973 (as corrected February 13, 1973), October 26, 1973, June 8, 1972, and December 16, 1971, respectively, as follows: Plastic pipe, plastic tubing, plastic conduit, valves, fittings, compounds, joint sealer, bonding cement, primer, coating, thinner and accessories used in the installation of such products, roofing and roofing materials, petroleum and petroleum products, lumber and composition lumber, treated wood products, doors and millwork, vinyl building products and accessories, particleboard, building blocks, mastic and primer, wood finishing and preserving compounds, wallboard, gyp-

sum and gypsum products, clay pipe and accessories, asphalt roofing products, asbestos roofing and siding products and fiberglass insulation, from, to, and between points and places in the United States. Transferee also seeks to acquire the related "E" gateway notices. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76996, filed March 1, 1977. Transferee: M & T Transport, Inc., 7397 Richmond Road, East Syracuse, New York 13057. Transferor: Lakelawn Transport Corp., P.O. Box 1366, Syracuse, New York 13201. Applicant's representative: Herbert M. Canter and Benjamin D. Levine, Attorneys at Law, 305 Montgomery Street, Syracuse, New York 13202. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC–4426, issued October 18, 1974, as follows: Machinery, telephone and telegraph equipment, and contractors equipment between Syracuse, N.Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, New Jersey, Pennsylvania, Rhode Island, and New York. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC–FC–77005, filed March 2, 1977. Transferee: Early Rival Motor Express, Inc., 2545 Jonesboro Road S.E., Atlanta, Ga. 30315. Transferor: Meadors Freight Lines, Inc. (Stacey W. Cotton, Trustee in Bankruptcy), 2545 Jonesboro Road S.E., Atlanta, Ga. 30315. Applicant's representative: Virgil H. Smith, Attorney at Law, 1587 Phoenix Blvd., Suite 12, Atlanta, Ga. 30349. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificates No. MC–117604 and, Sub 4 and Sub 8, and Certificates of Registration No. MC–117604 Sub 2 and Sub 3, issued December 16, 1958, June 22, 1972, July 10, 1972, April 13, 1965, and April 1, 1965, as follows: General commodities (with exceptions). Between Atlanta, Ga., and Covington, Ga., serving all intermediate points, and the off-route points in Milstead, and Porterdale, Ga.: From Atlanta over U.S. Highway 278 (formerly Georgia Highway 12) via Avondale Estates, Ga., to junction Georgia Highway 124, thence over Georgia Highway 124 to Lithonia, Ga., thence return over Georgia Highway 124 to junction U.S. Highway 278, thence over U.S. Highway 278 to Covington, and return over the same route. Property between Covington, Georgia and Snapping Shoals, Georgia over State Highway 81 and property, between Madison, Georgia and Atlanta, Georgia via Ruthledge, Covington, Conyers and Decatur, Georgia, over State Highway 12 serving the off-route point of Social Circle, Georgia. Also property from Atlanta, Georgia to Elizabeth, Georgia. Also General commodities (with exceptions) between Cartersville, Georgia and Marietta, Georgia serving no intermediate points and serving termini for the purpose of joinder only, from Cartersville, Georgia to Marietta, Georgia over State Highway 3 and return over the same route. And general commodities (with exceptions) between Cartersville, Georgia and Dalton, Georgia serving all intermediate points, from Cartersville, Georgia over U.S. Highway 41 to Dalton, Georgia and return over the same route. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77006, filed March 2, 1977. Transferee: ELVIS L. BAKER, an individual doing business as Elvis L. Baker Heavy Hauling, 1601 South 19th Ave., Phoenix, Arizona 85009. Transferor: H & R Transfer & Storage Co., Inc., 411 South 1st Street, Phoenix, Arizona 85004. Applicants' representative: Earl H. Carroll, Attorney at Law, 363 North First Ave., Phoenix, Arizona 85003. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 11883 (Sub-No. 4), issued July 6, 1967: authorizing transportation within the State of Arizona as follows: *Heavy machinery and equipment* from points and places within the State of Arizona to points and places within the State of Arizona. *Freight and baggage* over the public highways designated as those within Flagstaff and vicinity, also coal, lumber and all commissary and camp supplies and materials for Government Civilian Conservation Corps Camps and Soil Conservation Service Camps located in that part of Coconino County, Arizona, South of a line East and West passing through Flaggstaff, Arizona and within that part of said County North of said line and within 25 miles of Flagstaff, between such camps and all other points and places in said parts of Coconino County and between CCC Camps F–77 and F–75–A, 95 and 62 miles (approximately), respectively, Southeast of Flaggstaff and Flagstaff. Household goods as defined by the ICC in ex parte MC 19 between all points and places in Arizona. The term "household goods" means personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals, or other establishments; and articles, including objects of art, displays, and exhibits, which because of their unusual nature of value require specialized handling and equipment usually employed in moving household goods. (Rules and regulations prescribed under the provisions of the Motor Carrier Act, 1935, governing the practices of Motor Carriers engaged in the transportation of Household Goods in Interstate or Foreign Commerce). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77007, filed March 3, 1977. Transferee: JOHN B. McNABB, an individual doing business as McNabb Farms, P.O. Box 4366, Pocatello, Idaho 83201. Transferor: John L. Smith, P.O. Box 186, Moreland, Idaho 83256. Applicants' representative: Jerold G. Oldroyd, Attorney at Law, 485 "E" Street, Idaho Falls, Idaho 83401. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 140166 (Sub-No. 2), issued June 23, 1975, as follows: *Feed and feed ingredients*, from Pocatello, Idaho, to points in Union, Grant, Baker, Harney, and Malheur Counties, Oreg., Ravalli, Granite, Jefferson, Silver Bow, Gallatin, Madison, and Beverhead Counties, Mont., Teton, Sublette, Sweetwater, Lincoln, and Uinta Counties, Wyo., Box Elder, Cache, Rich, Weber, Summit, Tooele, Juab, Millard, Sevier, Sanpete, Carbon, Emery, Wasatch, Salt Lake, Duchesne, Uintah, Davis, Carbon, Beaver, and Wayne Counties, Utah and Washoe, Pershing, Humboldt, Elko, Lander, Churchill, Eureka, White Pine, Mineral, Douglas, Lyon, and Storey Counties, Nev., with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC–FC–77009, filed March 7, 1977. Transferee: Cody Transportation Co., Inc., 1000 Jefferson Road, Rochester, N.Y. 14623. Transferors: Meat Dispatch, Inc., 2103 17th St., East, Palmetto, Fla. 33561; K. J. Transportation, Inc., 1000 Jefferson Road, Rochester, N.Y. 14623. Applicants' representative: S. Michael Richards/Raymond A. Richards, 44 North Ave., P.O. Box 225, Webster, N.Y. 14580. Authority sought for purchase by transferee of the operating rights of Meat Dispatch, Inc., set forth in Permit No. MC 128555 (Sub-No. 3), issued April 10, 1972, authorizing the transportation of *general commodities*, with the usual exceptions, between points in Connecticut, Delaware, Indiana, Illinois, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, and West Virginia, restricted to transportation of traffic originating at, or destined to, truckstops and warehouse facilities of Truckstops Corporation, under a continuing contract, or contracts, with Truckstop Corporation, and those of K. J. Transportation, Inc., set forth in Permit No. MC 138991 (Sub-No. 4), issued March 5, 1976, authorizing the transportation of macaroni, spaghetti, and egg noodle products, from Rochester, N.Y., to points in Connecticut, Illinois, Maryland, Massachusetts, Lower Peninsula of Michigan, Minnesota, Ohio, Pennsylvania, Rhode Island, West Virginia and Wisconsin, under a continuing contract or contracts with Bravo Macaroni Company. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77010, filed March 7, 1977. Transferee: RUSSELL RICKER COOK, SR., doing business as Russell R. Cook Travel Service, Merriam Hill, Greenvill,

N.H. 03048. Transferor: Paul W. Hanslin and Margit S. Hanslin, doing business as Hanslin Travel Service, 725 Main St., Fitchburg, Mass. 01420. Applicants' representative: Frank Daniels, Attorney at Law, 15 Court Square, Boston, Mass. 02108. Authority sought for purchase by transferee of the operating rights of transferor set forth in License No. MC 12887, issued October 22, 1964, authorizing operations as a broker at Ayer, Fitchburg, Gardner, and Leominster, Mass., and Keene, N.H., in connection with the transportation by motor vehicle in interstate or foreign commerce, of passengers and their baggage, beginning and ending at points in Franklin and Hampden Counties, Mass., those in Worcester County, Mass. (except the City of Worcester), those in that part of Middlesex County, Mass., on and west of Massachusetts Highway 111, Cheshire County, N.H., and those in that part of Hillsborough County, N.H., on and west of New Hampshire Highway 13 and on and south of New Hampshire Highway 101, and extending to points in the United States including Alaska and Hawaii. Transferee presently holds authority from this Commission under License No. MC 130145.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-9128 Filed 3-25-77;8:45 am]

[Notice No. 41]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 23, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 16831 (Sub-No. 22TA), filed March 14, 1977. Applicant: MID SEVEN TRANSPORTATION COMPANY, 2323 Delaware 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: *Such commodities* as are dealt in, or used by, agricultural equipment, industrial equipment, and lawn and leisure product dealers (except commodities in bulk), from the facilities of Deere & Company, located in Polk and Wapello Counties, Iowa, to points in Indiana, Kentucky, Michigan and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Deere & Company, John Deere Des Moines Works, P.O. Box 1595, Des Moines, Iowa 50316. Deere & Company, John Deere Ottumwa Works, Vine and Madison Sts., Ottumwa, Iowa 52501. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 67210 (Sub-No. 10TA), filed March 11, 1977. Applicant: GLENNON TRANSPORTS, INC., 100 N. 14th St., St. Louis, Mo. 63106. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63106. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the off-route points of Shiloh, Ferrin, Iuka, Xenia, Camp Travis, Calhoun, West Salem, Bone Gap, Damiansville, Woodlawn, Thackery, Bungay, Liberty, Barnhill, Enterprise, Rinard, Ellery, Goldengate, Walnut Hill, Scott Air Force Base, Phillipstown, Garrison, Belle Prairie, Bluford, Kennville, Sims, and Kell, Ill., in connection with carrier's regular-route operations set out hereinbelow; between St. Louis, Mo., and Mt. Carmel, Ill., serving all intermediate points; from St. Louis over U.S. Highway 50 to junction Illinois Highway 130, thence over Illinois Highway 130 to Albion, Ill., thence over Illinois Highway 15 to Mt. Carmel, and return over the same route; between junction U.S. Highway 50 and Illinois Highway 161, and McLeansboro, Ill., serving all intermediate points; from Junction U.S. Highway 50 and Illinois Highway 161 over Illinois Highway 161 to junction Illinois Highway 15, thence over Illinois Highway 15 to Mt. Vernon, Ill., thence over U.S. Highway 460 to McLeansboro, and return over the same route; between Carlyle, Ill., and Nashville, Ill., serving all intermediate points; from Carlyle over Illinois Highway 127 to Nashville, and return over the same route; between junction U.S. Highways 50 and 45, and Carmi, Ill., serving all intermediate points; from junction U.S. Highways 50 and 45 over U.S. Highway 45 to junction U.S. Highway 460.

Thence over U.S. Highway 460 to Carmi, and return over the same route; between Albion, Ill., and Fairfield, Ill., serving all intermediate points; from Albion over Illinois Highway 15 to Fairfield, and return over the same route; between junction U.S. Highway 45 and unnumbered highway (near Cisne, Ill.), and junction Illinois Highway 161 and U.S. Highway 50, serving all intermediate points; from junction U.S. Highway 45 and unnumbered highway over unnumbered highway to junction Illinois Highway 37, thence over Illinois Highway 161 to junction U.S. Highway 50, and return over the same route; between Mt. Carmel, Ill., and Carmi, Ill., serving all intermediate points; from Mt. Carmel over Illinois Highway 1 to Carmi, and return over the same route; between junction U.S. Highway 45 and 460, and McLeansboro, Ill., serving all intermediate points; from junction U.S. Highway 45 and 460 over U.S. Highway 460 to Mcleansboro, and return over the same route; between McLeansboro, Ill., and Mt. Vernon, Ill., serving all intermediate points; from McLeansboro over Illinois Highway 142 to Wayne City, Ill., thence over Illinois Highway 15 to Mt. Vernon, and return over the same route; between Mt. Vernon, Ill., and Salem, Ill., serving the intermediate point of Rome, Ill.; from Mt. Vernon over Illinois Highway 37 to Salem, and return over the same route; between Fairfield, Ill., and Wayne City, Ill., serving no intermediate points; from Fairfield over Illinois Highway 51 to Wayne City and return over the same route; between junction U.S. Highways 51 and 460, and junction U.S. Highways 51 and 50, serving the intermediate points of Richview, Centralia, and Central City, Ill.; from junction U.S. Highways 51 and 460 over U.S. Highway 50 to junction U.S. Highway 50, and return over the same route; *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); between St. Louis, Mo., and junction Illinois Highway 3 and U.S. Highway 51; from St. Louis over U.S. Highway 50 Bypass to East St. Louis, Ill., thence over Illinois Highway 3 to junction U.S. Highway 51, and return over the same route; between junction Illinois Highways 3 and 149, and junction Illinois Highways 3 and 146; from junction Illinois Highways 3 and 149 over Illinois Highway 149 to junction Illinois Highway 127.

Thence over Illinois Highway 127 to junction Illinois Highway 146, thence over Illinois Highway 146 to junction Illinois Highway 3, and return over the same route; between junction U.S. Highway 51 and 460 and Shawneetown, Ill.; from junction U.S. Highway 51 and 460 over U.S. Highway 460 to junction U.S.

Highway 45, thence over U.S. Highway 45 to junction Illinois Highway 1, thence over Illinois Highway 1 to junction Illinois Highway 13, thence over Illinois Highway 13 to Shawneetown, and return over the same route; between McLeansboro, Ill., and junction Illinois Highways 13 and 1; from McLeansboro over Illinois Highway 142 to junction Illinois Highway 13, thence over Illinois Highway 13 to junction Illinois Highway 1, and return over the same route; between Carmi, Ill., and Brookport, Ill.; from Carmi over Illinois Highway 1 to junction U.S. Highway 45, thence over U.S. Highway 45 to Brookport, and return over the same route; between Mound City, Ill., and junction Illinois Highway 37 and U.S. Highway 460; from Mound City over Illinois Highway 37 to junction U.S. Highway 460, and return over the same route; between Ware, Ill., and junction Illinois Highways 1 and 13; from Ware over Illinois Highway 146 to junction Illinois Highway 1, thence over Illinois Highway 1 to junction Illinois Highway 13, and return over the same route; between junction Illinois Highways 146 and 34 and Benton, Ill.; from junction Illinois Highways 146 and 34 over Illinois Highway 34 to Benton, and return over the same route; between Harrisburg, Ill., and Carbondale, Ill.; from Harrisburg over Illinois Highway 13 to Carbondale, and return over the same route; between Thompsonville, Ill., and Murphysboro, Ill.; from Thompsonville over Illinois Highway 149 to Murphysboro, and return over the same route; between Wittington, Ill., and Belleville, Ill.; from Wittington over Illinois Highway 183 to Sesser, Ill., thence over unnumbered highway to junction Illinois Highway 154.

Thence over Illinois Highway 154 to Red Bud, Ill., thence over Illinois Highway 159 to Belleville, and return over the same route; between Waltonville, Ill., and junction Illinois Highways 148 and 37; from Waltonville over Illinois Highway 148 to Junction Illinois Highway 37, and return over the same route; between Eden, Ill., and junction Illinois Highway 153 and U.S. Highway 460; from Eden over Illinois Highway 153 to junction U.S. Highway 460, and return over the same route; between Ava, Ill., and junction Illinois Highways 151 and 3; from Eva over Illinois Highway 151 to junction Illinois Highway 3, and return over the same route, serving, in connection with the regular-route operations set out above, all intermediate points, except those on U.S. Highway 460 between junction U.S. Highway 460 and 51 and junction U.S. Highway 460 and 45, and those points on Illinois Highway 142 between McLeansboro, Ill., and Dale, Ill.; between East St. Louis, Ill., and Cairo, Ill., serving the intermediate points of Tamaroa, Dowell, Elkville, Hallidayboro, and Desoto, Ill., and points on U.S. Highway 460 (except Nashville, Ill.); from East St. Louis over U.S. Highway 460 to Junction U.S. Highway 51, thence over U.S. Highway 51 to Cairo, and return over the same route; serving in connection with the regular-route operations sought above, the off route points of Merrimac, New Hanover, Fountain, Harrisonville, Valmeyer, Foster Pond, Raddle, Jacob, Gorham, Sand Ridge, Grimsby, Neunert, Grand Tower, Fayville, Goose Island, Thebes, Horsehoe Lake Conservation Area, Miller City, Willard, Burksville, Renault, Ames, Prairie du Rocher, Kellogg, Millstadt, Preston, Walsh, Schuline, Blair, New Palestine, Shiloh Hill, Story, Conant, Denmark, Elco, Diswood, Spring Garden, Ewing, Macedonia, Akin, Lonzo, Barden, Walpole, Brownsville, Gossett, Ridgeway, Mulkeytown, Orient, Rosiclare, Brownfield, Creal Springs, Karnak, Joppa, Hillerman, Belknap, Forman, Tunnel Hill, New Federal Prison, Temple Hill, Simpson, Phillipstown, Herald, New Haven and Equality, Ill.

General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); between Evansville, Ind., and Harrisburg, Ill., serving all intermediate points in Illinoise; from Evansville over Indiana Highway 62 to Indiana-Illinois State Line, thence over Illinois Highway 141 to Junction U.S. 45, thence over U.S. Highway 45 to Harrisburg, and return over the same route; between Harrisburg, Ill., and Junction of Illinois Highway 145 and U.S. Highway 45, East of Metropolis, Ill., serving all intermediate points; from Harrisburg, Ill., over Illinois Highway 145 to Junction U.S. 45, and return over the same route; between Harrisburg, Ill., and Junction of Illinois Highway 1 and Illinois Highway 13, serving all intermediate points; from Harrisburg, Ill., over Illinois Highway 13 to Junction Illinois Highway 1, and return over the same route, serving the off route point of Cave in Rock, Ill., in connection with routes set out above. Applicant intends to interline at the Gateway of Evansville, Ind., for 180 days. Supporting shippers: There are approximately 22 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: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 103926 (Sub-No. 55TA), filed March 11, 1977. Applicant: W. T. MAYFIELD SONS TRUCKING CO., INC., P.O. Box 947, Mableton, Ga. 30059. Applicant's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed or ground slate*, in bags (except in bulk), from the facilities of Georgia Lightweight Aggregate Company, at Polk County, Ga., to points in Illinois, Indiana, Kentucky, North Carolina, South Carolina, Tennessee and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia Lightweight Aggregate Company, a Division of MacDougald Construction Co., P.O. Box 19781, Station N, Atlanta, Ga. 30325. 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 112520 (Sub-No. 334TA), filed March 11, 1977. Applicant: MCKENZIE TANK LINES, INC., P.O. Box 1200, 122 Appleyard Drive, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed clay* catalyst, from Attapulgus, Ga., to Pryor, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Engelhard Minerals & Chemicals Corp., Menlo Park, Edison, N.J. 08817. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 114569 (Sub-No. 168TA), filed March 14, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). 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 packinghouses* (except animal feed and animal feed ingredients, hides and commodities in bulk), from the plantsite and storage facilities of Flavorland Industries, Inc., at or near Denver, Colo., to points in Pennsylvania, New York, New Jersey, Maryland, Massachusetts, Virginia, West Virginia, Connecticut, Rhode Island, Michigan 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: Flavorland Industries, Inc., P.O. Box 16345, Denver, Colo. 80216. Send protests to: Robert P. Ameringe, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Bldg., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 115654 (Sub-No. 62TA), filed March 10, 1977. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 1193, No. 1 Candy Lane, Nashville, Tenn. 37202. Applicant's representative: Richard M. Tettelbaum, Suite 375, 3379 Peachtree Road, NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs*, in vehicles equipped with mechnical refrigeration, from the plantsite and warehouse facilities of Campbell Soup Company, Napoleon, Ohio, to points in Kentucky. Representative points: Ft. Knox, Lexington, Bowling Green, Danville, Bernstadt, Owensboro, Harlan,

Horse Cave, Leitchfield, Louisa, Hopkinsville, Louisville, and Elizabethtown, for 180 days. Applicant has also filed an underlaying ETA seeking up to 90 days of operating authority. Supporting shipper: Campbell Soup Company, E. Maumee Ave., Napoleon, Ohio 43545. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 115860 (Sub-No. 13TA), filed March 8, 1977. Applicant: DALBY TRANSFER AND STORAGE, INC., P.O. Box 7187, 641 Winters Drive, Colorado Springs, Colo. 80933. Applicant's representative: John P. Thompson, 450 Capitol Life Center, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural sprinkler systems, parts and supplies*, from points in El Paso County, Colo., to points in Alabama, Arkansas, Louisiana, Michigan, Ohio and Wisconsin; (2) *Steel conduit* used or to be used in the manufacturing, servicing, sale and distribution of agricultural sprinkler systems, from points in Ohio, the plantsite of Northwest Pipe and Casing Company, located at or near Clackamus, Oreg., and Allied Tube and Conduit plantsite, located at or near Harvey, Ill., to points in El Paso County, Colo.; (3) *"C" channel steel* used or to be used in the manufacturing, servicing, sale and distribution of agricultural sprinkler systems, from the plantsite of Butler Manufacturing Company, at or near Galesburg, Ill., to the plantsite of Higromatic Division of Butler Manufacturing Company, located in El Paso County, Colo.; (4) *Wheels and hubs* used or to be used in the manufacturing, servicing, sale and distribution of agricultural sprinkler systems, from the plantsite of French & Hecht, at or near Davenport, Iowa, to points in El Paso County, Colo.; (5) *Tires and tubes* used or to be used in the manufacturing, servicing, sale and distribution of agricultural sprinkler systems, from points in Ohio, to points in El Paso County, Colo.; (6) *Steel plate* used or to be used in the manufacturing, sale and distribution of agricultural sprinkler systems, from the plantsite of U.S. Steel Corp., Geneva Works, at or near Provo, Utah, to points in El Paso County, Colo.; and (7) *Wheel* drives used or to be used in the manufacturing, servicing, sale and distribution of agricultural sprinkler systems, from the plantsite of Durst Corporation, at or near Shopiere, Wis., to points in El Paso County, Colo. Restriction: Against: (1), (2), (3), (4), (5), (6), and (7)(a) the transportation of commodities which because of size or weight require the use of special equipment; (b) earth drilling machinery, and (c) pipe incidental to and used in connection with the construction, repairing or dismantling of pipelines, for 180 days. Supporting shippers: Higromatic Division, Butler Manufacturing Company, P.O. Box 7406, Colorado Springs, Colo. 80933. Tumac Industries, Inc., 650 Ford, Colorado Springs, Colo. 80908. Send protests to: Herbert C. Ruoff, District Supervisor, 492 U.S. Customs House, 721 19th St., Denver, Colo. 80202.

No. MC 118959 (Sub-No. 147TA), filed March 10, 1977. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, Mo. 63701. Applicant's representative: Robert M. Pearce, P.O. Box 1111, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Paper trays, corrugated post, clay and clay products* (except commodities in bulk), from the plantsites of Lowe's, Inc., at or near Oran and Bloomfield, Mo.; Olmsted, Ill.; and Parris, Tenn., to points in Indiana, Ohio, Kentucky, Tennessee, Michigan, Wisconsin, Missouri, Arkansas, Iowa, Illinois, Alabama, Mississippi, Minnesota, Nebraska, Oklahoma, Kansas and Texas, for 180 days. Supporting shipper: Lowe's Inc., N. Edward St., Cassopolis, Mich. 49031. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Room 1465, 210 N. 12th St., St. Louis, Mo.

No. MC 119741 (Sub. No. 66TA), filed March 14, 1977. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, R.F.D. 2., Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods*, from the plantsite and storage facilities of Interbake Foods, Inc., at Battlecreek, Mich., to points in Iowa, Missouri, Kansas, Oklahoma and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Interbake Foods, Inc., P.O. Box 158, Battle Creek, Mich. 49016. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 121240 (Sub-No. 5TA), filed March 7, 1977. Applicant: ABC TRUCK LINES, INC., P.O. Box 1824, 526 S. 5th St., Elko, Nev. 89801. Applicant's representative: Antoinette M. Bloch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, viz. *borax and boric acid*, from the plantsite of U.S. Borax Co., at or near Boron, Calif., and the plantsite of Kerr-McGee Corp., at or near Trona, Calif., to Great Falls, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Van Waters & Rogers, Box 2021, Billings, Mont. 59103.

No. MC 123157 (Sub-No. 32TA), filed March 10, 1977. Applicant: CTI, P.O. Drawer 397, Rillito, Ariz. 85246. Applicant's representative: A. Michael Bernstein, 1441 E. Thomas Road, Phoenix, Ariz. 85014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Masonry cement*, in sacks, from Clarksdale, Ariz., to points in Clark County, Nebr., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Phoenix Cement Company, 3550 N. Central Ave., Phoenix, Ariz. 85012. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 127924 (Sub-No. 2TA), filed March 14, 1977. Applicant: BECKER TRUCKING CO., Box 217, Newton Falls, Ohio 44444. Applicant's representative: Paul F. Berry, 275 E. State St., Columbus, Ohio 43215. Authorty sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural limestone*, in bulk, in dump vehicles, from the plantsite of Basic, Incorporated, at Maple Grove, Ohio, to points in Mercer, Venango, Lawrence, Westmoreland, Beaver, Jefferson, Butler, Indiana, Fayette, Armstrong, Cambria, Greene, Somerset, Washington, Erie, Crawford, Warren Counties, Pa., and Chautauqua County, N.Y., under a continuing contract with Basic, Incorporated, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Basic, Incorporated, 845 Hanna Bldg., Cleveland, Ohio 44115. Send protests to: James Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 181 Federal Office Bldg., 1240 E. Ninth St., Cleveland, Ohio 44199.

No. MC 129219 (Sub-No. 10TA), filed March 14, 1977. Applicant: CMD TRANSPORTATION, INC., 12340 SE. Dumolt Road, Clackamas, Oreg. 97015. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, Oreg. 97030. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric storage batteries and allied components thereof*, which are necessary and incidental to the manufacture of electric storage batteries, between Denver, Colo., on the one hand, and, on the other, Los Angeles and San Jose, Calif.; and from Denver, Colo., to points in Idaho, Montana, California, Nevada, Oregon, Utah and Washington; and (2) *Scrap, defective and obsolete electric storage batteries*, from points in Idaho, Montana, California, Nevada, Oregon, Utah and Washington, to Denver, Colo., Los Angeles and San Jose, Calif., under a continuing contract with ESB Incorporated, Automotive Division, for 180 days. Supporting shipper: ESB Incorporated, Automotive Division, P.O. Box 6266, Cleveland, Ohio 44101. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 SW. Yamhill St., Portland, Oreg. 97204.

No. MC 133566 (Sub-No. 77TA), filed March 11, 1977. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: Charles W. Beinhauer, One World Trade Center,

Suite 1573, New York, N.Y. 10048. 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 packinghouses*, as described in Sections A and C of Appendix I to the reports in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of Monfort of Colorado, at or near Greeley, Colo., to points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia, restricted to traffic originating at the above named plantsite and destined to points in the named destination states, for 180 days. Supporting shipper: Monfort of Colorado, Box G, Greeley, Colo. 80631. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 133689 (Sub-No. 111TA), filed March 9, 1977. Applicant: OVERLAND EXPRESS, INC., 717 SW. First St., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tree and weed killers and calcium chloride* (except in bulk), from the facilities of Dow Chemical Company, at or near Midland, Mich., to points in Iowa, Minnesota, Nebraska, North Dakota, South Dakota and Wisconsin, restricted to transportation of shipments originating at the facilities of Dow Chemical Company, at or near Midland, Mich., and destined to the facilities of Farmers Union Central Exchange, Inc., (CENEX) and facilities of members of Farmers Union Central Exchange, Inc., in named states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmers Union Central Exchange, Inc., P.O. Box "G", 1185 N. Concord St., St. Paul, Minn. 55165. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg. and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 133689 (Sub-No. 112TA), filed March 11, 1977. Applicant: OVERLAND EXPRESS, INC., 717 SW. First St., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bicycles, tricycles and parts and accessories thereof* (except commodities in bulk), from Celina, Ohio, to points in Minnesota, Iowa, North Dakota, South Dakota and Nebraska for 180 days. Supporting shipper: The Huffman Manufacturing Company, P.O. Box 1204, Dayton, Ohio 45401. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg. and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 134112 (Sub-No. 5TA), filed March 7, 1977. Applicant: NATIONAL FREIGHTWAYS, INC., 3204 S. 121st St., Omaha, Nebr. 68144. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hides and hide products*, from the plant and warehouse facilities of The Lackawanna Leather Company, at or near Omaha, Nebr., to the plantsite and warehouse facilities of The Lackawanna Leather Company, at or near Long Beach, Calif.; (2) *Such commodities* as are used by processors and distributors of commodities named in (1) above, from Modesto, Calif., to the plantsite and warehouse facilities of The Lackawanna Leather Company, at or near Omaha, Nebr. Restriction: Restricted against the transportation of commodities in bulk, and further restricted to a transportation service to be performed under a continuing contract with The Lackawanna Leather Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Lackawanna Leather Company, Chris Christiansen, Plant Manager, 2420 Z St., Omaha, Nebr. 68107. Send protests to: Carroll Russell, District Supervisor, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 138446 (Sub-No. 6TA), filed March 14, 1977. Applicant: MURRAY'S TRANSFER & STORAGE, INC., 1011 Floral Lane, Davenport, Iowa 52802. 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 and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Davenport, Iowa, to points in Iowa, and those points in Missouri, on and north of U.S. Highway 36, restricted to shipments having an immediately prior movement by private or for-hire carriage, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hygrade Food Products Corporation, P.O. Box 4771, Detroit, Mich. 48219. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 139196 (Sub-No. 13TA), filed March 11, 1977. Applicant: RAY WAGNER & SON TRUCKING CO., INC., Owen, Wis. 54460. Applicant's representative: Ray Wagner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed* (except liquid in tank vehicles), from Minneapolis, Minn., to points in Waupaca County, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Agri Service, Route 2, box 87, Shawano, Wis. 54166. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 139495 (Sub-No. 211TA), filed March 14, 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. NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lamps*, from Essex County, Mass., to points in Arizona, California, Colorado, Delaware, Idaho, Iowa, Kansas, Maryland, Michigan (except Detroit), Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, West Virginia, Wisconsin, Wyoming and the District of Columbia, for 180 days. Supporting shipper: GTE Sylvania Lighting Products Group, 100 Endicott St., Danvers, Mass. 01923. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Bldg., Wichita, Kans. 67202.

No. MC 143026TA, filed March 11, 1977. Applicant: RMB CORPORATION, 303 South St., Newark, N.J. 07114. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bicycles and velocipedes, materials, equipment and supplies* used in the manufacture and sale of bicycles and velocipedes, between the facilities of Iverson Cycle Corporation, town of Brookhaven, N.Y., on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Kentucky, Mississippi and the District of Columbia, under a continuing contract with Iverson Cycle Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 143027TA, filed March 11, 1977. Applicant: MICHAEL J. RESUDEK, doing business as CAPITOL CARTAGE CO., 3521 International Lane, Madison, Wis. 53704. Applicant's representative: Michael J. Resudek same address as applicant). Authority sought to

operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *General commodities* having a prior or subsequent movement by air, between Dane County Regional Airport, Madison, Wis., and Greater Rockford Airport, Rockford, Ill., for 180 days. Supporting shippers: Holtzman Company, P.O. Box 4068, Madison, Wis. 53711. Burlington, Northern Air Freight Inc., 4965 S. Howell Ave., Milwauke, Wis. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-9126 Filed 3-25-77;8:45 am]

[Notice No. 40]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 22, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 25869 (Sub-No. 131TA), filed March 4, 1977. Applicant: NOLTE BROS. TRUCK LINE, INC., 4800 Colorado Blvd., Denver, Colo. 80216. Applicant's representative: Jay R. Newman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Denver, Fort Morgan and Sterling, Colo., to points in Illinois, Indiana, Kentucky, Ohio, Michigan, Iowa and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Richard J. Loose, Corporate Traffic Manager, Flavorland Industries d/b/a Colorado Beef Processors, Inc., 5590 High St.; Jay Spivak, Traffic manager, Pepper Packing Company, 901 E. 46th Ave.; and Joseph N. Nelson, Traffic Mgr., United Packing Company, 5000 Clarkson, Denver, Colo. 80216. D. E. Sherman, Traffic Manager, Sterling Colorado Beef Company, P.O. Box 1728, Sterling, Colo. 80751. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 25869 (Sub-No. 132TA), filed March 10, 1977. Applicant: NOLTE BROS. TRUCK LINE, INC., 4800 Colorado Blvd., Denver, Colo. 80216. Applicant's representative: Bruce A. Bullock, 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and 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 hides and commodities in bulk, in tank vehicles), from the plant or storage facilities of Spencer Foods, Inc., at Schuyler, Nebr., to points in Illinois, Iowa, Minnesota and Wisconsin. Restriction: The service authorized herein is restricted to traffic originating at the plant or storage facilities of Spencer Foods, Inc., at Schuyler, Nebr., and destined to the above-named destination points, for 180 days. Supporting shipper: Kent Eggleston, Corporate Traffic Manager, Spencer Foods, Inc., P.O. Box 1228, Spencer, Iowa 51301. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 48221 (Sub-No. 7TA), filed March 9, 1977. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Ave., Omaha, Nebr. 68107. Applicant's representative: Bruce A. Bullock, Suite 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. 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 packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 209 and 766 (except hides and commodities in bulk), from Denver, Colo., and points in its commercial zone, and Fort Morgan, Colo., to points in Iowa, Missouri, Illinois, Indiana, Wisconsin, Ohio and Michigan, for 180 days. Supporting shippers: Joseph N. Nelson, Traffic Manager, United Packing Company, 5000 Clarkson St.; and Richard J. Loose, Corporate Traffic Manager, Flavorland Industries, 5590 High St., Denver, Colo. 80216. Don C. Romios, Sales Manager, Gold Star Beef Co., 4810 Newport, Commerce City, Colo. 80022. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 73165 (Sub-No. 401TA), filed March 10, 1977. Applicant: EAGLE MOTOR LINES, INC., 830 N. 33rd St., P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: William P. Parker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum gas storage vessels*, from the plantsite and facilities of Masonite Corporation, Tank Division, at or near Vicksburg, Miss., to points in the United States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Masonite Corporation, Tank Division, P.O. Box 427, Vicksburg, Miss. 39180. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 95540 (Sub-No. 976TA), filed March 8, 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: *Extracts, flavoring compounds, imitation flavors, bottlers flavoring compounds* (except commodities in bulk, in tank vehicles), from the plantsite and/or storage facilities of Griffith Laboratories, Inc., located at or near Crossville, Tenn., to Chicago, Ill.; Lithonia, Ga.; Union, N.J.; Portland, Oreg.; Los Angeles, San Francisco and Union City, Calif.; restricted to traffic originating at the above-named origin and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Griffith Laboratories, Inc., 12200 S. Central, Alsip, Ill. 60658. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, 8410 NW. 53rd Terrace, Miami, Fla. 33166.

No. MC 95540 (Sub-No. 977TA), filed March 10, 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: *Prepared dough and bakery goods* (except commodities in bulk), from New Albany, Ind., to points in Tennessee, Alabama, Georgia, Florida, Mississippi, North Carolina and South Carolina, restricted to traffic originating at the above-named origin and destined to named destinations, for 180 days. Supporting shipper:

The Pillsbury Company, 608 Second Ave., South, Minneapolis, Minn. 55402. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, 8410 NW. 53rd Terrace, Miami, Fla. 33166.

No. MC 105566 (Sub-No. 133TA), filed March 10, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, P.O. Box 2069, Springfield, Va. 22152. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, in mixed shipments with glassware and chinaware, earthenware, and pottery, from Lancaster, Ohio, to points in Washington, Oregon, California, Arizona, New Mexico, Utah, Nevada, Idaho, Montana and Wyoming, for 90 days. Supporting shipper: Anchor Hocking Corporation, 109 N. Broad St., Lancaster, Ohio 43130. Send protests to: J. P. Werthmann, District Supervisor, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 106195 (Sub-No. 13TA), filed March 9, 1977. Applicant: CLARK BROS. TRANSFER, INC., 802 N. First St., P.O. Box 388, 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 767, from Chicago (except from the facilities of Youngstown Sheet & Tube Co. at East Chicago), and Alton, Ill.; and Kansas City and St. Louis, Mo., to Norfolk, Nebr., restricted to traffic originating at the named origins, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John C. Lubischer, Purchasing Agent, Norfolk Iron & Metal Co., 300 Braasch, Norfolk, Nebr. 68701. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 107515 (Sub-No. 1065TA), filed March 11, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, S.E., Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Intravenous solutions, related drugs and medicines and related medical supplies*, from the plantsite and storage facilities of Travenol Laboratories, Inc., at or near Memphis, Tenn., to Boston, Mass.; Cincinnati, Ohio; Cleveland, Ohio; Detroit, Mich.; Buffalo, N.Y.; Indianapolis, Ind.; Kansas City, Kans.; Morton Grove, Ill.; Milwaukee, Wis.; Minneapolis, Minn.; Edison, N.J.; Pittsburgh, Pa.; Tiffin, Ohio and Des Moines, Iowa and points within their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Travenol Laboratories, Inc., 6301 Lincoln Ave., Morton Grove, Ill. 60053. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 107515 (Sub-No. 1066TA), filed March 11, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, S.E., Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Intravenous solutions, related drugs and medicines, and related medical supplies*, from the plantsite and storage facilities of Travenol Laboratories, Inc., at or near North Cove, N.C., to Albuquerque, N. Mex.; Denver, Colo.; El Paso, Tex.; Iowa City, Iowa; Minneapolis, Minn.; Omaha, Nebr.; and Des Moines, Iowa, and points within their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Travenol Laboratories, Inc., 6301 Lincoln Ave., Morton Grove, Ill. 60053. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 107515 (Sub-No. 1067TA), filed March 11, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, S.E., Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Intravenous solutions, related drugs and medicines, and related medical supplies*, from the plant site and storage facilities of Travenol Laboratories, Inc., at or near Cleveland, Miss., to Boston, Mass.; Cincinnati, Ohio; Charleston, W. Va.; Cleveland, Ohio; Detroit, Mich.; Buffalo, N.Y.; Iowa City, Iowa; Indianapolis, Ind.; Kansas City, Kans.; Morton Grove, Ill.; Milwaukee, Wis.; Minneapolis, Minn.; Columbus, Ohio; Edison, N.J.; Omaha, Nebr.; Pittsburgh, Pa.; Tiffin, Ohio; Des Moines, Iowa; and points within their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Travenol Laboratories, Inc., 6301 Lincoln Ave., Morton Grove, Ill. 60053. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 117303 (Sub-No. 9TA), filed March 9, 1977. Applicant: HUDSON VALLEY CEMENT LINES, INC., Box 203, Claverack, N.Y. 12513. Applicant's representative: Martin Werner, 2 W. 45th St., New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Town of Greenport, including Hudson, Columbia County, N.Y., to points in Connecticut, Massachusetts, New Hampshire, Vermont and Rhode Island, for 180 days. Supporting shipper: Independent Cement Corporation, 65 William St., Wellesley Office Park, Wellesley, Mass. 02181. Send protests to: Robert A. Radler, District Supervisor, 518 Federal Bldg., P.O. Box 1167, Albany, N.Y. 12201.

No. MC 119934 (Sub-No. 215TA), filed March 11, 1977. Applicant: ECOFF TRUCKING, INC., 625 E. Broadway, Fortville, Ind. 46040. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn starch*, dry, in bulk, from New Orleans, La., to Bogalusa, La., restricted to shipments having had a prior movement by rail, for 180 days. Supporting shipper: Penick & Ford, Limited, 920 First St., S.W., Cedar Rapids, Iowa 52406. Send protests to: William S. Ennis, Transportation Specialist, Interstate Commerce Commission, Federal Bldg., and U.S. Courthouse, 46 E. Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 124078 (Sub-No. 718TA), filed March 10, 1977. Applicant: SCHWERMAN TRUCKING COMPANY, 611 S. 28th St., Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica products*, from Norwich and South Windsor, Conn., to points in Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont and Virginia, for 180 days. Supporting shipper: Ottawa Silica Company, P.O. Box 577, Ottawa, Ill. 61350. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 133119 (Sub-No. 115TA), filed March 9, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and potato products*, from Minneapolis, Minn., to points in Tennessee, Mississippi, Alabama, Georgia, North Carolina and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: William E. Schuler, Traffic Manager, Northern Star Company, a Division of Processed Potatoes, Inc., 3171 5th St., S.E., Minneapolis, Minn. 55414. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 133119 (Sub-No. 116TA), filed March 9, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in California, to ports of entry on the International Boundary between the United States and Canada, located at or near Sweetgrass and Raymond, Mont.; Fortuna, Portal and Pembina, N. Dak.; and Noyes, Minn., restricted to the transportation of shipments moving in foreign commerce to points in Saskatchewan and Manitoba. Applicant intends to tack its existing authority with Canadian Provincial Authority, applicant also intends to interline at Ports of entry at United States, Canada Boundary, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Archie Kisinger, Traffic Manager, Scott National Co. Ltd., P.O. Box 4340, Station C, Calgary, Alberta T2T 5P2. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 134063 (Sub-No. 12TA), filed March 10, 1977. Applicant: MIDWEST TRANSPORTATION COMPANY, 2802 Avenue B, Council Bluffs, Iowa 51503. Applicant's representative: Mark A. Chullino (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except malt beverages), in containers; *and non-alcoholic beverages* (in containers only), when moving in the same vehicle, at the same time with alcoholic beverages, from Colonial Heights, Va., to Omaha, Nebr., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Harold Epstein, President, Nebraska Wine & Liquors, Inc., 9444 J St., Omaha, Nebr. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 134286 (Sub-No. 18TA), filed March 9, 1977. Applicant: ILLINI EXPRESS, INC., P.O. Box 1584, P.O. Box 1584, Sioux City, Iowa 51102. Applicant's representative: Charles J. Kimball, Suite 350 Capitol Life Center, 1600 Sherman St., Denver, Colo. 80203. 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 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 and/or warehouse facilities of Krey Packing Company, located at or near St. Louis, Mo., to points in New Jersey, New York and Pennsylvania. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the named origin and destined to the above-described states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Regina D. Kane, Traffic Manager, Krey Packing Company, P.O. Box 208, St. Louis, Mo. 63166. Send protests to: Carroll Russell, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 134286 (Sub-No. 19TA), filed March 9, 1977. Applicant: ILLINI EXPRESS, INC., P.O. Box 1584, Sioux City, Iowa 51102. Applicant's representative: Charles J. Kimball, Suite 350 Capitol Life Center, 1600 Sherman St., Denver, Colo. 80203. 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 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 and/or warehouse facilities of Krey Packing Company, located at or near St. Louis, Mo., to points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, New Hampshire, North Carolina, Ohio, Rhode Island, South Carolina, Vermont, Virginia, West Virginia and the District of Columbia. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the named origin and destined to the above described states, for 180 days. Supporting shipper: Regina D. Kane, Traffic Manager, Krey Packing Company, P.O. Box 208, St. Louis, Mo. 63166. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 141370 (Sub-No. 1TA), filed March 11, 1977. Applicant: W. J. ALBRECHT, doing business as W. J. ALBRECHT TRUCKING, Moon Hill Road, General Delivery, Curtis, Wash. 98538. Applicant's representative: Robert G. Gleason, 1127 10th East, Seattle, Wash. 98102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper mill rolls*, various sized and types, from Longview, Wash., and Portland, Oreg., to Visalia, Calif., under a continuing contract with Malanco of Calif., Inc., for 180 days. Supporting shipper: Malanco of Calif., Inc., P.O. Box 3046, Visalia, Calif. 93277. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 142888 (Sub-No. 1 TA), filed March 10, 1977. Applicant: COX TRANSFER, INC., P.O. Box 168, Eureka, Ill. 61530. 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: *Glass bottles*, from Terre Haute, Ind., to Peoria Heights, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midland Glass Company, Inc., B. Stein, Director of Transportation, P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 142968 (Sub-No. 1 TA), filed March 8, 1977. Applicant: FARLEY BROS. MOVING & STORAGE, INC., 1254 East Avenue "T", Lancaster, Calif. 93534. Applicant's representative: David P. Christianson, 606 S. Olive St., Suite 825, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Los Angeles, Kern and San Bernardino Counties, Calif.; restricted to the transportation of traffic having prior or subsequent movement in interstate or foreign commerce; further restricted to the performance of pickup and delivery service in connection with packing, crating, containerization or unpacking, uncrating and decontainerization of such traffic, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 5 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: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

PASSENGER APPLICATION

No. MC 114057 (Sub-No. 2 TA), filed March 14, 1977. Applicant: R. H. GAULDIN, doing business as SAFETY TRANSIT LINES, 619 Bridge St., Eden, N.C. 27288. Applicant's representative: Robert H. Gauldin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, in round trip sightseeing or pleasure tours, beginning and ending at points in Rockingham County, N.C., and extending to points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 27 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: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-9127 Filed 3-25-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: Indian Claims Commission.

TIME AND DATE: 10:15 a.m., March 30, 1977.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: 1. Docket 182-A, "Fort Sill Apache Tribe," Opinion and Interlocutory Order 2. Docket 364, "Ottawa-Chippewa Tribe," Opinion, additional findings of fact, and final award.

CONTACT PERSON FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street, NW., Washington, D.C. 20006. Tel. (202) 653-6174.

[S-19-77 Filed 3-23-77;2:39 pm]

2

CIVIL AERONAUTICS BOARD

MEETING

TIME AND DATE: 10:00 A.M.-March 29, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Docket 29626—Part 300, Rules of Conduct in Board Proceedings.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor
The Secretary
(202) 673-5068

[S-24-77 Filed 3-23-77;5:04 pm]

3

FEDERAL HOME LOAN BANK BOARD

[No. 3]

OPEN MEETING

MARCH 23, 1977.

Pursuant to the Government in the Sunshine Act of 1976, 5 U.S.C. 552b(e)(1) and (3), announcement is made of a Board meeting to be held on March 31, 1977, at 9:30 a.m., in room 630, at which the following agency business will be conducted:

Consideration of Proposal by Heizer Corporation, Chicago, Illinois, to Acquire Buckeye Savings Association, Forest Park, Ohio.
Consideration of Agency Office Application, San Diego Federal Savings and Loan Association, San Diego, California.
Consideration of Appointment of Advisory Council Public Interest Member.
Association Request for Waiver and Modification of Conditions in Established EFTS-RSU Application—Home Federal Savings and Loan Association, Hamilton, Ohio.
Consideration of Limited Facility Application, Heritage Federal Savings and Loan Association, Daytona Beach, Florida.
Consideration of Branch Office Application, First Federal Savings and Loan Association of Miami, Miami, Florida.
Consideration of Notice of Withdrawal from Membership, The Anderson Ferry Building and Loan Association, Cincinnati, Ohio.
Consideration of Request for Change of Home Office Location, Amendment of Charter—Metropolitan Federal Savings and Loan Association, Jersey City, New Jersey.
Consideration of Branch Office Application, Columbus Federal Savings and Loan Association, Columbus, Nebraska.
Consideration of Proposed Amendments Relating to Loans on the Security of Savings Accounts.
Branch Office Application, First Federal Savings and Loan Association of Council Bluffs, Council Bluffs, Iowa.
EFTS-RSU Application, California Federal Savings and Loan Association, Los Angeles, California.
Concurrent Consideration of Five Branch Office Applications.
Republic Federal Savings and Loan Association, Altadena, California.
Home Federal Savings and Loan Association of San Diego, San Diego, California.
Fidelity Federal Savings and Loan Association, Glendale, California.
First Federal Savings and Loan Association of Hollywood, Hollywood, California.
California Federal Savings and Loan Association, Los Angeles, California.

Mr. Robert Marshall (202-376-3012) is the Board official designated to respond to requests for information pertaining to such meeting.

The Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[S-77-77 Filed 3-23-77;2:22 pm]

4

[No. 4]

REGULAR CLOSED MEETING

Pursuant to the Government in the Sunshine Act of 1976, 5 U.S.C. 552b(e)(1) and (3), announcement is made that at a Board meeting closed to the public, to be held on March 31, 1977 at the conclusion of the open meeting held at 9:30 a.m. on that date, in room 630, the following agency business will be conducted:

Amendments to Board Employee Conflict-of-Interest Regulations.

Mr. Robert Marshall (202-376-3012) is the Board official designated to respond to requests for information pertaining to such meeting.

The Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[S-77-77 Filed 3-23-77;2:22 pm]

5

FEDERAL POWER COMMISSION

CHANGE OF MEETING SUBJECT MATTER

MARCH 18, 1977.

The following item is added to the Commission meeting of March 23, 1977, upon the affirmative vote of Chairman Dunham, and Commissioners Smith, Holloman, and Watt:

G-11 Docket No. RP76-144, Fort Pierce Utility Authority, et al., Complainants v. Florida Gas Transmission Company, Respondent.

KENNETH F. PLUMB,
Secretary.

[S-21-77 Filed 3-23-77;3:25 pm]

6

CHANGE OF MEETING SUBJECT MATTER

The following item is added to the Commission meeting of March 23, 1977, upon the affirmative vote of Commissioner Watt, Acting Chairman, and Commissioners Smith and Holloman. Chairman Dunham did not participate in the vote of this item.

M-1 Docket No. RM77-____, Changes In Description Of Organization And In Statement Of General Course And Method Of Operation.

KENNETH F. PLUMB,
Secretary.

[S-22-77 Filed 3-23-77;3:25 pm]

7

MEETING

MARCH 23, 1977.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b.

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: March 30, 1977, 2 p.m.

PLACE: 825 North Capitol Street, Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda).

*NOTE—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone (202) 275-4166.

This is a list of the matters to be considered by the Commission. It does not include a list of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, Room 1000.

GAS AGENDA

7574TH MEETING—MARCH 30, 1977

Regular Meeting—Part I (2 p.m.)

G-1 Docket No. RP75-19, Texas Gas Transmission Corporation.
G-2 Docket No. RP76-50, Michigan Wisconsin Pipe Line Company.
G-3 Docket No. RP75-28, East Tennessee Natural Gas Company.
G-4 Docket No. RP72-99, Transcontinental Gas Pipe Line Corporation.
G-5 Docket No. RP77-35, Senator Howard Metzenbaum v. Columbia Gas Transmission Corporation.
G-6 C. B. Gas Gathering Inc., International Paper Company, Marengo Corporation, Northern Utilities, Inc., (Wyoming), Urbana Pipeline Company, Farmland Industries, Inc.
G-7 Docket No. ....., Florida Gas Transmission Corporation.
G-8 Docket No. RI76-134, Glen A. Martin, et al.
G-9 Docket No. RI76-157, Bridwell Oil Company.
Docket No. RI76-158, W. M. Laughlin.
Docket No. RI76-159, Manler Oil Company.
Docket No. RI76-161, William Perlman.
G-10 Docket No. CS76-1068, Oxoco.
G-11 Docket Nos. G-2801 and CI72-50, Getty Oil Company, (operator), et al.
Docket Nos. G-10020 and CI71-722, Phillips Petroleum Company (operator), et al.
G-12 Docket No. CP71-50, Natural Gas Pipe Line Company of America. Docket No. CP71-54, Michigan Wisconsin Pipe Line Company. Docket No. CI71-187, Phillips Petroleum Company.
G-13 Docket No. CP76-161, City of Palfurrias, Texas (applicant) Natural Gas Pipe Line Company of America (respondent).
G-14 Docket Nos. CP74-160, CP74-207, Pacific Indonesia LNG Company. Docket No. CP75-83-3, Western LNG Terminal Associates.
G-15 Docket No. CP76-462, Southern Union Gas Company, applicant v. Cities Service Gas Company, respondent. Docket No. CP77-77, Southern Union Gas Company, applicant, v. Northern Natural Gas Company, respondent. Docket No. CP77-220, Western Gas Interstate Company.
G-16 Docket No. CP75-117, Texas Gas Transmission Corporation. Docket No. CP75-125, Michigan Wisconsin Pipe Line Comoany. Docket No. CP76-118, U-T Offshore System. Docket No. CP76-122, Transcontinental Gas Pipe Line Corporation. Docket No. CP76-320, Natural Gas Pipeline Company of America. Docket No. CP76-471, United Gas Pipe Line Company.
G-17 Docket No. CP76-72, Panhandle Eastern Pipe Line Company.
G-18 Docket No. CP77-100, CP77-101 and CP77-102, Tenneco Atlantic Pipeline Company. Docket No. CP77-103, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.
G-19 Docket No. CP75-154, Montana-Dakota Utilities Company.
G-20 Docket No. CP77-253, Panhandle Eastern Pipe Line Company. Docket No. CP77-274, Michigan Consolidated Gas Company.
G-21 Docket No. CP77-228, United Gas Pipe Line Company and Arkansas Louisiana Gas Company.

MISCELLANEOUS AGENDA

7574TH MEETING—MARCH 30, 1977

Regular Meeting—Part I

M-1 Docket No. RM77-10, accounting and billing procedures of interstate natural gas pipelines to reflect payments and receipts pursuant to the Emergency Natural Gas Act of 1977, Pub. L. 95-2.
M-2 Emergency supplies of natural gas to pipelines and distributors.
M-3 National gas flow patterns 1975.

GAS AGENDA

7574TH MEETING—MARCH 30, 1977

Regular Meeting—Part II

CG-1 Docket No. RP76-73, (PGA No. 77-1), Distrigas of Massachusetts Corporation.
CG-2 Docket No. RP74-52, (PGA No. 77-2), Transwestern Pipeline Company.
CG-3 Docket No. RP76-41 (PGA 77-5), Texas Eastern Transmission Corporation.
CG-4 Docket No. RP73-91, (PGA77-2), McCulloch Interstate Gas Corporation.
CG-5 Docket No. RP73-66 (PGA No. 77-1), Inter-City Minnesota Pipelines Ltd., Inc.
CG-6 Docket No. RP73-17 (PGA No. 77-4), Granite State Gas Transmission, Inc.
CG-7 Docket No. RP72-157 (PGA No. 77-5), Consolidated Gas Supply Corporation.
CG-8 Docket No. RP72-155 (PGA No. 77-2), El Paso Natural Gas Company.
CG-9 Docket No. RP72-134 (PGA Nos. 77-4 and 77-5), Eastern Shore Natural Gas Company.
CG-10 Docket No. CP73-135 and CP74-227, Distrigas Corporation.
CG-11 Natural Gas Pipeline Company of America.
CG-12 Gulf Oil Corporation, FPC Gas Rate Schedule No. 437, et al.
CG-13 Docket No. CS73-388, Oil Resources Incorporated.
CG-14 Docket No. CI77-200, The Superior Oil Company.
CG-15 Docket No. CI75-771, et al., Amoco Production Company, et al.
CG16 Docket No. CI61-406, Perry R. Bass (operator), et al. Docket No. CI61-425, Exxon Corporation. Docket No. CP76-375, Southern Natural Gas Company.
CG-17 Docket No. CI77-111, MRT Exploration Company. Docket No. CP72-97, Mississippi River Transmission Corporation and Texas Gas Transmission Corporation.
CG-18 Docket No. G-15492, et al., Caroline Hunt Schoellkopf (successor to Caroline Hunt Sands).
CG-19 Docket No. G-8818, et al., The California Company, a division of Chevron Oil Company.
CG-20 Docket No. G-4715, Southern Natural Gas Company and Tennessee Gas Pipeline Company.
CG-21 Docket No. CP76-358, Texas Eastern Transmission Corporation.
CG-22 Docket No. CP77-172, Texas Eastern Transmission Corporation.
CG-23 Docket Nos. CP76-408 and CP75-232, Northwest Pipeline Corporation.
CG-24 Docket No. CP77-136, United Gas Pipe Line Company.
CG-25 Docket No. CP77-86, Transcontinental Gas Pipe Line Corporation.
CG-26 Docket No. CP77-63, Transcontinental Gas Pipe Line Corporation, Mid Louisiana Gas Company.
CG-27 Docket No. CP73-5, Columbia Gulf Transmission Company.
CG-28 Docket No. CP77-88, Standard Pacific Gas Line Incorporated.
CG-29 Docket No. CP77-89, Cities Service Gas Company.
CG-30. No. CP77-119, Lone Star Gas Company, a division of Enserch Corporation.
CG-31. Docket No. CP77-149, Cities Service Gas Company.
CG-32. Docket Nos. RP76-136 and RP77-26, Transcontinental Gas Pipe Line Corporation.
CG33. Docket No. RP77-26, Transcontinental Gas Pipe Line Corporation.
CG-34. Docket No. RP77-5, Kansas-Nebraska Natural Gas Company, Inc.
CG-35. (A) Docket Nos. G-4820, et al., Texaco Inc., et al. (B) Docket Nos. CP76-455, Transcontinental Gas Pipeline Corporation and Florida Gas Transmission Company, et al.

KENNETH F. PLUMB,
Secretary.

[S-23-77 Filed 3-23-77;5:04 pm]

8

FEDERAL RESERVE SYSTEM

CHANGE IN SUBJECT OF MEETING

The previously announced meeting of the Board of Govenors of the Federal Reserve System on March 29, 1977, will include an additional item:

A proposed salary adjustment for a Federal Reserve employee.

The business of the Board requires that the item be added, and no earlier announcement of the change was possible.

This item will be closed to public observation because the item falls under exemption(s) in the Government in the Sunshine Act (5 U.S.C. 552(c)).

The previously announced items are:

1. Draft testimony to be presented before the Subcommittee on Economic Stabilization of the House Committee on Banking, Finance and Urban Affairs regarding the impact of credit assistance provided under Federal auspices, particularly the use of loan and loan guarantee devices.

2. Any agenda items carried forward from a previously announced closed meeting.

The meeting will be held at 9:00 a.m. in the Board's offices at 20th Street and Constitution Avenue, NW, Washington, D.C. Information may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, March 23, 1977.

LELAND L. GARWOOD,
Deputy Secretary of the Board.

[S-25-77 Filed 3-23-77;5:04 pm]

9

FEDERAL TRADE COMMISSION

CHANGE IN TIME OF MEETING MARCH 24, 1977

In accordance with 5 U.S.C. 552b(e)(3), the Federal Trade Commission announces that it has advanced the time of its Monthly Program Review Meeting on Thursday, March 24, 1977, by one hour:

The open portion of the meeting consisting of a discussion on the Funeral Industry Program will now begin at 9:00 a.m. not 10:00 a.m. as previously announced. The Commissions closed

sessions on other Bureau of Consumer Protection programs and on Bureau of Competition programs will begin at 10:00 a.m. and 1:00 p.m. respectively.

ADDITIONAL INFORMATION:

Questions concerning this meeting should be addressed to the Office of Public Information, Room 496 of the Federal Trade Commission Building. Telephone Number (202) 523-3830. Any further change in the time, location or subject matter of the meeting will be posted separately as soon as practicable. For a recording of current information concerning this meeting, call (202) 523-3806.

Issued: March 22, 1977.

JOHN F. DUGAN,
Acting Secretary.

[S-20-77 Filed 3-23-77;3:01 pm]

10

NUCLEAR REGULATORY COMMISSION

MEETINGS DURING THE WEEK OF MARCH 21, 1977

Change Notice

In accordance with the requirements of the Government in the Sunshine Act and the Commission's rules implementing the Act, this Notice identifies an additional meeting scheduled for March 22, 1977.

ADDITIONAL CLOSED MEETING

On Monday, March 21, 1977, the Nuclear Regulatory Commission (all members participating) voted unanimously to hold the following closed meeting:

TUESDAY, MARCH 22

11:00 a.m. Briefing on Safeguards Research Budget

AUTHORITY TO CLOSE: 5 U.S.C. 552 b(d)(1) and 5 U.S.C. 552b(c)(9)(B) and 10 CFR 9.105(a) and 9.104(a)(9).

The meeting will include discussion of proposed Congressional testimony, and comes within the rationale of 10 CFR 9.104(b)(3).

Attendees will include the Commissioners and their staff, P. Strauss, the General Counsel, and members of his office, B. Huberman, the Director of the Office of Policy Evaluation, and members of his staff, L. Gossick, the Executive Director for Operations and members of his staff, and S. Chilk, the Secretary, and members of his staff. One or more persons may also attend to operate the recording or transcribing equipment used to make a record of the meeting.

By unanimous vote on March 21, 1977, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's rules that Commission business requires that this agenda item by held on less than one week's notice to the public. The need for the meeting did not arise until March 21, and the Commission's staff requires guidance on March 22.

The meeting will be held in the Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C. For further information, contact Walter Magee, Office of the Secretary, telephone: 634-1410.

Dated at Washington, D.C., this 22d day of March 1977.

For the Commission.

JOHN C. HOYLE,
Assistant Secretary of the Commission.

[S-15-77 Filed 3-23-77;9:31 am]

11

MEETINGS FOR MARCH 31 AND APRIL 1

In accordance with the requirements of the Government in the Sunshine Act and the Commission's rules implementing the Act, this Notice identifies the Commission meetings for March 31 and April 1, 1977 and, for each meeting, the subject matter and whether all or part of the meeting is closed. The public is invited to attend the section marked "Public Meetings."

SECTION I—PUBLIC MEETINGS

FRIDAY, APRIL 1

10:00 a.m.—Briefing on ECCS Rule.

12:00 noon—Affirmation of Commission action on: Proposed Miscellaneous Amendments to 10 CFR Part 2. Petition for Rulemaking Filed by the Atlantic County Citizens Council on Environment Order in Vermont Yankee, et al. (The affirmations will consist of votes on matters previously reviewed individually by the Commissioners and are expected to take no more than five minutes.)

1:30 p.m.—Briefing on ECC Bypass Test Facility.

3:00 p.m.—Briefing on Status of GESMO.

SECTION II—CLOSED MEETINGS

THURSDAY, MARCH 31

10:00 a.m.—NRC and International Physical Protection Standards (Rescheduled from 3/21/77; see 3/14/77 Announcement.) (Authority to Close: 5 U.S.C. 552b(d)(1) and 5 U.S.C. 552b(c)(1) and (c)(4) and §§ 9.105(a) and 9.104(a)(1) and (a)(4) of the Commission's rules.) The meeting will include discussion of U.S. policy and policy development; and will include discussion of classified information.

11:00 a.m.—Briefing on US-Indian Nuclear Cooperation and Supply Issues (Authority to Close: 5 U.S.C. 552b(d)(1) and 5 U.S.C. 552b (c)(1) and (c)(9B) and §§ 9.105(a) and 9.104(a)(1) and (a)(9) of the Commission's Rules.) The meeting will include discussion of classified material and sensitive information about U.S. cooperation with and supply to India.

2:00 p.m.—Houston Lighting and Power Company (South Texas). (Authority to Close: 5 U.S.C. 552b(d)(1) and 5 U.S.C. 552b (d)(10) and §§ 9.105(a) and 9.104(a)(10) of the Commission's rules.) The meeting is to discuss Commission action on a motion submitted by a party to an ongoing case of formal agency adjudication.

3:00 p.m.—Washington Public Power Supply System Exemption Request (Authority to Close: 5 U.S.C. 552b(d)(1) and 5 U.S.C. 552b(c)(10) and §§ 9.105(a) and 9.104(a)(10) of the Commission's rules.) The meeting will consider a formal agency adjudication presently before the Commission.

4:00 p.m.—NRDC Request for Reconsideration of Decision Concerning ERDA Waste Storage Facilities. (Authority to Close: 5 U.S.C. 552b(d)(1) and 5 U.S.C. 552b (c)(10) and §§ 9.105(a) and 9.104(a)(10) of the Commission's rules.) The meeting will consider an agency adjudication presently before the Commission and it concerns matters relating to the Commission's participation in civil litigation.

4:30 p.m.—Briefing on South Africa Export Intervention Petition. (Authority to Close: 5 U.S.C. 552b(d)(1) and 5 U.S.C. 552b (c)(9) and (c)(10) and §§ 9.105(a) and 9.104 (a)(9) and (a)(10) of the Commission's rules.)

The General Counsel will present legal and policy advice to the Commission, the premature disclosure of which might be harmful to and significantly frustrate the Commission's action in a matter which it is reasonable to anticipate will

result in litigation, as well as being harmful to and significantly frustrating to the Commission's action in a pending case; the briefings will also involve discussion of the Commission's participation in a pending civil action and its participation in other civil action which could reasonably be anticipated.

The meetings will be held in the Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C. For further information, contact Walter Magee, Office of the Secretary, telephone: (202) 634–1410.

Dated this 24th day of March 1977 at Washington, D.C.

For the Commission.

JOHN C. HOYLE,
Assistant Secretary of the Commission.

[S-22-77 Filed 3-24-77;10:53 a.m.]

12

RENEGOTIATION BOARD

CHANGE IN PUBLIC ANNOUNCEMENT

Pursuant to RBR 1482.3(b) of its regulations, the Renegotiation Board hereby announces that the date of its meeting originally scheduled for March 15, 1977, as announced in the FEDERAL REGISTER of March 9, 1977 (42 FR 13167–8), and subsequently changed to March 29, 1977, as announced in the FEDERAL REGISTER of March 22, 1977 (42 FR 15484), is further changed to April 5, 1977.

Dated: March 23, 1977.

GOODWIN CHASE,
Chairman.

[S-18-77 Filed 3-23-77;2:23 pm]

13

NUCLEAR REGULATORY COMMISSION

MEETINGS DURING THE WEEK OF MARCH 21, 1977

Change Notice

In accordance with the requirements of the Government in the Sunshine Act and the Commission's rules implementing the Act, this Notice identifies an additional meeting scheduled for March 24, 1977.

ADDITIONAL CLOSED MEETING:

By unanimous vote on March 24, 1977, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's rules that Commission business requires that this agenda item be held on less than one week's notice to the public. The need for the meeting did not arise until March 24, and immediate discussion is required so that the licensee's request for hearing can be handled promptly.

On Thursday, March 24, 1977, the Nuclear Regulatory Commission (all members participating) voted unanimously to hold the following closed meeting:

THURSDAY, MARCH 24:

3:30 p.m.—Discussion of Babcock & Wilcox Request for Hearing (Authority to close: 5 U.S.C. 552b(d)(1) and 5 U.S.C. 552b(c)(10) and 10 CFR § 9.105(a) and 9.104(10).)

The meeting will include discussion of a request for hearing by an NRC licensee.

Attendees will include the Commissioners and their staff, P. Strauss, the General Counsel, and members of his office, B. Huberman, the Director of the Office of Policy Evaluation, and members of his staff, S. Chilk, the Secretary, and members of his staff.

The meeting will be held in the Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C. For further information, contact Walter Magee, Office of the Secretary, telephone: 634–1410.

Dated at Washington, D.C., this 24th day of March 1977.

For the Commission.

JOHN C. HOYLE,
Assistant Secretary of the Commission.

[S-33-77 Filed 3-25-77;9:21 am]

federal register

MONDAY, MARCH 28, 1977

PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final and Proposed Flood Elevation Determinations

Title 24—Housing and Urban Development

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2694]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Casa Grande, Pinal County, Arizona

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917), hereby gives notice of his final determinations of flood elevations for the City of Casa Grande, Pinal County, Arizona.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the main lobby of the City Hall, 300 East Fourth Street, Casa Grande.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations, for the selected locations set forth below:

Source of flooding	Location	Elevation in feet above mean sea level
North Branch of Santa Cruz, Wash.	Western corporate limit.	1,362
	Thornton Rd.	1,371
	Pinal Ave.	1,381
	Casa Grande Ave. (extended)	1,385
	Trekell Rd.	1,388
	East corporate limit at Colorado Ave. (extended).	1,391
	Corporate limit at Pearl Rd.	1,391

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8209 Filed 3-25-77;8:45 am]

[Docket No. FI-2414]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Kingman, Mohave County, Arizona

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917), hereby gives notice of his final determinations of flood elevations for the City of Kingman, Mohave County, Arizona.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the City Hall on the Bulletin Board, 310 North 4th Street, Kingman.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations, for the selected locations set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Left	Right
Clack Canyon	Upstream corporate limits	3,401	270	125
	Lead St.	3,380	225	140
	Spring St.	3,340	320	120
	U.S. Highway 93	3,330	100	90
	Downstream corporate limits	3,240	115	125
Clack Canyon Tributary.	Paseo La Loma	3,345	90	70
	Paseo De Garcia	3,335	55	80
	Paseo De Colon		185	90
Old Trails Wash	3d St.	3,305	50	95
	2d St.	3,295	50	50
Sawmill Canyon	Upstream corporate limits	3,440	160	120
	Downstream corporate limits	3,360	545	190
Slaughter House Canyon.	2,500 ft above mouth	3,440	50	130
	Sawmill Canyon confluence	3,398	90	305

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8210 Filed 3-25-77;8:45 am]

[Docket No. FI-2436]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the County of Arapahoe, Colorado

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917), hereby gives notice of the final determinations of flood elevations for the County of Arapahoe, Colorado.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the

National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at 5606 South Court Place, Littleton, Colorado 80120.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations, for the selected locations set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Big Dry Creek	Orchard Rd	5,439	620	420
	South Franklin St	5,460	340	170
	South University Blvd	5,515	660	370
	Arapahoe Rd	5,521	290	130
	East Easter Ave	5,538	220	220
	County Line Rd	5,679	80	320
Little Dry Creek	Orchard Rd	5,460	40	20
	Holly St	5,539	180	280
	Arapahoe Rd	5,592	100	210
	South Quebec St	5,613	50	50
	South Spruce St	5,635	50	50
	South Uinta St	5,674	30	70
	South Xanthia St	5,729	50	60
	Yosemite St	5,747	160	230
	South Alton Way	5,755	80	60
Cottonwood Creek	Arapahoe Rd	5,666	140	100
	Lanes Rd	5,724	30	110
Cherry Creek	Valley Country Club Rd	5,629	1,120	100
	Arapahoe Rd	5,642	2,700	500
Pine Creek	Parker Rd	5,640	55	55
	Orchard Rd	5,706	180	100
	Davidson Rd	5,814	130	170
Coal Creek	Piecadilly Rd	5,501	130	3,040
	Gun Club Rd	5,536	720	170
	East Jewell Ave	5,720	1,400	250
Murphy Creek	Piecadilly Rd	5,511	2,650	520
	East Mississippi Ave	5,572	120	460
	East Jewell Ave	5,617	50	50
Comanche Creek	U.S. Highway 36	5,369	3,080	680
	Interstate 70	5,374	1,400	200
Little Comanche Creek	do	5,379	80	1,580
West Bijou Creek	do	5,180	190	180
	U.S. Highway 36	5,187	160	180

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

Issued: January 27, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-8211 Filed 3-25-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-2767]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Bandera, Bandera County, Texas

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Bandera, Bandera County, Texas.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Courthouse, Main Street, Bandera.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor W. D. Smith, County Courthouse, Main Street, Bandera, Texas 78003. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Medina River	State Highway 173	1,221
	1st St.	1,229
	1st St. (extended north from Pecan St.).	1,234
	6th St. extension	1,240
	West corporate limits.	1,244

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8162 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2777]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Bay Village, Cuyahoga County, Ohio

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Bay Village, Cuyahoga County, Ohio.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 350 Dover Center, Bay Village, Ohio.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Henry P. Reese, City Hall, 350 Dover Center, Bay Village, Ohio 44140. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Porter Creek (Huntington Creek).	Lake Rd.	585
	Huntington Blvd.	586
	Wolf Rd.	599
	Bassett Rd.	609
	Ashton Rd.	616
	Bradley Rd.	622
	Naigle Rd.	623
	South corporate limits.	625
Cahoon Creek	West Lake Rd.	581
	Wolf Rd.	603
	West Oviatt Rd.	623
	South corporate limits.	633
Wischmeyer Creek	West Lake Rd.	611
	West Glen Park Dr.	622
	Wolf Rd.	628
	Normany Rd.	634
	Midland Rd.	637
	Osborn Rd.	640
	Henry Rd.	641
	East Oviatt Rd.	643
	Knickerbocker Rd.	645
	South corporate limits.	649

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8172 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2764]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Cashmere, Chelan County, Washington

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Cashmere, Chelan County, Washington.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the lobby of City Hall, 101 Woodring Street, Cashmere, Washington.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable Brad Johnston, Mayor of Cashmere, 101 Woodring Street, Cashmere, Washington 98815. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 10-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Mission Creek	Pioneer Ave	810
	Angler Ave	800
	Chapel St. (extended)	792
Wenatchee River	Vine St. (extended)	763
	Elberta Ave. (extended)	761
	Cottage Ave	760
	East Parkhill (extended)	755

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

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HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8159 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2779]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Corning, Steuben County, New York

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Corning, Steuben County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Corning.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Joseph J. Nasser, Joseph J. Nasser Civic Center, City Hall, Corning, New York 14830. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Chemung River	South corporate limits	925
	New York Route 17	926
	Commerce St. (extended)	928
	Steuben St. (extended)	931
	Pearl St. (extended)	932
	Cedar St. (extended)	934
	Pine St	935
	Con Rail bridge	936
	Bridge St	937
	Dodge Ave. (extended)	939
	New York Route 17	940
	West corporate limits	940

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

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HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8174 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2762]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Cumberland, Allegany County, Maryland

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Cumberland, Allegany County, Maryland.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Cumberland.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor F. Perry Smith, Jr., City Hall, Cumberland, Maryland 21502. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
North Branch Potomac River	East corporate limits	604
	Western Maryland R.R. bridge	608
	Ford Ave	611
	Western Maryland R.R. bridge	614
	Dam	615
	Western Maryland R.R. bridge	616
	Cumberland St. Dam	627
	West corporate limits	633
Dry Run	Valley St	735
	Footbridge near Valley St.	739
	North corporate limits	742
Willow Brook	East corporate limits	700
	Private road	710
	Pine Ave	730
	Baltimore Ave	760
	Shade Lane	767
	Frost Ave	773
	Cole St	780
	Oakland St	805
Wills Creek	Confluence with North Branch, Potomac River	616
	Market St	616
	Valley St	620
	Western Maryland R.R. bridge	627
	West corporate limits	635
Tributary No. 1	Church Rd	681
	Oldtown Rd	718
	Winifred Rd	763
	Rose Ave	797

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

Issued: February 17, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8157 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2771]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Fort Worth, Tarrant and Johnson Counties, Texas

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Fort Worth, Tarrant and Johnson Counties, Texas.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 1000 Throckmorton, Fort Worth, Texas.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Honorable Clif Overcash, Mayor of Fort Worth, 2630 West Freeway, Suite 102, Fort Worth, Texas 76102. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum 1929
Big Fossil Creek	Watauga Smithfield Rd. (downstream side).	605.0
	F.M. 156	671.5
	A.T. & S.F. RR	700.0
Cement Creek	35th St	584.0
	Interstate Highway 820 (downstream side).	676.7
Clear Fork-Trinity River.	Henderson St	534.7
	University Dr	557.0
	Bryant-Irvin Rd	591.0
	Confluence with Mary's Creek.	609.5
Cottonwood Creek	Randol Mill Rd	488.5
	Cooke Lane	522.0
	Milam St	508.0
Dry Branch	Lower Birdville Rd. (upstream side).	523.0
	Beach St	556.0
	Hollis St	588.0
Farmer's Branch	Interstate Highway 820 (downstream side).	713.7
	Alamed St. (downstream side).	746.0
King's Branch	Ridgumar Rd	603.0
	Green Oaks Rd	619.0
Little Fossil Creek	Texas & Pacific RR (upstream).	575.4
	Sylvania Ave	592.0
	Loop Interstate Highway 820.	624.8
Live Oak Creek	Silver Creek Rd	604.3
	Upstream corporate limits.	662.0
Lorean Branch	Chicago, Rock Island, & Pacific RR.	507.0
Marine Creek	Fort Worth & Denver RR.	529.5
	Northwest 30th St. (downstream side).	565.0
	Northwest 35th St	590.0
Mary's Creek	Ridglea Country Club Rd.	611.5
	Old Benbrook Rd	632.5
	Longvue Rd	698.0
	U.S. Highway 80 and 180.	721.0
Silver Creek	Silver Creek Rd	612.0
Sulphur Branch	Arlington Bedford Rd.	478.0
Sycamore Creek	East Lancaster Ave	524.0
	U.S. 287 (Polytechnic freeway).	546.5
	Southern Pacific RR	581.7
	Oak Grove Rd	628.0
	Hemphill St	659.9
	Sycamore School Rd	700.0
Valley View Creek	Trinity Blvd. (downstream side).	483.0
	C.R.I. & P. RR. (upstream side).	504.0
Village Creek	Fort Worth-Dallas turnpike.	483.5
	U.S. 180 and 80	503.8
Walker's Branch	Soldier Hurst Rd	487.0
	Lower precinct line road.	503.0
Walnut Creek	T. & P. RR	603.0
West Fork-Trinity River.	Arlington Bedford Rd.	478.5
	Lower precinct line road.	486.0
	Handley Ederville Rd.	501.3
	East 1st St	513.0
	Interstate Highway 35.	524.3
	University Dr	540.0
	Highway 183	555.0
	Jacksonboro Highway.	580.5
Wildcat Branch	Interstate Highway 820.	568.0
	Village Creek Rd	610.0
Stream 1	State Highway 156	673.7
	A.T. & S.F. RR	718.0
Stream 2	Hicks Rd	733.0
Stream 3	U.S. 287 and 81	720.0
Stream 4	Harmon Rd	686.0
Stream 5	Watauga Smithfield Rd.	592.7
	U.S. 287 and 81 (downstream side).	639.0
Stream 6	Dam (downstream side).	652.0
Stream 7	Upstream corporate limits.	607.0
Stream 8	North Shore Dr	605.0
Stream 9	Nine-Mile Bridge Rd	632.5
Stream 10	North Shore Dr. (upstream side).	610.6
	Joe Elle Lane	614.7
Stream 11	Ohio Gardens Rd	516.3
Stream 12	M.K. & T. RR. (upstream side).	537.0
	Dewey St. (upstream side).	564.0
	Long Ave	604.0
	Decatur Ave	650.0
Stream 13	Meacham Blvd	601.0
Stream 14	S.L. & S.W. RR	577.7
Stream 15	Randol Mill Rd	524.0
	McNeer Rd	578.0
Stream 16	Ederville Rd	524.0
Stream 17	Randol Mill Rd. (upstream side).	504.0
Stream 18	John T. White Rd	575.0
Stream 19	Mary's Creek Rd. (upstream side).	702.0
Stream 20	Chapin Rd. (upstream side).	707.0
Stream 21	do	697.0
	Dr. Harris Rd	717.0
Stream 22	U.S. Highway 80	728.0
Stream 23	Floyd Dr	657.5
Stream 24	Bryant Irvin Rd	594.7
	Spring Rd. (upstream side).	637.5
Stream 25	West Vickert Rd	573.0
Stream 26	Bryant Irvin Rd	601.0
Stream 27	West Cleburne	745.5
Stream 28	Edgecliff Rd	660.5
Stream 29	James Ave	694.5
Stream 30	Mockingbird Lane	575.0
Stream 31	Glenco Ter	570.7
Stream 32	Butler St	587.7
Stream 33	East Berry Rd	574.0
Stream 34	Texas & Pacific RR	600.8
Stream 35	Connor St	645.0
Stream 36	Vickery Blvd. (upstream side).	548.0
Stream 37	Sialcup Rd	597.0
Stream 38	Interstate Highway 820 (upstream side).	573.6
	Carey St. (upstream side).	580.0
Stream 39	Interstate Highway 820 (upstream side).	571.0
	Parker Henderson Rd.	600.0
Stream 40	At mouth	585.0

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

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8166 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2729]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Hazen, North Dakota

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Hazen, North Dakota.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at P.O. Box 717, Hazen, North Dakota 58545.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Leonard Wohlfeil, City of Hazen, P.O. Box 717, Hazen, North Dakota 58545. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Antelope Creek	Intersection of 5th St. and 4th Ave. East.	1,740
	Intersection of 5th St. and 2d Ave. East.	1,741
	Intersection of 5th St. and Central Ave.	1,742
	Intersection of 3d St. and Central Ave.	1,742
	Intersection of 4th St. and Central Ave.	1,742
	Intersection of 2d Ave. West, and 4th St.	1,743
	Intersection of 2d Ave. West and 3d St.	1,743
	Intersection of Main St. and 2d Ave. West.	1,743
	Intersection of Main St. and 4th Ave. West.	1,744

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 17, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8213 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2776]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Lawton, Oklahoma

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Lawton, Oklahoma.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Fourth Street and A Avenue, Lawton, Oklahoma 73501.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Wayne Gilley, City Hall, Fourth Street and A Avenue, Lawton, Oklahoma 73501. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Squaw Creek.	U.S. Highway 281	1,104
	Bishop Rd	1,091
	Arbuckle Ave	1,079
	Sedalia Ave	1,076
	Belmont Ave	1,071
East Branch Squaw Creek.	Ferris Ave	1,142
	Northwest 12th St	1,141
	Dearborn Ave	1,135
	Bell Ave	1,131
	Arlington Ave	1,128
	Gore Blvd	1,123
	A Ave	1,121
	B Ave	1,119
	C Ave	1,118
	Vic Southwest 14th St.	1,118
	D Ave	1,114
	E Ave	1,112
	F Ave	1,109
	St. Louis & San Francisco RR.	1,109
	G Ave	1,106
	H Ave	1,103
Squaw Creek	NW. 23d St	1,160
	Atlanta Ave	1,152
	Cache Rd	1,150
	Euclid Ave	1,134
	Bell Ave	1,129
	Gore Blvd	1,126
	A Ave	1,123
	C Ave	1,122
	Oklahoma Highway 7.	1,121
	Covered walkway	1,119
	D Ave	1,118
	St. Louis & San Francisco RR.	1,114
	G Ave	1,113
	Southwest 17th St	1,107
	Southwest 15th St	1,105
	Southwest 14th St	1,104
	Southwest 12th St	1,101
	Southwest 11th St	1,100
	Southwest 10th St	1,099
	Southwest 9th St	1,098
	Southwest 2d St	1,086
	Lee Blvd	1,083
	Chicago, Rhode Island & Pacific RR.	1,077
	South Railroad St	1,074
	U.S. Highway 277 and 281.	1,074
East Branch Wolf Creek.	Santa Fe Ave	1,128
	Cache Rd	1,123
	Meadow Brook Ave	1,116
Middle Branch Wolf Creek.	Northwest 67th St	1,157
	U.S. Highway 62	1,137
	Cache Rd	1,134
	Northwest 51st St	1,127
	Meadow Brook Dr	1,124
West Branch Wolf Creek tributary.	Northwest 67th St	1,057
	Euclid Ave	1,043
	Columbia Ave	1,028
West Branch Wolf Creek.	U.S. Highway 62	1,205
	Cache Rd	1,189
	Northwest 82d St	1,164
	Northwest 74th St	1,151
	Northwest 67th St	1,141
	Compass Dr	1,129
	Northwest 53d St	1,122
	Northwest 44th Ave	1,115
Main Stream Wolf Creek.	Gore Blvd	1,113
	St. Louis & San Francisco RR.	1,105
	Lee Blvd	1,097
	Southwest 38th St	1,093
	Bishop Rd	1,083
	Coombs Rd	1,073
	County Rd	1,062
	U.S. Highways 281 and 277.	1,055
East Cache Creek, tributary B.	Rogers Lane	1,137
	Hilltop Dr	1,133
	U.S. Highways 62, 277, and 281.	1,118
	Chicago, Rhode Island & Pacific RR.	1,118
	St. Louis & San Francisco RR.	1,112
	Larnie Tatum Rd	1,110
Wrattan Creek	Flower Mound Rd	1,110
East Cache Creek, tributary A.	Dam	1,126
	Flower Mound Rd	1,123
	Dam	1,112
	Contractor access bridge.	1,078
East Cache Creek	Rogers Lane	1,093
	Cache Rd	1,085
	Gore Blvd	1,077
	Lee Blvd. and Oklahoma Highway 7.	1,074
	Bishop Rd	1,065
	Coombs Rd	1,056

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Adminis-

trator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8171 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2770]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Longview, Gregg and Harrison Counties, Texas

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determination of base flood elevations (100-year flood) for the City of Longview, Gregg and Harrison Counties, Texas.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 300 West Cotton Street, Longview, Texas.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor William Y. Rice, P.O. Box 1406, Longview, Texas 75601. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Eastman Lake Creek.	Doyle St.	356
	Leona St.	351
	Marshall Ave.	333
	Confluence with drain No. 1.	332
	Texas & Pacific RR.	328
	County boundary.	320
	Cotton St.	319
	Downstream corporate limits.	316
Drain No. 1.	Upstream corporate limits.	337
	U.S. Highway 80.	337
	Old railroad alignment.	335
Iron Bridge Creek.	Level St.	354
	Dean St.	325
	Birdsong St.	316
	Wells St.	305
	Margo St.	292
	Elderville Rd.	284
	Downstream corporate limits.	274
Grace Creek.	Upstream corporate limits.	304
	Confluence with drain No. 2.	297
	East Fairmont St.	287
	U.S. Highway 259.	273
	Missouri-Pacific RR.	269
	Downstream corporate limits.	266
Wade Creek.	Walk bridge.	351
	Texas & Pacific RR.	344
	Gulf, Colorado, & Santa Fe RR.	335
	Cotton St.	323
	Bonner St.	314
	Electra St.	308
	Green St.	293
	High St.	279
	Garfield Dr.	269
	Confluence with Grace Creek.	268
Harris Creek.	Lynnwood Lane.	372
	Evergreen St.	368
	Reel Rd.	363
	Loop 281.	334
	Lincoln Rd.	319
	Marshall Ave.	306
	Lake Lamond Rd.	296
	Confluence with Grace Creek.	279
Drain No. 4.	Scenic Dr.	367
	Lane Wells Dr.	347
	Loop 281.	336
	Confluence with Harris Creek.	324
Guthrie Creek.	Wood Pl.	323
	Confluence with Oakland Creek.	305
Oakland Creek.	Johnston St.	297
	Glencrest Lane.	289
	Spur 63.	285
Johnston Creek.	Loop 281.	366
	Commander Dr.	358
	Drake Blvd.	351
	Hollybrook Dr.	344
	Delwood Dr.	337
	Eden Dr.	310
	Confluence with Guthrie Creek.	305
	Hollybrook Dr.	322
	Delwood Dr.	319
	Eden Dr.	312
Coushatta Hills Creek.	Hollybrook Dr.	379
	U.S. Highway 259.	362
	Navajo Trail.	337
	North 4th St.	329
	Delwood Dr.	319
	Confluence with Oakland Creek.	313
Gilmer Creek.	Loop 281.	345
	Dirt road over dam.	327
	Oil Rd.	294
	Confluence with Grace Creek.	288
Drain No. 2.	McCann Rd.	311
	Loop 281.	303
School Branch Creek.	Upstream corporate limits.	333
	Oil Rd.	304
Drain No. 3.	U.S. corporate limits.	337
	Confluence with School Branch Creek.	324
Ray Creek.	Upstream corporate limits.	305
Lafamo Creek.	Baxley Lane.	379
	Oil Rd.	325
	Payne Rd.	321
	Downstream corporate limits.	311

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2587, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8165 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2772]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of McMinnville, Warren County, Tennessee

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Tile XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of McMinnville, Warren County, Tennessee.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Engineer's Office, City Hall, Morford Street, McMinnville.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Tom Cathcart, City Engineer, City Hall, Morford Street, McMinnville, Tennessee 37110. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Barren Fork River	Upstream corporate limits.	914
	Louisville & Nashville RR.	899
	Beersheba St	894
	Downstream corporate limits.	887
Pepper Creek	Upstream corporate limits.	903
	Pepper Rd	901
	Chancery St	901
	Old Viola Rd (extended).	899

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

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8167 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2728]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Miramar, Florida

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Miramar, Florida.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, P.O. Box 338, Miramar, Florida 33023.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Harry Rosen, City Hall, P.O. Box 338, Miramar, Florida 33023. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Floodwater ponding.	U.S. Highway 27—entire length within corporate limits.	6
	Palm Ave.—entire length.	7
	Hallandale Beach Blvd. west of the point 270 ft east of the intersection with southwest 66th Ter.	7
	State road No. 7 (southwest 60th Ave.) south of southwest 35th Ct.	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8212 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2766]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Poth, Wilson County, Texas

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Poth, Wilson County, Texas.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Main Plaza, Poth.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor A. D. Kollodziej, Jr., City Hall, P.O. Box 437, Poth, Texas 78147. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Poth Creek	Downstream corporate limits.	374
	Confluence with East Branch of Poth Creek.	391
	Westmeyer Rd	396
	Druik processing plant road.	419
	Upstream corporate limits.	426
East Branch of Poth Creek.	Mesquite Rd. low water crossing.	397
	Westmeyer Rd	403
	Limit of detailed study.	409

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1968, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8161 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2775]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Sapulpa, Oklahoma

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determina-

tions of base flood elevations (100-year flood) for the City of Sapulpa, Oklahoma.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at P.O. Box 1130, Sapulpa, Oklahoma 74066.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Bobby Lee, P.O. Box 1130, Sapulpa, Oklahoma 74066. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year flood Elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Polecat Creek	Oklahoma Highway 117.	662
	St. Louis & San Francisco R.R.	665
	U.S. alternate Highway 75.	667
Rock Creek	do	672
	Hickory St	674
	Taft St	675
	Oklahoma Highway 33.	677
	I-44	684
Biven Creek	Oklahoma St	675
Euchee Creek	I-44	698

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

Issued February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8170 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-27[illegible]]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Two Rivers, Wisconsin

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Two Rivers, Wisconsin.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, East Park Street, Two Rivers, Wisconsin 54241.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. H. J. Roth, City Manager, City Hall, East Park Street, Two Rivers, Wisconsin 54241. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Twin River	S. T. H. 42	584
	C. & NW. R.R.	584
	Madison St	584
East Twin River	17th St	584
	22d St	584
	C.T.H. "VV"	585

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

Issued: February 17, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8177 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2768]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Waelder, Gonzales County, Texas

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Waelder, Gonzales County, Texas.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Office, P.O. Box 427, Waelder, Texas.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable T. R. Hoffman, P.O. Box 427, Waelder, Texas 78959. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Baldridge Creek	U.S. Route 90	366
	Southern Pacific RR.	366
	A Ave.	364
	C Ave. (extended)	363
	State Highway 97	362
	F Ave. (extended)	358
	H Ave. (extended)	356
	Downstream corporate limits.	350
Waelder Branch	Upstream corporate limits.	362
	North 5th St.	379
	North 4th St.	377
	North 3d St.	374
	North 2d St.	372
	North 1st St.	370
	Southern Pacific RR.	368
	South Railroad St.	368
	H Ave.	362
	South 1st St.	359
	Downstream corporate limits.	348

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

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8163 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2730]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of West Fargo, North Dakota

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of West Fargo, North Dakota.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 800 4th Avenue East, West Fargo, North Dakota 58078.

Any person having knowledge, information, or wishing to make a comment on these determination should immediately notify Mayor Clayton Lodoen, City Hall, 800 4th Avenue East, West Fargo, North Dakota 58078. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sheyenne River	U.S. Highway 10	901
	7th Ave. South	903
	13th Ave. South	904

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8214 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2761]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Westminster, Carroll County, Maryland

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Westminster, Carroll County, Maryland.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Office of Public Works, City Hall, Westminster, Maryland.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Leroy L. Conaway, City Hall, Westminster, Maryland 21157. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Cranberry Branch	Old Manchester-Westminster Rd.	648
	3,000 ft above mouth	668
	8,000 ft above mouth	702
	9,000 ft above mouth	709
Big Pipe Creek II, tributary No. 1.	1,400 ft above mouth	626
	Royer Rd.	647
	1,800 ft above mouth	670
Copps Branch, tributary No. 1.	200 ft above mouth	589
	3,000 ft above mouth	663

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8156 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2759]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Agawam, Massachusetts

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Agawam, Massachusetts.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to

qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They shoud not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at 36 Main Street, Agawam, Massachusetts 01001.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. James D. Westman, 36 Main Street, Agawam, Massachusetts 01001. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River	Southend Bridge (Route 57).	59
Westfield River	Mittineague Bridge	69
	Suffield St	62
	Agawam-West Springfield Bridge.	60
Still Brook	Pine St	176

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

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8154 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2773]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Coventry, Kent County, Rhode Island

The Federal Insurance Administrator in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Coventry, Kent County, Rhode Island.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board, Town Hall, 75 Main Street, Coventry.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mrs. Monique Capwell, Town Clerk, Town Hall, 75 Main Street, Coventry, Rhode Island 02816. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
South Branch, Pawtuxet River	Corporate limits	146.9
	Old Mill Dam	174.0
	Laurel Avenue Bridge	209.0
	Sandy Bottom Lane Bridge.	220.2
	South Main Street Bridge.	225.1
	Downstream Flat River Dam.	240.5
Flat River	Mouth	250.0
	Maple Valley Road Bridge.	259.0
	Hammett Street Dam	285.0
	Franklin Rd. culvert	308.0
	Valley Road Bridge	347.0
Mishnock River	Mouth	238.0
	Nooseneck Hill Road Bridge.	248.5
Poor Farm Brook	Hall Pond Dam	261.1
	Upstream Town Farm Rd. culvert.	283.8
Stream B	Mouth	230.0
	Upstream River Rd. culvert.	283.2
	Confluence with stump Pond.	304.5
Tributary A	Mouth	245.0
	Upstream culvert under Railroad Rd.	253.8
	Flat River Road Culvert.	253.8
Baker Street Brook	Baker St. culvert	193.6
	Upstream Eisenhower Rd. culvert.	205.2
	Upstream Fairview Ave. culvert.	227.9
Tiogue Lake	Mouth	220.5
	Tiogue Avenue Dam	228.7
	Upstream Arnold St. culvert.	231.6

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8168 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2763]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Ferriday, Louisiana

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Ferriday, Louisiana.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 212 North Second Street, Ferriday, Louisiana 71334.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Hubert L. McGlothien, City Hall, 212 North Second Street, Ferriday, Louisiana 71334. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bayou Cocodrie	Parish Rd.	56
	U.S. Highways 84 and 65.	54
Panola Brake, tributary No. 1.	U.S. Highway 65	59
Panola Brake, tributary No. 2.	Woodland Ave.	55

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

Issued: February 17, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8158 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2769]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Lumberton, Hardin County, Texas

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Lumberton, Hardin County, Texas.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the First State Bank, Lumberton, Texas.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor James Stewart, 110 Holly Drive, Lumberton, Texas. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Walton Creek	Welter Rd.	50
	Walton Rd.	36
	U.S. Highway 96	35
Village Creek	Downstream corporate limits.	36
Do.	Upstream corporate limits.	37
Tributary No. 1	Taft Rd.	36
	Confluence with Village Creek.	36

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8164 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2760]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Milton, Massachusetts

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Milton, Massachusetts.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by §1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Office, 525 Canton Avenue, Milton, Massachusetts 02186.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. John Cronin, Town Office, 525 Canton Avenue, Milton, Massachusetts 02186. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Neponset River	Southeast Expressway.	10
	Granite Ave.	10
	Adams St.	10
	Central Ave.	17
	Blue Hills Parkway	27
	Penn Central RR.	33
Pine Tree Brook	Eliott St.	26
	Turnet Pond Bridge	32
	Brook Rd.	34
	Blue Hills Parkway	36

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8155 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2765]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of New Haven, Vermont

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of New Haven, Vermont.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or

remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at RD 2, Box 260, Vergennes, Vermont 05491.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. John McKinney, RD 2, Box 260, Vergennes, Vermont 05491. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Otter Creek	At Middlebury and New Haven corporate limits.	262
New Haven River	U.S. Route 7 (50 ft upstream).	258
	1,000 ft upstream of Nash Bridge.	263

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

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8160 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2756]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Township of Covert, Michigan

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Covert, Michigan.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Route 1, Box 12, Covert, Michigan 49043.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Jerry Sarno, Supervisor, Route 1, Box 12, Covert, Michigan 49043. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Michigan	Vicinity of west end 29th Ave.	584

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

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8151 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2758]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Township of Laketon, Michigan

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–488), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Laketon, Michigan.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, 2735 West Giles Road, P.O. Box 5037, North Muskegon, Michigan 49445.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Donald G. Johnson, Township Supervisor, Township Hall, 2735 West Giles Road, P.O. Box 5037, North Muskegon, Michigan 49445. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bear Lake tributary	Giles Rd.	620
	Dyksta Rd.	588
Green Creek	Giles Rd.	590
	Fenner Rd.	596
	Memorial Rd.	584
Green Creek tributary	Farm Lane	621
	Hays Rd.	608

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

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8153 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2781]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Township of Lawrence, Mercer County, New Jersey

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Lawrence, Mercer County, New Jersey.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Municipal Square, Lawrenceville, New Jersey 08648.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Joseph Dalle Pazze, Municipal Square, Lawrenceville, New Jersey 08648. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Assunpink Creek	Interstate Route 295	52
	Carnegie Rd	50
	Whitehead Rd	48
Shabakunk Creek	Lawrenceville Rd	60
	Princeton Pike	58
	U.S. Route 1	54
West Branch, Shabakunk Creek	Spruce St	64
Little Shabakunk Creek	Lawrenceville Rd	78
	Princeton Pike	64
	U.S. Route 1	51
Shipetaukin Creek	Cold Soil Rd	144
	Carter Rd	98
	Farm Rd	80
	Brunswick Pike	56
Sand Run	Farm Run	58
	Interstate Route 295	56
Tributary B	Lawrenceville Rd	107
Tributary C	Vankirk Rd	152
Stony Brook	Carter Rd	132
	Province Line Rd	115

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8176 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2757]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Township of Monroe, Michigan

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Monroe, Michigan.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Map and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, 4925 West Dunbar Road, Monroe, Michigan 48161.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Jack L. Champion, Town Supervisor, Township Hall, 4925 West Dunbar Road, Monroe, Michigan 48161. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Plum Creek	Herr Rd	603
	Monroe St	591
	I-75	578
River Raisin	Telegraph Rd	598

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4218; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8152 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2774]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Township of Portage, Cameron County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Portage, Cameron County, Pennsylvania.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management

requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the home of Mr. Salsgiver, R.D. 2, Box 400, Portage, Pennsylvania 15946.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Steve Havrilak, Chairman of the Board of Supervisors, 807 Luther Avenue, Portage, Pennsylvania 15946. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Sinnemahoning Portage Creek.	Downstream corporate limits.	1,124
	Driveway Bridge.....	1,128
	Con Rail Bridge.....	1,163

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4218; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8169 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2780]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Village of Clayton, Jefferson County, New York

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Clayton, Jefferson County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Village Clerk's office, Municipal Building, Jane Street, Clayton.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Cortland A. Reff, Clayton, New York 13624. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
St. Lawrence River.	State St.....	248
	Union St. (extended).	250
	John St. (extended)...	251
	Huguain St. (extended).	250
	Mary St. (extended)..	249
	Gardner St.....	250
	Rivershore Dr. (extended).	250

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

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8175 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2778]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Village of East Randolph, Cattaraugus County, New York

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of East Randolph, Cattaraugus County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Village Hall, Main Street, East Randolph, New York.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Honorable Philip Hearrington, Mayor of East Randolph, Church Street, East Randolph, New York 14730. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Elm Creek.....	Downstream corporate limits.	1,286
	Spring St.....	1,311
	Main St.....	1,320
	Upstream corporate limits.	1,340
Stillson Pond tributary.	Confluence with Elm Creek.	1,316
	Upstream corporate limits.	1,345

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

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8173 Filed 3-25-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2783]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Village of Fair Haven, Cayuga County, New York

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Fair Haven, Cayuga County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Post Office, Fair Haven, New York.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Honorable Henry Spang, Mayor of Fair Haven, Village Hall, Fair Haven, New York 13064. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Little Sodus Bay	Main St.	249
	Philips Lane (extended).	250
	Johns Rd. (extended).	250
	West Shore Rd. (extended).	250
	13th St. (extended)	252
	10th St. (extended)	252
	Ontario St. (extended).	252
	Cottage St. (extended).	250

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: February 18, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-8178 Filed 3-25-77;8:45 am]

federal register

MONDAY, MARCH 28, 1977

PART III



COMMODITY FUTURES TRADING COMMISSION

■

BONA FIDE HEDGING TRANSACTIONS OR POSITIONS

Public Meetings

COMMODITY FUTURES TRADING COMMISSION

BONA FIDE HEDGING TRANSACTIONS OR POSITIONS

Public Meetings

The Commodity Futures Trading Commission ("Commission") is considering the revision of the definition of "bona fide hedging transactions or positions" provided in section 1.3(z) of its regulations, 17 CFR § 1.3(z) (1976). In conjunction with this proposal, the Commission is also considering the revision of section 1.48 of its regulations, 17 CFR § 1.48 (1976), which specifies certain reporting requirements for persons classifying positions as bona fide hedging under section 1.3(z)(4) of the current definition, and the issuance of a new regulation 1.47, which would contain the requirements for classifying certain other positions as bona fide hedging under proposed revised section 1.3(z).

The Commission published notice of this rulemaking proceeding in the FEDERAL REGISTER on March 16, 1977,[1] inviting interested persons to participate by submitting comments in written form to the Commission.[2]

In addition, the Commission will hold a series of public meetings to explain and answer questions about the proposed amendments to the regulations. The holding of meetings to explain proposals to the public and the industry is a new concept for the Commission and is not intended to serve the functions or take the place of a formal hearing. The Commission plans to hold formal hearings on the proposed definition at a later date.

The public meetings will be held at the following times and places. All interested persons are invited to attend.

Apr. 20, 1977, 2:30 p.m.	Commodity Futures Trading Commission, 233 South Wacker Dr., hearing room, 46th floor, Chicago, Ill.
Apr. 21, 1977, 2:30 p.m.	Minneapolis Grain Exchange, 150 Grain Exchange Bldg., auditorium, Minneapolis, Minn.
Apr. 22, 1977, 2:30 p.m.	Kansas City Board of Trade, 4800 Main St., director's room, Kansas City, Mo.
Apr. 25, 1977, 10 a.m.	Commodity Futures Trading Commission, 2033 K St. NW., room 532, Washington, D.C.
Apr. 28, 1977, 2:30 p.m.	Commodity Futures Trading Commission, One World Trade Center, room 4763, New York, N.Y.

Issued in Washington, D.C., on March 22, 1977.

For the Commission,

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-9044 Filed 3-25-77;8:45 am]

[1] 42 FR 14832.

[2] Written comments should be received by the Commission no later than May 16, 1977.

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(Revised as of January 1, 1977)

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