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federal register

WEDNESDAY, OCTOBER 5, 1977



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Monday	Tuesday	Wednesday	Thursday	Friday
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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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

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

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presidential documents

[3195-01]

Title 3—The President

Executive Order 12012 • October 3, 1977

White House Fellowships

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, Executive Order No. 11183, as amended, is further amended as follows:

SECTION 1. The word "young" is deleted wherever it appears in the preamble and in Section 2(a).

SEC. 2. Section 2(b)(2) is amended to read:

"(2) Are presently early in their chosen careers and show exceptional promise of future development;".

SEC. 3. Section 2(b)(4) is deleted, the word "and" is added at the end of Section 2(b)(3), and Section 2(b)(5) is redesignated as Section 2(b)(4).

SEC. 4. Section 2(c) is amended by adding "age" after "national origin,".

Jimmy Carter

THE WHITE HOUSE,
October 3, 1977.

[FR Doc.77-29468 Filed 10-4-77;11:15 am]

rules and regulations

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

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

[6110-01]

Title 1—General Provisions

CHAPTER III—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Miscellaneous Amendments

AGENCY: Administrative Conference of the United States.

ACTION: Recommendations.

The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 571-576, to study the efficiency, adequacy and fairness of the administrative procedure used by administrative agencies in carrying out administrative programs, and to make recommendations for improvement to administrative agencies, collectively or individually, to the President, Congress, and the Judicial Conference of the United States (5 U.S.C. 574 (1)).

The Administrative Conference of the United States at its Sixteenth Plenary Session, held September 15-16, 1977, adopted three Recommendations. Recommendation 77-1 urges that Congress should not, in general legislation or as a routine practice, provide for prior submission of agency rules for Congressional review and possible veto. Recommendation 77-2 makes a series of recommendations for legislation concerning the judicial review of actions taken by the U.S. Customs Service. Recommendation 77-3 prescribes guidelines for agency handling of those ex parte communications which may occur in the course of an informal rulemaking proceeding.

DATES: These recommendations were adopted September 15-16, 1977, and issued September 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard K. Berg, Executive Secretary, (202-254-7065).

1. The table of contents to Part 305 of Title I, Chapter III, CFR is amended to add the following sections:

Sec.

305.77-1 Legislative Veto of Administrative Regulations (Recommendation No. 77-1).
305.77-2 Judicial Review of Customs Service Actions (Recommendation No. 77-2).
305.77-3 Ex parte Communications in Informal Rulemaking Proceedings (Recommendation No. 77-3).

2. Section 305.77-1 is added to Part 305 to read as follows:

§ 305.77-1 Legislative Veto of Administrative Regulations (Recommendation No. 77-1).

Congress has by statute occasionally required that certain agency actions be subject to Congressional approval or disapproval before they became effective. Several proposals have now been advanced which would apply this procedure to all substantive rules issued pursuant to the notice-and-comment procedures of 5 U.S.C. § 553 (which are not subject to 5 U.S.C. §§ 556 and 557). These proposals typically would provide that if either house of Congress disapproved a proposed rule within a specified period, such as 60 days, it would not take effect.

The Conference believes that this kind of legislative veto would not further the ability of Congress to direct agency policy; moreover, it would bring about undesirable changes in the rulemaking process and in relationships among the agencies, Congress, and the courts.

1. Agencies. Legislative veto proposals contemplate postponing the effective date of most agency rules for two months beyond the present statutory period of thirty days that must elapse between their publication in the FEDERAL REGISTER and their taking effect. This additional period is prescribed so that Congress may have opportunity to exercise the power of review. The volume of existing agency rulemaking and the technical or noncontroversial nature of many rules suggest, however, that few proposed rules would in fact receive specific Congressional attention. Nevertheless the operation of the great mass of rules, whether or not actually considered by Congress, would be postponed without corresponding benefit and often with unfortunate public consequences. In instances when Congress did undertake review, it would risk engaging in piecemeal examination of particular rules, in isolation from an agency's program as a whole, and without benefit of the experience and specialized knowledge that had shaped the elements of that program. Of great concern is the possibility that Congressional review of administrative agencies' rules would significantly diminish the importance of the procedures now prescribed by law to assure public participation in rulemaking. Rules that survive active legislative review are likely to be based upon negotiations with Congressional units rather than upon the information, expression of opinion, research materials, and background experience that shaped the agency's policy.

2. Congress. Legislative review of substantive rules would increase the workload of Congress substantially. Review of complex, technical rules would be difficult, time consuming, and often impracticable. Yet, in the belief that each agency's work product would have to undergo later scrutiny by Congress or its committee staffs, Congress might be more ready even than at present to delegate power in broad terms and to avoid specificity and precision in formulating legislative policies that guide agency discretion. Piecemeal review, moreover, might create a misleading impression that Congress has endorsed by implication whatever it has not explicitly disapproved. Were that impression to become widespread, Congress might be deemed to have accepted a responsibility of unforeseen dimensions.

3. Courts. A procedure for Congressional review of agency rules may also imply legislative ratification of rules not disapproved by Congress. If legislative approval is inferred from inaction by Congress under the proposed procedure, then the scope of judicial review may be reduced without provision of an adequate substitute. Existing constraints on agency rulemaking discretion would therefore be lessened in a manner not intended by Congress.

The objectives of a generic requirement of legislative review of administrative rules can be realized by careful delineations of basic Congressional policy, by particularized statutes addressed to specific issues, and by Congressional hearings focused on review of agency policy rather than on details. Careful attention to appointments and appropriations constitutes a further effective means of maintaining Congressional oversight of agencies' use of delegated power.

RECOMMENDATION

The Conference urges that Congress should not, in general legislation or as a routine practice, provide for prior submission of agency rules for Congressional review and possible veto.

3. Section 305.77-2 is added to Part 305 to read as follows:

§ 305.77-2 Judicial Review of Customs Service Actions (Recommendation No. 77-2).

A. *Jurisdiction and Powers of the Customs Court.* The Customs Court has exclusive jurisdiction to review decisions of the Customs Service (1) denying protests of importers relating to certain enumerated matters and (2) rejecting petitions of United States manufacturers, producers or wholesalers to challenge certain actions taken with respect to merchandise imported by others. Actions of the Customs Service suspending or revoking customs brokers licenses are reviewable, by statute, in the courts of appeals.[1] There are other actions of the Customs Service that are administratively final but for which no specific statutory provision for review has been made. These include decisions made by the Service to suspend or discontinue permits for immediate delivery of merchandise as well as decisions to exclude certain types of merchandise from entry. Such actions are now reviewable, if at all, in the district courts pursuant to their general or special jurisdiction.

Moreover, the Customs Court does not have power at present to "compel agency action unlawfully withheld or unreasonably delayed," as can district courts under the APA, 5 U.S.C. § 706(1). The Customs Service sometimes fails to act on significant matters

[1] The Conference has not studied the advisability of a change in the reviewing forum for such action. Nor does the Conference intend that the current method of reviewing personnel actions of the Customs Service or its determinations under the Freedom of Information Act or like statutes be disturbed.

for such extended periods that its inaction may amount to agency action, as defined gy 5 U.S.C. § 551(13) to include "failure to act." An example is the failure or refusal of the Service to complete the final assessment of duties payable on an importation. Finally, the Customs Court has no power at present to provide relief until after the protest or petition process has run its course even though the Customs Service has taken action with such immediate and drastic impact on a person that a district court considering comparable action of another agency would treat it as final for purposes of review. The recommendation would provide for review by the Customs Court of the final actions and failures to act just described.

Decisions to exclude merchandise may be made either by the Customs Service or another agency, such as the Food and Drug Administartion. All exclusion decisions pursuant to a customs law (i.e., a law applicable only to imported merchandise, usually codified in Title 19 of the United States Code), whether made by the Customs Service or some other agency, are now reviewable in the Customs Court. This review would be unaffected by the recommendation. Exclusion decisions under a law that is not a customs law are never reviewed in the Customs Court. When such an exclusion decision is made by an agency other than the Customs Service, the Customs Court does not, and under the recommendation would not, review the decision. However, when such an exclusion decision is made by the Customs Service, the recommendation would give the Customs Court exclusive jurisdiction to review it.

The Customs Court has sometimes been said not to have "equity powers." What is meant by this is not clear, but the recommendation would give the Customs Court all powers, injunctive and other, of the district courts.

The Customs Court is unique among Article III courts in being subject to a requirement that not more than five of its nine judges be appointed from the same political party and in having a chief judge selected from time to time by the President. These requirements, appropriate perhaps for multi-member administrative agencies, are not consonant with the Article III judicial role of the Customs Court, especially as that role would be expanded by these recommendations.

1. *Jurisdiction Without a Protest or Petition.* Congress should amend 28 U.S.C. § 1582 to broaden the jurisdiction of the Customs Court by giving the court exclusive jurisdiction of any civil action brought to challenge final agency action (as defined in the Administrative Procedure Act) of the Customs Service except (1) action specifically subject to review in another court and (2) action pertaining to the exclusion of merchandise, under a law that is not a customs law, and taken by the Customs Service on the request or at the direction of a court or another federal agency.

2. *Remedial Powers.* Congress should amend 28 U.S.C. § 1581 to confer upon the Customs Court in respect of actions properly pending before it the remedial powers of a United States district court.

3. *Political Affiliation of Court Appointees and Selection of Chief Judge.* Congress should amend 28 U.S.C. § 251 to delete the requirement that not more than five of the nine judges of the Customs Court be appointed from the same political party and to provide that the chief judge is appointed by the President with the advice and consent of the Senate, as in the case of the Court of Claims and the Court of Customs and Patent Appeals.

B. *Standing to Seek Administrative and Judicial Review.* Under Section 516 of the Tariff Act of 1930, 19 U.S.C. § 1516, an "American manufacturer, producer, or wholesaler" may ask for and receive information on the duty imposed on imported merchandise of a kind manufactured, produced or dealt in by him and, thereafter, contest the appraised value of, classification of, or the rate of duty assessed upon, that merchandise by petition to the Customs Service. As stated under heading A, a decision concerning such a petition may be reviewed in the Customs Court. The recommendation is that Congress consider broadening the category of persons entitled to seek this sort of administrative relief and, thereafter, review in the Customs Court to include all persons adversely affected by an incorrect determination by the Customs Service. The Conference believes that the category of persons eligible to challenge such determinations by the Customs Service should thus conform with modern administrative practice, unless Congress determines that overriding considerations of economic policy make this undesirable.

Only the importer of excluded merchandise may now protest within the Customs Services the exclusion of merchandise and have denial of that protest reviewed by the Customs Court. The recommendation contemplates a broadening of the standing provision to enable any adversely affected person to seek administrative and judicial review of action either to exclude or to admit merchandise (unless the action is taken under a law that is not a customs law upon the request or at the direction of a court or another agency).

Under A(1) final actions of the Customs Service other than the denial of protests or petitions relating to classification, appraisal, duty and admission of merchandise, such as the suspension of immediate delivery permits, would be subject to review in the Customs Court. The recommendation contemplates conferring upon any adversely affected person who has exhausted his administrative remedies standing to seek review of such actions. The recommendation does not specify what procedures must be exhausted.

1. *Decisions Concerning Duties.* Congress should consider amending Section 516 of the Tariff Act of 1930, 19 U.S.C. § 1516, to allow any person adversely affected by an incorrect determination of the appraised value of, classification of, or rate of duty assessed upon, imported merchandise to obtain from the Customs Service information concerning such appraisal, classification or rate and to petition for a change. Denials of such petitions should be reviewable in the Customs Court.

2. *Exclusion Cases.* Congress should consider enacting a new provision giving any person adversely affected by an action of the Customs Service, concerning merchandise that is, or should be, excluded from entry or delivery, a means of seeking administrative review of such action, with subsequent review in the Customs Court. Such a procedure should not be available to challenge action pertaining to the exclusion of merchandise, under a law that is not a customs law, and taken by the Customs Service on the request or at the direction of a court or another federal agency.

3. *Other Actions.* If Congress broadens the jurisdiction of the Customs Court as recommended in A(1), it should also consider providing that actions within the broadened jurisdiction may be brought by any adversely affected person who has exhausted his administrative remedies.

C. *Burden of Proof in the Customs Court.* The Customs Court operates under a statute that establishes a presumption that a Customs Service decision under review is correct and places upon a party seeking review the burden of proving the decision incorrect. Trial in the Customs Court is had on a record made in the court although 28 U.S.C. § 2632 (f) provides that, upon the service of a summons, the Customs Service is to transmit certain documents underlying the Customs Service decision to the court "as part of the official record of the civil action." The Customs Court and the Court of Customs and Patent Appeals have inferred from the statute a further requirement, that in order to prevail the party seeking review must prove, in addition to the incorrectness of the agency's decision, what the correct decision should be. The recommendation would do away with that unorthodox further requirement and make Customs Court review of Customs Service actions conform in this respect with the review of actions of other agencies by other courts. The mode of review would continue to be a de novo trial (in the sense indicated above), which is considered appropriate because of the high degree of informality of most Customs Service procedures.

1. *Elimination of the Plaintiff's Double Burden.* Congress should amend 28 U.S.C. § 2635(a) to revise the Customs Court's standard of review in the following way: The presumption of correctness of Customs Service decisions and the imposition upon a party challenging a decision the burden of proving otherwise would be retained, but an additional requirement read into the statute by the Customs Court and the Court of Customs and Patent Appeals would be eliminated. The additional requirement is that the challenging party prove not only that the Customs Service was wrong but also what a correct decision would be or risk suffering affirmance of the incorrect adverse decision.

Specifically, the amended statute should provide that, if the Customs Court determines that action taken by the Customs Service is erroneous, the court should modify or set aside such action; if the court is able to determine what action is correct, it should so determine and order that the correct action be taken; if the court, after exhausting its processes and procedures, cannot determine what action is correct, it should remand the case to the Customs Service with instructions to take action consistent with the decision of the court; any redetermination made by the Customs Service pursuant to a remand should be subject to a new protest or petition; a decision by the Customs Court to remand a case should be appealable.

D. *Review of Decisions to Exclude Merchandise.* Exclusion of merchandise is a severe remedy. The recommendation would attempt to ensure expedited review of exclusion decisions and would delete the extraordinary authority of the Customs Service to detain and seize imported merchandise that allegedly infringes a United States trademark or copyright in the absence of the same sort of court order that is required before action may be taken against allegedly infringing domestic merchandise.

1. *Expedited Review.* Congress should amend the statutes giving preference to certain types of cases in the Customs Court, 28 U.S.C. § 2633, and the Court of Customs and Patent Appeals, 28 U.S.C. § 2602, to ensure a similar preference for cases properly before either court involving the exclusion of merchandise from entry or delivery.

2. *The Customs Service's Authority Under the Trademark and Copyright Statutes.* Con-

gress should amend the statutes under which the Customs Service is authorized to detain and seize merchandise that allegedly infringes a United States trademark, 19 U.S.C. § 1526, or copyright, 17 U.S.C. § 603, to provide that the Customs Service may take no such action until after the owner of the trademark or copyright has obtained an order in a United States district court enjoining the importation. Alternatively, Congress should amend the trademark statute, as it has the copyright statute, to authorize the Customs Service to establish by regulation such a condition precedent to its acting to detain and seize allegedly infringing merchandise, and the Customs Service should promulgate such a regulation. In either event, the Customs Service should then adopt express procedures that would enable the owner of a trademark or copyright to identify imported merchandise that may infringe his mark or copyright.

E. *Imposition of Civil Penalties.* The penalty for violations of Section 592 of the Tariff Act of 1930, 19 U.S.C. § 1592, and some other import statutes is forfeiture of imported merchandise or its value. These penalty provisions are unsatisfactory. The statutory forfeiture penalty is likely to be disproportionate to the gravity of the alleged offense. Although the Customs Service is usually prepared to mitigate the penalty, the statutes pose the following dilemma: If the alleged violator does not wish to accept the proffered mitigation because he believes he did not violate the statute or because he believes that he is entitled to a greater degree of mitigation, he is subject to suit in the district court for the full forfeiture value. Moreover, he will lose the benefit of any mitigation if the government can prove a violation, however insignificant, on his part. The recommendation would rationalize penalty procedures.

1. *The Rationalization of Section 592.* Section 592 of the Tariff Act of 1930, 19 U.S.C. § 1592, prohibiting fraudulent or false statements or practices respecting imports, should be revised to make it fairer and more rational in its operation.

(a) Section 592 should be amended to provide for civil money penalties against the person violating the statute rather than for forfeiture of the merchandise or the full value thereof. Congress should establish maximum penalties based upon the revenue deficiency, if any, resulting from the violation and upon the degree of culpability of the violator. In any case in which the violation does not result in a revenue deficiency, the maximum penalties should be based upon a percentage of the value of the imported merchandise and upon the degree of culpability of the violator. If the violator is an importer, he should be given the option of surrendering his merchandise in lieu of payment of any penalty assessed.

(b) The Customs Service should continue to have the authority to mitigate civil penalties. If an assessment is contested, an action by the government to enforce the penalty should be in the Customs Court. In such an action, the government should have the burden of proving the act or omission constituting a violation and, if so alleged, the intentional nature thereof. The Customs Court should be authorized to determine de novo the amount of the penalty.

(c) In order to ensure that those subject to possible penalties under Section 592 know what is expected of them under the laws administered and enforced by the Customs Service, the Service should, to the maximum extent feasible, adopt and publish standards that will guide its determinations under such laws.

(d) The authority of the Customs Service to seize and hold merchandise under Section 592, other than prohibited or restricted merchandise, should be limited to instances where such seizure and holding are necessary to protect its ability to collect any revenue deficiency or penalty, and the Customs Service should be required to release the merchandise to the owner upon his provision of security for payment of such revenue deficiency or penalty. Where no such release is effected by the owner, the Customs Service should be required to release the merchandise not later than 60 days after seizure unless the government has initiated an action in the Customs Court within that period and obtained an extension for good cause from the court. In instances where the Customs Court permits the Service to hold merchandise for sale by the Service to satisfy any revenue deficiency or penalty determined by the judgment of the court, the net proceeds of such sale, after allowance for the judgment and costs of the sale, should be paid to the owner.

2. *Other Statutes.* Each of the other penalty provisions enforced by the Customs Service should be reviewed and, if appropriate, revised in a manner consistent with the foregoing recommendations for the revision of Section 592.

4. Section 305.77–3 is added to Part 305 to read as follows:

§ 305.77–3 Ex parte Communications in Informal Rulemaking Proceedings (Recommendation No. 77–3).

In Recommendation 72–5 the Conference expressed the view that, generally, agency rulemaking is preferably carried out through the simple, flexible and efficient procedures of 5 U.S.C. § 553. That statute requires publication of notice of proposed rulemaking and provision of opportunity for submission of written comments; additional procedures may be utilized by the agencies as they deem necessary or appropriate. Recommendation 72–5 counseled that Congress ordinarily should not impose mandatory procedural requirements going beyond those of § 553 in the absence of special reasons for doing so. In Recommendation 76–3 the Conference amplified its 1972 recommendation by suggesting ways in which agencies might usefully supplement the minimum procedures required by § 553 in appropriate circumstances.

The primary purposes of rulemaking procedures under § 553 are to enhance the agency's knowledge of the subject matter of the proposed rule and to afford all interested persons an adequate opportunity to provide data, views, and arguments with respect to the agency's proposals and any alternative proposals of other interested persons. Section 553 procedures, in some instances, also serve to provide the basis for judicial review. To the extent consistent with all of these purposes, the agencies should have broad discretion to fashion procedures appropriate to the nature and importance of the issues in the proceeding, in order to make rules without undue delay or expense. Informal rulemaking should not be subject to the constraints of the adversary process. Ease of access to information and opinions, whether by recourse to published material, by field research and empirical studies, by consultation with informed persons, or by other means, should not be impaired.

While the foregoing considerations militate against a general prohibition upon ex parte communications in rulemaking subject only to Section 553, certain restraints upon such communications may be desirable. Ex parte communications during the rulemaking process man give rise to three principal types of concerns. First, decision makers may be influenced by communications made privately, thus creating a situation seemingly at odds with the widespread demand for open government; second, significant information may be unavailable to reviewing courts; and third, interested persons may be unable to reply effectively to information, proposals or arguments presented in an ex parte communication. In the context of Section 553 rulemaking, the first two problems can be alleviated by placing written communications addressed to a rule proposal in a public file, and by disclosure of significant oral communications by means of summaries or other appropriate techniques. The very nature of such rulemaking, however, precludes any simple solution to the third difficulty. The opportunity of interested persons to reply could be fully secured only by converting rulemaking proceedings into a species of adjudication in which such persons were identified, as parties, and entitled to be, at least constructively, present when all information and arguments are assembled in a record. In general rulemaking, where there may be thousands of interested persons and where the issues tend to be broad questions of policy with respect to which illumination may come from a vast variety of sources not specifically identifiable, the constraints appropriate for adjudication are neither practicable nor desirable.

Recommendation

In rulemaking proceedings subject only to the procedural requirements of § 553 of the APA:

1. A general prohibition applicable to all agencies against the receipt of private oral or written communications is undesirable, because it would deprive agencies of the flexibility needed to fashion rulemaking procedures appropriate to the issues involved, and would introduce a degree of formality that would, at least in most instances, result in procedures that are unduly complicated, slow and expensive, and, at the same time, perhaps not conducive to developing all relevant information.

2. All written communications addressed to the merits, received after notice of proposed rulemaking and in its course, from outside the agency by an agency or its personnel participating in the decision should be placed promptly in a file available for public inspection.

3. Agencies should experiment in appropriate situations with procedures designed to disclose oral communications from outside the agency of significant information or argument respecting the merits of proposed rules, made to agency personnel participating in the decision on the proposed rule, by means of summaries promptly placed in the public file, meetings which the public may attend, or other techniques appropriate to their circumstances. To the extent that summaries are utilized they ordinarily should identify the source of the communications, but need not do so when the information or argument is cumulative. Except to the extent the agencies expressly provide, the provisions of this paragraph and the preceding paragraph should not be construed to create new rights to oral proceedings or to extensions of the periods for comment on proposed rules.

4. An agency may properly withhold from the public file, and exempt from requirements for making summaries, information exempt from disclosure under the Freedom of Information Act, 5 U.S.C. § 552.

5. Agencies or the Congress or the courts might conclude of course that restrictions on ex parte communications in particular proceedings or in limited rulemaking categories are necessitated by considerations of fairness or the needs of judicial review arising from special circumstances.

Dated: September 28, 1977.

Richard K. Berg,
Executive Secretary.

[FR Doc.77-29234 Filed 10-4-77;8:45 am]

[1610–01]

Title 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

PART 331—CONTRACT COVERAGE

AGENCY: Cost Accounting Standards Board.

ACTION: Final rule.

SUMMARY: This modification of the Cost Accounting Standards Board's rules and regulations provides criteria for determining the materiality of costs in given circumstances, in applying words or phrases of materiality used in Cost Accounting Standards, and to limit price adjustments to material amounts of cost.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

James L. DiGuiseppi, Project Director, Cost Accounting Standards Board, Washington, D.C. 20548 (202–275–6113).

SUPPLEMENTARY INFORMATION: A discussion of the background and public comments received in response to the initial publication of these regulations and of the principal issues considered in preparing the final promulgation precedes the regulations.

The purpose of this publication by the Cost Accounting Standards Board is to adopt a modification to Part 331, Contract Coverage, of its rules and regulations. The modification will provide criteria for determining the materiality of amounts of cost in given circumstances. The Board initially considered publishing a definition of the terms "cost accounting practice" and "change to either a disclosed cost accounting practice or an established cost accounting practice" along with the modification dealing with materiality. That definition is being handled separately by the Board, however, and will be considered at a later date.

The Board is authorized by Pub. L. 91–379 to prescribe rules and regulations for implementing Cost Accounting Standards. Pursuant to this authority, the Board is today issuing a modification to its regulations. Contractors and procurement agencies engaged in the implementation and administration of CASB rules, regulations, and Standards have recommended that the Board provide guidance concerning materiality in the administration of the Board's rules, regulations, and Standards.

Representatives from various organizations affected by Standards have pointed out that guidance in this area will facilitate the implementation and administration of CASB pronouncements. A similar recommendation was also received by the Board at an Evaluation Conference in June 1975. The General Accounting Office's Status Report on the Cost Accounting Standards Program—Accomplishments and Problems (PSAD–76–154, Aug. 20, 1976), also referred to the need for guidance on this subject.

Research in this area included a review of data submitted by participants in the Evaluation Conference, an analysis of papers submitted by various contractors, professional groups, trade associations, and Government agencies, as well as a review of existing procurement regulations, and existing CASB promulgations. A Staff draft of an amendment dealing with materiality criteria and price adjustments was distributed on August 13, 1976. Responses from 53 sources contributed to the Board's further consideration of the issues involved in this proposed amendment.

A proposed amendment to the Board's regulations was published in the FEDERAL REGISTER on February 3, 1977 (42 FR 6591). A total of 45 responses were received from individual companies, Government agencies, professional associations, industry associations, universities, and others. The Board takes this opportunity to express its appreciation for the helpful suggestions and criticisms which have been furnished. The comments furnished by the organizations and individuals have resulted in a number of changes in the amendment being promulgated today. The following material summarizes the issues regarding materiality that were discussed by respondents in connection with the proposed modification and explains the changes made to the proposal published February 3, 1977. The still relevant portions of the comments which accompanied the February 3, 1977, publication have been incorporated in this material.

Materiality Criteria

Generally, commentators felt the proposed materiality criteria were a necessary, positive and useful step. However, some commentators suggested that the proposed criteria were not sufficiently specific and would not resolve the materiality questions that currently exist. Some commentators suggested that quantitative criteria be added to the proposed regulation; others suggested that the criteria proposed were suitable.

At the present time, the Board is of the opinion that quantitative limits should not be established for materiality determinations. The essence of materiality criteria is to allow for the excise of judgment; an absolute dollar amount in one case may be material while in another case the same amount may be immaterial. Accordingly, quantitative limits have not been added to the proposed amendment.

The materiality criteria being promulgated are designed for use in a variety of situations and to resolve issues which have been raised by various sources. Cost Accounting Standards establish the cost accounting appropriate for the determination of contract costs. Departure from the requirements of these Standards may occur and the cost effects of such departure may be immaterial. The criteria serve to limit price adjustments to material amounts of cost. The regulation also describes the actions to be taken when immaterial amounts of cost are involved in noncompliance with Standards. The criteria for materiality are also to be used in applying words or phrases of materiality used in Cost Accounting Standards. In particular Standards, the Board will continue to give consideration to defining materiality in a specific manner as to either the entire Standard or any provision thereof, whenever it appears feasible and desirable to do so.

Administrative Costs

Commentators proposed that the administrative cost of processing a change in cost accounting practice to both the Government and the contractor should be one of the criteria used in determining materiality. The Board's initial publication did not provide for consideration of these costs in determining materiality. Generally, such costs on the part of both the Government and the contractor are absorbed as part of their routine operations. On a conceptual basis, the determination of materiality should be made considering only the amount of costs affected by the proposed change. As a practical matter, however, the administrative cost to process a contract price adjustment is a factor in a materiality decision.

The Board is persuaded that the administrative cost of processing a change in cost accounting practice should influence a decision as to materiality. For example, if it is estimated that costs would be changed by $10,000 through processing a change at a Government-contractor administrative cost of $10,000, then processing the change would be nonproductive whether or not, considering all materiality factors, the estimated change in costs of $10,000 would be judged material. Accordingly, the Board has added a provision to this modification dealing with such costs.

Measurement of Cost Impact

Commentators suggested that the Board's regulations provide that initially the determination of materiality should be done on a gross, overall, basis rather than on an in-depth cost impact study. These commentators asserted that a provision of this type would help to reduce the time and cost of evaluating and processing proposed changes which are judged to have an immaterial impact. Procedures for measuring and processing cost impact due to both changes in cost accounting practice and noncompliances with Cost Accounting Standards have been developed by the procurement agencies, and they now require an estimate of the general dollar magnitude of the change as a first step in the process. The Board encourages the use of the materiality criteria promulgated today in conjunction with the existing two-stage cost impact evaluation procedure provided in procurement agency regulations. The Board believes that the effective use of procedures established in agency regulations will accomplish the saving in time and cost desired.

Some Government commentators proposed that subparagraph 331.71(b)(2) be deleted. They expressed the view that

it dealt with administrative matters and not criteria for the determination of materiality. The question of both the contractor's and the Government's responsibility in situations where noncompliance with Cost Accounting Standards resulted in a cost impact which is immaterial has frequently arisen. The Board believes that the implementation and administration of cost accounting rules, regulations, and Standards will be facilitated by a statement of the Board's position on this matter. Accordingly, the Board believes that the subparagraph in question should be retained in its regulations.

RETROACTIVE APPLICATION

Commentators expressed concern that subparagraph 331.71(b)(2) would be applied retroactively to immaterial items. The language of this subparagraph requires that it be applied to the accounting period for which the cost impact of a noncompliance becomes material and to succeeding cost accounting periods. In any cost accounting period prior to that, by reason of the provisions of this requirement, the cost impact of the noncompliance would have been determined to be immaterial. Thus, no contract modification was or is required.

ILLUSTRATIONS

The February 3, 1977, proposal contained two illustrations of the application of the materiality criteria. A number of commentators stated that the illustrations were too basic to be useful, and that the problems related to the determination of materiality are too numerous and too complex to be adequately illustrated in a regulation of this type. The commentators suggested that the illustrations be eliminated. The Board agrees, and has eliminated the examples in this section.

Amend Part 331 by adding a new § 331.71 as follows:

§ 331.71 Materiality.

(a) In determining whether amounts of cost are material or immaterial, the following criteria shall be considered where appropriate; no one criterion is necessarily determinative.

(1) The absolute dollar amount involved. The larger the dollar amount, the more likely that it will be material.

(2) The amount of contract cost compared with the amount under consideration. The larger the proportion of the amount under consideration to contract cost the more likely it is to be material.

(3) The relationship between a cost item and a cost objective. Direct cost items, especially if the amounts are themselves part of a base for allocation of indirect cost, will normally have more impact than the same amount of indirect costs.

(4) The impact on Government funding. Changes in accounting treatment will have more impact if they influence the distribution of costs between Government and non-Government cost objectives than if all cost objectives have Government financial support.

(5) The cumulative impact of individually immaterial items. It is appropriate to consider whether such impacts (a) tend to offset one another, or (b) tend to be in the same direction and hence to accumulate into a material amount.

(6) The cost of administrative processing of the price adjustment modification shall be considered. If the cost to process exceeds the amount to be recovered, it is less likely the amount will be material.

(b)(1) A contract modification for price adjustment or cost allowance under paragraphs (a)(4) and (a)(5) of the Cost Accounting Standards clause set forth in section 331.50 is required only if the cost impact is material.

(2) Where a contractor is in noncompliance and does not change a cost accounting practice because the cost impact is immaterial, the contracting agency is not relieved of its responsibilities to assure that an appropriate price adjustment is obtained if the cost impact of the noncompliance subsequently becomes material. The contractor shall be notified that the Government's decision to forbear action for noncompliance is solely because the cost impact at the time of the notice is immaterial. If at any time thereafter, the Government determines that the cost impact of noncompliance with respect to the practice in question is material, the Government then must require action under paragraph (a)(5) of the contract clause for any cost accounting period in which the cost impact is material. The fact that the Government does not pursue a price adjustment does not excuse the contractor from his obligation to comply with the Standard involved.

(3) Whether cost impact is recognized by modifying a single contract, several but not all contracts, or all contracts, or any other suitable technique, is a contract administration matter. The Standards, rules, and regulations of the Board do not in any way restrict the capacity of the parties to select the method by which the cost impact attributable to a change in cost accounting practice is recognized.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.77-29179 Filed 10-4-77;8:45 am]

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

Amendments to Guidelines for Granting Exception Relief From the Oil Import Regulations

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes guidelines for granting exception relief to all persons required to pay license fees to import residual fuel oil into the East Coast (PAD District I) under the Oil Import Regulations. This amendment is intended to alleviate dislocations in the distribution of fee-exempt licenses which might otherwise impair competition among residual fuel oil marketers and increase costs to consumers during the upcoming heating season.

EFFECTIVE DATE: Date of Issuance.

FOR FURTHER INFORMATION CONTACT:

Robert Moore, (Regulatory Programs), 2000 M St. NW., Room 6114C, Washington, D.C. 20461, (202-254-8620).

Ed Vilade, (Media Relations), 12th and Pennsylvania Ave. NW., Room 3104, Washington, D.C. 20461, (202-566-9833).

Robert C. Goodwin, Jr., (Office of General Counsel), 12th and Pennsylvania Ave. NW., Room 5116, Washington, D.C. 20461, (202-566-9380).

SUPPLEMENTARY INFORMATION:

I. Proposed Amendment.
II. Discussion of Comments.
III. Regulations Prescribed.

I. PROPOSED AMENDMENT

In order to avoid the dislocations in the distribution of fee exemptions for imports of residual fuel oil into District I which have developed under the Oil Import Program since the fee system was established, FEA proposed by notice issued August 29, 1977 (42 FR 44244, Sept. 2, 1977) to amend the "Guidelines for the Disposition of Requests for Exceptions from Part 213", Appendix II of Subpart D of Part 205, by adding Special Guideline I. This special guideline provides that for the allocation period of May 1, 1977, through April 30, 1978, any person desiring to import residual fuel into District I would be deemed to be experiencing extreme hardship to the extent that his available fee-exempt licenses, if any, are less than his contractual obligations or other projected needs for that period. Under the proposal, in order to meet those obligations and needs, such persons would be authorized to obtain additional fee-exempt licenses by certifying the amount of their incremental requirements to the Director of Oil Imports. The Director would issue the additional licenses except where he determines that issuance thereof would not be in accordance with the objectives of the Proclamation. Once issued, such licenses would be subject to the applicable provisions of Part 213, including the prohibition on sale or transfer of product licenses at § 213.22. Any licenses remaining unused at the end of the allocation period would expire. In order to facilitate this procedure, FEA also proposed to amend § 205.52 to provide an exception to the general rule that applications for relief from Part 213 be filed with the Office of Exceptions and Appeals. Instead, applications for an allocation would be filed directly with the Director of Oil Imports.

Under the proposal, firms not currently eligible for allocations under § 213.15 would be able to receive allocations under Special Guideline I. This was

intended to prevent any economic hardship that would result with respect to such persons if FEA's remedial action were limited to historical importers.

The proposal elicited comments from many sources and a public hearing was held on September 28, 1977.

II. Discussion of Comments

Most of the comments received strongly endorsed the proposed amendment. Many cited as the basis for their approval the rationale expressed by FEA in its proposal, i.e., the elimination of inequities in the distribution of fee-exempt licenses which have been caused by drastic changes in residual oil markets during the last four years and the unnecessary increase in cost to the consumer which would result therefrom. Other comments noted that even though they could expect to be granted exemptions under the present allocation system, they favored the proposed amendment in order to avoid uncertainty and to reduce the cost of applying for exemptions. A final reason advanced in the comments in support of the proposed amendment was that it would eliminate the anticompetitive aspect of the current allocation system which results from the fact that fee-exempt licenses are allocated on the basis of an importer's 1973 level of imports to the detriment of more recent suppliers who are now attempting to enter the market or expand their market share.

Some comments, however, expressed objections to the proposed amendments. The first, and most serious of the objections raised, was the contention that FEA was without authority to amend the regulations in the manner proposed. One comment asserted that section 232 of the Trade Expansion Act of 1962, as amended, required a determination of the national security consequences by the Secretary of the Treasury and the President before any action could be taken by FEA. However, section 232(a) explicitly pertains only to foreign trade agreements, while the terms of section 232(b), which require a national security determination with respect to imposition of import limitations, have been fulfilled. This determination was originally made in 1959 by President Eisenhower and succeeding Presidents have reaffirmed the finding when they have amended the Proclamation. See, e.g., Pres. Proc. No. 4412, January 3, 1976. Regulations promulgated pursuant to authority delegated to the Administrator by the Proclamation do not require subsequent investigations by the Secretary of the Treasury or national security determinations by the President.

The proposed amendment is clearly within the delegated authority of the FEA. Section 3 of Proclamation No. 3279, as amended, provides:

> The Administrator is authorized to refund or reduce fees, whether in whole or in part, * * *
>
> (ii) Where refunds or reductions, whether in whole or in part, are ordered pursuant to Section 5.

Section 5 of the Proclamation provides:

> (b) The Appeals Board may be empowered [by the Administrator] . . . without regard to the limits of the maximum levels of imports established in section 2 of this Proclamation: * * *
>
> (2) To modify, on the grounds of exceptional hardship, any allocation made to any person under such regulations; * * *
>
> (4) To grant allocations of imports of finished products on grounds of exceptional hardship; * * *
>
> (c) The Administrator . . . may modify or alter the composition of the Appeals Board or abolish the Board and establish such other appellate procedures as he deems appropriate.

It is clear, therefore, that the Administrator is fully authorized to amend the regulations in the manner proposed.

Other comments challenged the legal authority of the Administrator on the ground that the proposed amendment did not comport with the requirements of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159) and the Federal Energy Administration Act of 1974 (Pub. L. 93-275). The sections of those statutes which were cited are general in nature and are applicable to the programs established under these statutes. They are neither in conflict with nor do they supersede the specific provisions of the Proclamation.

The second major objection to the proposed amendment was that it discriminates against other PAD districts. However, as already noted, the basic purpose of the proposal is to alleviate existing competitive dislocations among firms because of the differing availability of fee-exempt licenses for importation of residual fuel oil.

Because of the method by which fee-exempt licenses were initially distributed, some firms in PAD District I have a surplus of fee-exempt licenses in the current allocation period, while other firms will be required to purchase varying amounts of fee-paid licenses at $0.63 per barrel in order to meet contractual obligations. FEA has calculated that for the current allocation period, the ratio of imports to allocations made pursuant to § 213.15 ranges from 0 percent to 130 percent. Similarly the ratio of projected 1977 imports to 1973 actual imports ranges from 0 percent to 366 percent. Hence, the maldistribution of fee-exempt licenses among District I importers is exceptionally severe. Under any assumption as to residual fuel oil prices, holders of fee-exempt licenses would possess a real competitive advantage. In the comments and the hearing there was no information developed with respect to similar types of disparities existing in other PAD districts. Should information which indicates that other regions are suffering similar inequities be developed, FEA will consider extending the application of these amendments to those regions. However, the record does not warrant such action at the current time.

The final objection which was raised in several comments was that long term, rather than short term, solutions are needed to resolve current problems which exist not only in the Oil Import Regulations but in the Domestic Entitlements Program as well. FEA recognizes the need to address the long term problems. The lack of a long range plan alone, however, is an insufficient reason to delay rectifying those short term dislocations in the distribution of fee-exempt licenses in PAD District I which presently produce inequitable results.

III. Regulations Prescribed

After careful consideration of all comments, both written and oral, FEA has decided not to make any changes in the amendment as originally proposed. The regulations prescribed today are therefore identical to those proposed by notice issued August 29, 1977 (42 FR 44244, September 2, 1977).

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

Issued in Washington, D.C., September 30, 1977.

Eric J. Fygi,
Acting General Counsel,
Federal Energy Administration.

1. Section 205.52 is amended in paragraph (b) by adding a new subparagraph (3) to read as follows:

§ 205.52 Where to file.

* * * * *

(b) * * *

(3) All applications for exemption to § 213.15 by persons seeking to import residual fuel oil into District I in order to satisfy contractual obligations or other projected needs for the allocation period May 1, 1977, through April 30, 1978, shall be filed with the Director of Oil Imports in accordance with Special Guideline I in Appendix II of this subpart.

2. Appendix II of Subpart D of Part 205 is amended by adding a new Special Guideline I to read as follows:

Special Guideline I

For the allocation period May 1, 1977 through April 30, 1978, any person desiring to import residual fuel oil into District I shall be deemed to be experiencing an exceptional hardship to the extent that his available fee-exempt licenses, if any, are less than his contractual obligations or other projected needs for that period. Any person so deemed may receive additional fee-exempt licenses in the amount required to meet such obligations or needs by certifying his additional requirements to the Director of Oil Imports. The Director shall issue a license for the amount certified, except where he determines that issuance thereof would not be in accordance with the objectives of Proclamation No. 3279, as amended.

Any license issued pursuant to this Special Guideline shall be subject to the limitations contained in § 213.15(e). Licenses which remain unused at the end of the allocation period shall expire at that time.

[FR Doc.77-29288 Filed 10-3-77;8:45 am]

[3128-01]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Further Amendments To Crude Oil Buy/Sell Program

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: The Federal Energy Administration ("FEA") hereby adopts amendments to the Mandatory Crude Oil Allocation Program (the "buy/sell program") set forth in 10 CFR 211.65, to modify the pricing provision for sales of allocated crude oil to reflect more accurately the actual market value of crude oil sold under the program and to permit small refiners that are excluded from the program to re-enter the program in the event that they experience a significant reduction in domestic crude oil supplies.

DATES: Effective October 1, 1977. Further comments due on or before October 21, 1977 (see Supplementary Information).

ADDRESS: Send comments to: Executive Communications, Room 3317, Federal Energy Administration, Box NO, Federal Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette, (Comment Procedures), 2000 M Street, NW., Room 2214B, Washington, D.C. 20461, (202-254-5201).

Ed Vilade, (Media Relations), 12th and Pennsylvania Ave., NW., Room 3104, Washington, D.C. 20461, (202-566-9833).

Robert G. Bidwell, Jr. or H. William Gottfried, (Office of Regulatory Programs), 2000 M Street, NW., Room 6128P, Washington, D.C. 20461, (202-254-9707).

Samuel M. Bradley, (Office of the General Counsel), 12th and Pennsylvania Ave., NW., Room 5134, Washington, D.C. 20461, (202-566-9565).

SUPPLEMENTARY INFORMATION:

I. Background.
II. Discussion of Comments: A. Pricing of allocated crude oil;
B. Re-entry provision;
C. Newly constructed refining capacity.
III. The Amendments Adopted: A. Pricing of allocated crude oil;
B. Re-entry into the buy/sell program;
C. Technical amendments.
IV. Request for Further Comments.

I. Background

On August 19, 1977, following a notice of proposed rulemaking and public hearing (42 FR 37406, July 1977), FEA issued a final rule amending the crude oil buy/sell program effective October 1, 1977 to simplify the administration of the program and to limit the scope of the program to those refiner-buyers that have a demonstrated necessity for allocations of crude oil based on their lack of access to adequate supplies of domestic and foreign crude oil (42 FR 42770, August 24, 1977). FEA stated in the preamble to the August 19 amendments that it was reserving for further consideration and would issue in September a final rule with respect to the pricing provision governing buy/sell program sales and, in particular, a provision for transportation cost adjustments. FEA invited further comments on the proposed pricing provision and the following additional issues: whether small refiners that are not eligible to apply for an allocation under the revised program should be permitted to re-enter the program and, if so, under what circumstances re-entry should be permitted; and whether small refiners that make a commitment for construction of a new refinery or expanded refining capacity after the publication on August 24, 1977 of the regulation implementing the revised buy/sell program should be permitted to apply for an allocation.

II. Discussion of Comments

In response to the request in the August 19 notice, thirty written comments were received by FEA. These comments, as they relate to specific outstanding proposals, are discussed in this section.

A. Pricing of allocated crude oil

FEA proposed in the July 21 notice that each refiner-seller determine a weighted average landed cost separately for high sulfur and for low sulfur imported crude oil, respectively. High sulfur crude oil would be defined as crude oil that has a sulfur content of .6% or more by weight and low sulfur crude oil as crude oil that has a sulfur content of less than .6% by weight. The maximum permissible price in each sale of allocated crude oil of a particular category (high or low sulfur) would be determined by applying the current sulfur differential (plus or minus three cents per barrel per one tenth percent sulfur by weight) and gravity differential (plus or minus there cents per barrel per °API) against the weighted average landed cost for the refiner-seller of that category of crude oil. With respect to transportation expenses, the proposal provided that refiner-buyers could be charged only actual additional expenses incurred by a refiner-seller to move crude oil to a refiner-buyer's refinery over and above the average transprotation expenses included in the refiner-seller's weighted average per barrel landed costs.

As indicated in the preamble to the August 19 amendments, the majority of refiner-sellers and refiner-buyers supported FEA's proposal to permit refiner-sellers to determine their costs separately for high sulfur and low sulfur imported crude oil. As explained in more detail below, FEA is adopting this aspect of the July 21 proposal.

In light of the comments addressed to the July 21 proposal regarding transportation cost adjustments, FEA requested further comments in the August 19 notice on the following proposed provisions concerning transportation cost adjustments. The first three alternative provisions pertain to transportation cost adjustments in the case of sales of domestic crude oil and the fourth to sales of imported crude oil:

A refiner-seller would be required to reduce the transportation charge for crude oil sold under the program by an amount equal to its average cost of transporting imported crude oil from the port of entry to the seller's refinery and would be permitted to increase the transportation charge by an amount equal to the cost of transporting domestic crude oil from the lease to the buyer's refinery. For example, if a refiner-seller's average domestic transportation cost for imported crude oil was $0.40 per barrel, and the cost of transporting the domestic crude oil sold to the refiner-buyer from the lease to the buyers' refinery is $0.52 per barrel, then the seller could charge the buyer $0.12 per barrel over the seller's average landed cost for crude oil of that category.

A refiner-seller would be required to sell domestic crude oil to a refiner-buyer at the lease at the refiner-seller's average landed cost less the refiner-seller's average domestic transportation cost. The buyer would be required to arrange for the transportation of the crude oil from the lease to its refinery.

A refiner-seller would be required to reduce its average landed cost by its actual savings, if any, in moving domestic crude oil from the lease to its own refinery. The domestic crude oil would be sold to the refiner-buyer at the lease at this reduced cost.

A refiner-seller would be required to reduce its average landed cost by its average cost of transporting imported crude oil to its refineries from the port of entry and add actual domestic transportation costs from the point of entry to the point of delivery to the refiner-buyer when imported crude oil is actually delivered to the refiner-buyer.

In addition, FEA solicited further comments on: (1) whether the pricing provision should provide for a one-month period in which to make the required calculations rather than the proposed three-month period, and (2) an appropriate pricing provision for sales of allocated crude oil applicable to refiner-sellers which import only high sulfur crude oil (or only low sulfur crude oil) and are required to sell a different quality domestic crude oil.

1. *Adjustments for transportation expenses.* The majority of refiner-sellers and refiner-buyers submitting further comments generally supported FEA's fourth proposal concerning transportation expenses in the case of sales of imported crude oil. Accordingly, FEA has adopted a rule that provides that, if imported crude oil is sold to the refiner-buyer, the price adjustment for transportation expenses shall not exceed the actual transportation costs incurred by the refiner-seller in moving the imported crude oil from the United States port of entry to the refiner-buyer's refinery.

With respect to sales of domestic crude oil under the program, however, most refiner-sellers and refiner-buyers opposed FEA's proposals as unworkable, contending that "average domestic costs" would be difficult to calculate and could be unfair to both refiner-buyers and refiner-sellers. In addition, refiner-sellers were nearly unanimous in recommending that the refiner-buyer should bear the cost of moving replacement foreign crude oil from the port of entry to the refiner-seller's refinery. Relatively few refiner-buyers submitted specific comments with respect to adjustments for transportation expenses in the case of sales of domestic crude oil.

On the basis of all the comments received in this proceeding, FEA has concluded that all of its alternative proposals as to the proper transportation costs allowable for sales of domestic crude oil fall short of achieving the goal of assuring that refiner-buyers are charged only actual transportation costs incurred by refiner-sellers. FEA also has concluded that any provision that would permit refiner-sellers to recover the transportation cost incurred in replacing domestic crude oil sold under the program with imported crude oil would be extremely complex and might, in many cases, result in inequitable prices to refiner-buyers. Accordingly, FEA is adopting a provision which provides that, in the case of sales of domestic crude oil, refiner-buyers may be charged only the actual transportation costs incurred by the refiner-seller in moving the domestic crude oil to the refiner-buyer's refinery.

2. *Period for calculation of maximum sale price.* The majority of refiner-sellers submitting further comments recommended that FEA's proposed pricing provision be modified to provide that the price of allocated crude oil be based on a one-month period rather than a three-month average. Refiner-sellers generally contended that refiner-buyers purchasing crude oil in the two months following a price increase receive a price advantage under the three-month formula and that sellers are unable to recover fully their costs during those two months.

Although the comments addressed to this issue urged the adoption of a one-month period, FEA has determined to retain the three-month period for calculating the maximum permissible price in light of the data available to the Agency. As FEA has previously stated, these data demonstrate that some refiner-sellers experience significant fluctuations in their costs of imported crude oil from month to month. Although under a one-month calculation period these fluctuations may not result in an appreciable difference in prices for large volumes sold over several months, the possibility continues to exist that refiner-buyers purchasing small quantities of allocated crude oil would pay significantly higher prices if a one-month calculation period rather than a three-month average were used. In the event there is a substantial increase in world market crude oil prices, FEA will evaluate the desirability of utilizing a one-month average on a temporary basis as it has in the past.

3. *Refiner-sellers importing only low sulfur or high sulfur crude oil.* The July 21 pricing proposal failed to provide a procedure for refiner-sellers which import only high sulfur (or only low sulfur) crude oil and are required to sell only low sulfur (or only high sulfur) crude oil. In the August 19 notice FEA requested comments on a proposal which would allow refiner-sellers that import only one category of crude oil to calculate their maximum price for crude oil sold under the program by utilizing its weighted average per-barrel port of entry cost for the category of crude oil imported and applying the proposed adjustments for sulfur and gravity differentials. Firms commenting on this issue generally supported this proposal, and FEA is adopting it substantially as proposed.

B. RE-ENTRY PROVISION

The amendments to the buy/sell program adopted on August 19, 1977, exclude from the program small refiners that have had allocations shown on the buy/sell list during the last year but have not exercised their purchase opportunities. The large refiners submitting further comments were divided on the issue whether this provision should be modified. Several large refiners opposed relaxation of the provision, contending that re-entry should be available only upon a finding of extreme hardship in the context of a request for exception. Some large refiners, however, recommended that any small refiner that is able to demonstrate a significant reduction in crude oil supply due to factors over which it has no control—such as, for example, termination of Federal Royalty or Naval Petroleum Reserve crude oil supplies—and that does not have access to imported crude oil should be eligible for an allocation. All of the small refiners commenting strongly urged that provision be made for re-entry into the buy/sell program. Several small refiners pointed out that FEA premised its revision of the buy/sell program on the finding that "supplies of crude oil for small and independent refiners were adequate, taking into account allocations under the crude oil supplier/purchaser freeze (10 CFR 211.62) and the general availability of crude oil in the world market * * *." (42 FR at 37407, July 21, 1977.) However, as these firms noted, this premise does not reflect the fact that some small refiners are dependent upon supply sources that are exempt from the supplier/purchaser rule, such as the Federal Royalty oil program, and therefore could experience a substantial reduction in their current supply below base period levels in the event these supplies should be terminated.

It is FEA's conclusion from the record in this proceeding that small refiners that experience a substantial reduction in their supplies of domestic crude oil and that do not have access to imported crude oil should be eligible for an allocation under the buy/sell program, notwithstanding the fact that such refiners did not exercise their purchase opportunities in the past. FEA believes that a provision for re-entry on this basis is consistent with the objective of limiting the scope of the program to small refiners that lack access to adequate supplies of domestic and imported oil. In addition, the re-entry provision should ensure that all small refiners are treated equitably with regard to access to supplies under the program.

C. NEWLY CONSTRUCTED REFINING CAPACITY COMMITTED FOR AFTER AUGUST 23, 1977

The revised buy/sell program provides that small refiners that have expended or are irrevocably committed to expend prior to the publication of the amendments on August 24 an amount equal to at least twenty percent of the total cost of newly constructed refining capacity are eligible for an allocation not to exceed twenty-five percent of such capacity. FEA invited further comments as to whether and under what circumstances small refiners that make a commitment after August 24, 1977, for new capacity should be eligible for an allocation.

The large refiners that commented were unanimous in their opposition to any provision that would permit new capacity committed for after the publication of the revised buy/sell program to receive an allocation on the ground that such a provision would serve only to encourage investment in potentially uneconomic refining capacity that would depend for its viability on the continuation of crude oil allocation programs. Small refiners commenting generally contended that such new capacity should not be unconditionally excluded from the buy/sell program. None of the refiners commenting offered specific guidelines for determining the eligibility of such new refining capacity for participation in the buy/sell program.

On the basis of the evidence presented in this rulemaking proceeding, and in light of the uncertainties regarding regulatory incentives for small refiners in the future, FEA has determined to continue this aspect of the rulemaking pending final action by the Congress on the President's National Energy Plan. Subsequent to final Congressional action, FEA intends to review the crude oil supply situation as it affects small refiners and the needs of the nation with respect to additional refining capacity. Following that review, FEA will determine whether such new refining capacity should be eligible for allocations under the buy/sell program.

III. THE AMENDMENTS ADOPTED

A. PRICING OF ALLOCATED CRUDE OIL

Under the amendments adopted today, a refiner-seller shall determine its weighted average port of entry cost for imported high sulfur crude oil and its weighted average port of entry cost for imported low sulfur crude oil in the month in which the particular allocated crude oil sale is made and the

two months preceding that month, excluding any costs associated with transporting such crude oil from the ports of entry ("domestic transportation costs"). FEA is adopting the provisions for calculation of gravity and sulfur content differentials substantially as proposed. With respect to transportation expenses recoverable by refiner-sellers in each allocated crude oil sale, the amendments provide that, in the event a refiner-seller sells and delivers imported crude oil to a refiner-buyer, the refiner-buyer may be charged only the actual costs associated with transporting the imported crude oil from the United States port of entry to the refiner-buyer's refinery. With respect to transportation cost adjustments for allocated sales in which domestic crude oil is delivered, the refiner-buyer may be charged only the actual costs associated with transporting the domestic crude oil from the wellhead, if the refiner-seller owns the crude oil, or the point of purchase or exchange, if the refiner-seller purchases or acquires pursuant to an exchange the crude oil so sold, to the refiner-buyer's refinery. When Alaskan crude oil is sold, the refiner-buyer may be charged the cost of transporting the Alaskan crude oil from the port of entry into the lower forty-eight states to the refiner-buyer's refinery.

As indicated above, FEA also is adopting substantially as proposed the pricing provision applicable to refiner-sellers that receive deliveries of only imported low sulfur (or only imported high sulfur) crude oil and are required to sell high sulfur (or low sulfur) crude oil under the program. The amendment permits such refiner-sellers to utilize their weighted average per barrel port of entry cost for the particular category of imported crude oil and to apply the gravity and sulfur adjustments adopted today.

B. RE-ENTRY INTO THE BUY/SELL PROGRAM

As discussed above, the amendments adopted today provide that any small refiner that is excluded from the revised buy/sell program because it did not exercise its purchase opportunities in the past year may apply for an allocation if it has experienced in the preceding six-month period or will experience in the six-month period following the application a twenty-five percent reduction in its domestic crude oil supplies for one or more of its refineries due to factors over which the small refiner has no control. In the event that FEA determines that the refinery in question does not have access to imported crude oil under 10 CFR 211.65(a)(3) and thus is eligible for an allocation, FEA may assign the refinery a maximum allocation equal to the amount of such reduction in crude oil supplies.

C. TECHNICAL AMENDMENTS

In addition to the substantive amendments discussed above, FEA is also adopting three technical amendments to the revised buy/sell program regulations adopted on August 19, 1977, and effective October 1, 1977. The first amendment substitutes the defined term "refining capacity" for the term refinery capacity in § 211.65(a)(1), since the definition of "refinery capacity" was deleted by the August 19 amendments. The second technical amendment revises 10 CFR 211.65(a)(4) to make clear that small refiners that are eligible to apply for an allocation under the program but which chose not to apply for an allocation for the period commencing October 1, 1977, may apply for an allocation by the specified filing deadline for subsequent allocation periods. The third amendment adds a new subparagraph (2) to paragraph (g) of 10 CFR 211.65 to make clear that, following the issuance of a buy/sell notice, FEA may make adjustments to allocations and increase sales obligations in accordance with the regulations without recalculating all refiner-sellers' sales obligations and issuing a supplemental buy/sell notice.

IV.-REQUEST FOR FURTHER COMMENTS

10 CFR 211.65(b)(4) establishes a ceiling on the purchase opportunities of refiner-buyers that own first priority refineries under the Canadian Allocation Program set forth in 10 CFR Part 214. As indicated in the buy/sell notice for the allocation period commencing October 1, 1977, (42 FR 41866, September 22, 1977) only one first priority refinery, the Laurel, Mont., refinery of Farmers Union Central Exchange (CENEX), is presently affected by this ceiling. However, in light of the substantial reduction in the export levels of Canadian crude oil and the petroleum product shortages projected for Montana beginning in early 1978, FEA is requesting comments on the following options for the purpose of determining whether to initiate a rulemaking proceeding on this issue: (1) eliminate the ceiling and the provisions of 10 CFR 211.65(f)(2)(ii) that limit the sales obligations of refiner-sellers that own first priority refineries; (2) eliminate the ceiling but retain the limitation on sales obligations of refiner-sellers in 10 CFR 211.65(f)(2)(ii); (3) retain the ceiling but permit any refiner-buyer affected by the ceiling to purchase its full allocation of crude oil through negotiated sales, provided that FEA would not direct a refiner-seller to sell crude oil in excess of the ceiling level; or (4) retain the ceiling but permit purchases of allocated crude oil in excess of the ceiling only if the supply-to-capacity ratio of the refiner-buyer does not exceed that of the seller from which the crude oil was purchased.

Written comments will be accepted and considered if received by the date specified in the "Dates" section of this notice. Comments should be submitted to Executive Communications, Room 3317, Federal Energy Administration, Box NO, the Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on documents submitted with the designation "Crude Oil Buy/Sell Program." Fifteen copies should be submitted.

As indicated in the August 19 notice, FEA is adopting these final amendments effective October 1, 1977, to provide immediate guidance and information with respect to the allocation of crude oil for the allocation period commencing October 1, 1977.

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

In consideration of the foregoing, Parts 211 and 212 of Chapter II, Title 10, Code of Federal Regulations, are amended as set forth below, effective October 1, 1977.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel.

1. Section 211.65 is amended by revising subparagraphs (1) and (4) of paragraph (a), by adding a new subparagraph (5) to paragraph (a), and by designating existing paragraph (g) as subparagraph (1) thereof and by adding a new subparagraph (2) to paragraph (g) to read as follows:

§ 211.65 Method of allocation.

(a) *Eligibility for allocation.* (1) Any small refiner may apply to FEA for an allocation for one or more of its refineries; *Provided*, That the small refiner (i) purchased crude oil under the provisions of this section during the period September 1, 1976, through August 31, 1977, (ii) was listed on the buy/sell notices during the period September 1, 1976, through August 31, 1977, with an allocation of zero (0) barrels in all four allocation quarters in that period, or (iii) as to small refiners not shown on such buy/sell notices and other small refiners with newly constructed refining capacity or reactivated refineries or refining capacity, had completed the process design basis for the refining capacity concerned and had expended or were irrevocably committed to expend prior to August 24, 1977, an amount equal to at least twenty (20%) percent of the total cost of such refining capacity, in which latter case the FEA may assign such refining capacity a maximum allocation of twenty-five (25%) percent of the capacity. Such allocation will be in effect for a period not to exceed two allocation periods, following which the allocation for such refining capacity shall be calculated in accordance with the provisions of paragraph (b) of this section.

* * * * *

(4) Small refiners eligible under subparagraph (1) of this paragraph to apply for allocations for one or more of their refineries shall submit applications by September 1, 1977, for a determination of the refineries' eligibility for an allocation for the allocation period commencing October 1, 1977. For subsequent allocation periods, applications must be submitted no less than 60 days or more than 90 days prior to the beginning of

the allocation period. Applications shall be addressed to the Program Manager, Crude Oil Allocation, FEA, in accordance with the procedures established in Subpart G of Part 205 of this chapter. Each application shall contain the information (including documentation where appropriate) necessary for the FEA to evaluate the application under the criteria specified in subparagraph (3) of this paragraph and the data on crude oil runs to stills necessary to calculate an allocation under paragraph (b) of this section, including the information specified in § 211.66(d) for the months of June and July 1977. Documentation should include copies of correspondence with pipeline companies, as well as any published requirements of pipeline companies as to required minimum shipments. Separate applications must be submitted for each refinery. The FEA may request additional information if necessary for evaluation of the application and shall notify each applicant of its determination as to eligibility of the refinery or refineries concerned by September 30, 1977, for the allocation period commencing October 1, 1977, and, for subsequent allocation periods, 15 days prior to the beginning of the period.

(5) Notwithstanding the provisions of subparagraph (1) of this paragraph (a), any small refiner that did not purchase crude oil under the provisions of this section during the period September 1, 1976, through August 31, 1977 may apply to FEA at any time for an allocation for one or more of its refineries; *Provided*, That such refiner shall be required to demonstrate that it has incurred in the preceding six-month period or will incur in the six-month period following the application a reduction, due to circumstances over which such refiner had no control, in its supply of domestic crude oil for the refinery for which an allocation is sought equal to at least twenty-five (25%) percent of such crude oil supply. In the event FEA determines that such refinery is eligible for an allocation under subparagraphs (2) and (3) of this paragraph (a), the FEA may assign the refinery a maximum allocation equal to the amount of the reduction in its domestic crude oil supplies. In granting a request of such a refiner for an allocation, the FEA may direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner pursuant to paragraph (j) of this section.

* * * * *

(g) *Buy/sell notice.* * * *

(2) Following the issuance of a buy/sell notice pursuant to subparagraph (1) of this paragraph (g), the FEA may: (i) grant an allocation to a refiner-buyer pursuant to subparagraph (5) of paragraph (a) of this section; (ii) grant an emergency supplemental allocation pursuant to paragraph (c) of this section; (iii) adjust any allocation shown on such buy/sell notice; or (iv) issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period pursuant to subparagraph (3) of paragraph (j) of this section, without issuing a supplemental buy/sell notice listing such allocations, adjustments to allocations or increased sales obligations.

2. Section 212.94 is revised to read as follows:

* * * * *

§ 212.94 Allocated crude pricing.

(a) *Scope.*—(1) *General.* This section applies to each sale of crude oil made pursuant to the provisions of § 211.65 of Part 211 of this chapter, effective for sales obligations for the allocation periods commencing on or after October 1, 1977.

(2) *Definitions.* For the purposes of this section—

"High sulfur crude oil" means crude oil the sulfur content of which is equal to or greater than 0.6% (six-tenths of one percent) by weight.

"Low sulfur crude oil" means crude oil the sulfur content of which is less than 0.6% (six-tenths of one percent) by weight.

"Lower forty-eight states" means the forty-eight contiguous states of the United States.

(b) *Rule.* (1) Notwithstanding the general rules described in this subpart, the price at which low sulfur and high sulfur crude oil, respectively, shall be sold when required pursuant to § 211.65 of Part 211 of this chapter shall not exceed the refiner-seller's weighted average per barrel landed cost (as defined in § 212.82, but utilizing the volumes of imported crude oil at the time of importation thereof into the United States), less the average cost of domestic transportation to the refiner-seller's refinery(s), of all low sulfur or high sulfur imported crude oil, respectively (other than crude oil imported from Canada), delivered to the refiner-seller in the month in which the sale is made and the two months preceding that month, plus a handling fee of five cents per barrel, and any transportation, gravity and sulfur content adjustments as specified in subparagraphs (2) through (4), respectively, of this paragraph (b). Each refiner-seller making such a sale shall maintain records, which shall be made available to the FEA upon request, listing the volumes and costs of all imported low sulfur and high sulfur crude oil delivered to it.

(2)(i) A price adjustment shall be made for transportation expenses for crude oil offered for sale under § 211.65 of Part 211 of this chapter by adding to the weighted average costs as calculated under paragraph (b)(1) of this section: (A) where domestic crude oil (other than Alaskan crude oil) is sold, the actual cost of transporting the domestic crude oil from the (1) the wellhead, in the event the refiner-seller owns the crude oil so sold or (2) the point of purchase or exchange in the event the refiner-seller acquires the crude oil so sold pursuant to a purchase or exchange, to the refiner-buyer's refinery; (B) where Alaskan crude oil is sold, the actual cost of transporting the Alaskan crude oil from the port of entry into the lower forty-eight states to the refiner-buyer's refinery; (C) where imported crude oil is sold, the actual cost of transporting the crude oil from the U.S. port of entry to the refiner-buyer's refinery.

(ii) For purposes of calculating transportation adjustments under this subparagraph (2)(i) a refiner-seller shall include pipeline tariffs, water transportation and terminalling costs, exchange differentials, insurance and taxes paid to deliver the domestic or imported crude oil to the refiner-buyer's refinery.

(iii) Each refiner-seller making a sale of domestic crude oil under § 211.65 of Part 211 of this chapter shall maintain records, which shall be made available to the FEA upon request, listing the volumes of domestic crude oil sold, the acquisition cost of such crude oil, and the transportation expenses incurred in transporting the domestic crude oil to the refiner-buyer's refinery.

(3) A price adjustment shall be made for gravity differential of crude oil offered for sale under § 211.65 of Part 211 of this chapter by adding to or subtracting from the weighted average costs as calculated under paragraph (b)(1) of this section three cents per barrel for each °API that the crude oil being offered for sale under § 211.65 of Part 211 of this chapter is above or below, respectively, the weighted average °API of imports of crude oil of the same sulfur content category (other than crude oil imported from Canada) for the applicable three month period specified in paragraph (b)(1) of this section for the refiner-seller.

(4) A further price adjustment shall be made for sulfur content differential of crude oil offered for sale under § 211.65 of Part 211 of this chapter by adding to or subtracting from the weighted average costs as calculated under paragraph (b)(1) of this section three cents per barrel per one tenth percent that the sulfur content by weight of the crude oil being offered for sale under § 211.65 of Part 211 of this chapter is either below or above, respectively, the percentage representing the weighted average sulfur content of imports of crude oil of the same sulfur content category (other than crude oil imported from Canada) for the applicable three months period specified in paragraph (b)(1) of this section for the refiner-seller.

(5) To calculate a refiner-seller's maximum permitted sale price under subparagraph (1) of this paragraph where the refiner-seller receives deliveries of only imported low sulfur crude oil (or only imported high sulfur crude oil) and sells high sulfur crude oil (or low sulfur crude oil) pursuant to § 211.65 of Part 211 of this chapter, such refiner-seller shall utilize its weighted average per barrel cost of imported crude oil as determined under subparagraph (1) of this paragraph for the particular category of crude oil so imported, and apply the gravity and sulfur adjustments specified in subparagraphs (3) and (4), respectively, of this paragraph (b).

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[3128-01]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Amendments to Crude Oil Supplier/Purchaser Rule

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: Effective December 1, 1977, this final rule amends the Federal Energy Administration's (FEA) Mandatory Petroleum Allocation Regulations (10 CFR 211.63), to provide greater flexibility as to the termination of crude oil supplier/purchaser relationships between crude oil producers and crude oil resellers. In general, the amendments permit a crude oil supplier/purchaser relationship between a producer and a reseller to be terminated by the producer, and a new reseller substituted, with respect to crude oil being delivered to refiners other than small refiners, if the new reseller offers to continue to supply these refiners with such crude oil. The amendments also permit a substitution of resellers with respect to crude oil being delivered to small refiners, if the new reseller offers to continue to supply the small refiner with such crude oil and the small refiner consents to the substitution.

EFFECTIVE DATE: The amendments adopted hereby are effective December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams, (FEA Reading Room), 12th and Pennsylvania Ave., NW., Room 2107, Washington, D.C. 20461, (202-566-9161).

Ed Vilade, (Media Relations), 12th and Pennsylvania Ave., NW., Room 3104, Washington, D.C. 20461, (202-566-9833).

Gerald Emmer, (Office of Regulatory Programs), 2000 M Street, NW., Washington, D.C. 20461, (202-254-7200).

Cliff G. Russell, (Office of General Counsel), 12th and Pennsylvania Ave. NW., Room 5134, Washington, D.C. 20461 (202-566-9565).

SUPPLEMENTARY INFORMATION:

I. Background.
II. Discussion of amendments:
A. Amendments adopted;
B. Effective date;
C. General purpose of amendments.
III. Additional matters.

I. Background

On July 28, 1977, the FEA issued a Notice of Proposed Rulemaking and Public Hearing concerning proposed amendments to the crude oil supplier/purchaser rule (42 FR 39395, August 4, 1977). In that Notice, the FEA set forth the history and purposes of the crude oil supplier/purchaser rule, and of the Agency's prior attempts to ameliorate the restrictive effects of this rule upon competition in the crude oil reseller industry.

Basically, the purpose of the July Notice was to ascertain whether the proposed amendments would further effectuate the goal of facilitating competition in the crude oil reselling industry while providing adequate crude oil supply protection to refiners, and in particular small refiners.

Public hearings on the proposal were held in Washington, D.C., on September 1, 1977, at which 12 persons presented oral statements. In addition, the FEA received a total of 61 written comment, including 18 late comments, in response to its proposal.

II. Discussion of Amendments

A. Amendments Adopted

The amendments adopted hereby are substantially as proposed in the July 1977 Notice of Proposed Rulemaking. However, certain changes have been made, to assure that the procedural rights and obligations of all parties affected by a proposed termination are clear.

In general, the amendments adopted permit a crude oil supplier/purchaser relationship between a producer and reseller to be terminated with respect to crude oil being delivered to refiners other than small refiners, if the new reseller offers to continue to supply these refiners with such crude oil. Termination of such a supplier/purchaser relationship with respect to crude oil being delivered to small refiners is also permitted, subject to the same conditions applicable to other terminations and provided also that the small refiner consents. Prices charged in sales by the new reseller are subject to the Mandatory Petroleum Price Regulations.

The amendments set forth the procedural requirements for accomplishing a substitution of resellers. Thus, a producer that proposes to terminate a supplier/purchaser relationship with a given reseller and to substitute a new reseller shall provide the existing reseller with a written termination notice, not later than 30 days prior to the date of termination. Such notice shall set forth the termination date, the source, quality and estimated volume of crude oil involved (including the portions of that volume that are lower tier, upper tier, and uncontrolled crude oil), and the name and address of the proposed new reseller.

The existing reseller must then (within 10 days) provide copies of the termination notice to all purchasers whose deliveries of crude oil would be affected by the termination notice, together with a statement of the volume, quality and pricing category (i.e., whether upper- or lower-tier or uncontrolled) of crude oil involved for that purchaser. At the same time, the existing reseller must provide copies of the notices sent to its purchasers to the proposed new reseller, so that the new reseller can make timely offers to supply such purchasers as a substituted reseller. Proposed § 211.63(d)(1)(iv)(B)(2) has been revised to make clear that the existing reseller must provide these copies to the proposed new reseller simultaneously with the provision of the relevant notices to the existing reseller's purchasers.

If the existing reseller has more than one purchaser whose volumes are potentially affected by the termination notice, an order of priority of providing notice to such purchasers is established. First, the reseller must provide notice to that refiner other than a small refiner that purchases the largest amount of such crude oil, to the extent of the entire volume of such crude oil purchased by that refiner or 1,000 barrels per day, whichever is less. If the proposed termination involves an amount of crude oil that is greater than the amount specified above, then the reseller must notify that refiner other than a small refiner that is the purchaser of the next largest amount of such crude oil, again up that refiner's volume of purchases of such crude oil or 1,000 barrels per day, whichever is less. This process continues, until all refiners that are not small refiners have been notified. Thus, the termination must be spread among affected refiners other than small refiners in amounts of not more than 1,000 barrels per day.

If notices to refiners other than small refiners in the amounts established in the above manner are not sufficient to account for the total volume of crude oil subject to the termination notice, then the existing reseller must notify any reseller receiving crude oil subject to the termination notice (that is, any immediate purchaser from the existing reseller that is also a reseller). Such a reseller is subject, in turn, to the same notice requirements with respect to its purchasers as apply to the prime reseller.

Finally, if the crude oil subject to the termination notice is in excess of the amounts that can be accounted for in the above fashion, the existing reseller must notify small refiners, in the same order as provided for refiners other than small refiners.

The new reseller—who will have received copies of the notices sent to the existing reseller's purchasers—must then make a written offer to continue to supply the same volumes of such crude oil to such purchasers, at prices consistent with the crude oil reseller pricing rules of Part 212.

The provisions establishing the order of priority of notification of the existing reseller's purchasers have been altered to some degree from the proposed provisions, in order to make clear the notification obligations of the existing reseller. In brief, the existing reseller is to notify all refiners other than small refiners, in the order of the magnitude of their purchases but only up to 1,000 barrels per day for any such refiner; and if the termination notice involves greater volumes than can be so accounted for, then notification must be given to any purchasers from the existing reseller that are themselves resellers; and if any volumes subject to the termination notice still remain unaccounted for, then notice must be given to small refiners in the same order of priority as for refiners that are not small refiners.

The purposes of these changes are two-fold. First, they should make clear that an existing reseller cannot fragment

its notices in such a way as practically to frustrate the substance of these amendments, by spreading small volumes among many diverse purchasers. Thus, they establish that notification to any refiner must be for a minimum volume, equal to 1,000 barrels per day or the amount of that refiner's purchases of crude oil subject to the termination notice, whichever is less; and they require that the reseller first notify the purchasers of the largest amounts of crude oil subject to the termination notice. Second, they should also make clear, in the regulatory provisions, the policy set forth in the July Notice of Proposed Rulemaking on this subject, viz., that no one refiner shall be subject to termination with respect to more than 1,000 barrels per day under any particular termination notice issued to the existing reseller.

The FEA has also determined that it is desirable to revise the original proposal to provide greater specificity as to the timing of the acceptance or rejection of offers from the new reseller, so that refiners are given adequate opportunity to determine whether to accept the offer and so that the supply obligations of the existing and new reseller are clearly determined prior to any substitution. Therefore, the amendments provide that each refiner shall have 10 days from the receipt of the offer to accept or reject such offer. For purposes of these provisions, if notice of acceptance is not provided within 10 days, the offer shall be deemed to have been rejected. Upon the acceptance or rejection of all such offers, the new reseller may be substituted for the existing reseller, except with regard to volumes supplied to small refiners that have rejected such offers. If a small refiner rejects such an offer, the producer must continue the supplier/purchaser relationship with the existing reseller to the extent of the volumes involved for such small refiner. Of course, where an offer is accepted by any offeree, whether the offeree is a small refiner or a refiner other than a small refiner, a supplier/purchaser relationship between the new reseller and the accepting offeree will thereby be established.

As proposed in the July Notice, the amendments provide that the new substitution rule is not to be construed as authorizing the breach of an existing contract. However, this provision has been reworded slightly to make clear that it applies only to contracts that the producer may have with the existing reseller. It does not apply to contracts which another reseller that purchases from the existing "prime" reseller may have with its own purchasers. Thus, these substitution provisions might provide a "second" reseller with a defense to an action for breach of contract, to the extent such breach is necessitated in order to effectuate these provisions, but they would not authorize breach of a contract between the producer and the existing "prime" reseller.

Finally, copies of all notices, offers, acceptances and rejections must be sent to the FEA (Department of Energy) National Office by the new reseller. (A more specific address will be provided, when available, prior to the effective date of these amendments.)

B. EFFECTIVE DATE

As indicated above, the FEA has determined to adopt the proposed amendments substantially in the form proposed, with some changes designed to assure that the termination notice provisions operate in such a way that the relative rights and obligations between the existing and new resellers and any of the existing resellers' purchasers are clear.

However, the comments received by the FEA in this proceeding have led it to the conclusion that the effective date of these amendments should be postponed until December 1, 1977, in order to permit the FEA to amend the pricing rules applicable to crude oil resellers to address a number of specific issues which have arisen in that industry. A number of commenters stated that competition in the reseller industry is not practicable under current FEA price regulations applicable to crude oil resellers. Some also opined that the cost of crude oil to refiners could increase significantly as a result of the proposed amendments, under the current crude oil reseller pricing rules. With a view to these concerns, expressed by both refiners and resellers, the FEA has concluded that the reseller substitution amendments should not be made effective prior to December 1, 1977, by which time it is anticipated that amendments to the pricing rules under which such resellers are required to operate will have been adopted. FEA has therefore provided for an effective date of December 1, 1977, in order to permit appropriate amendments to the pricing rules applicable to crude oil resellers to address a number of specific pricing problems which have arisen in that industry.

On August 9, 1977, the FEA issued a Notice of Proposed Rulemaking and Public Hearing concerning proposed amendments to the Mandatory Petroleum Price Regulations pertaining to the resale of crude oil (42 FR 41256, August 15, 1977). In that Notice, the FEA outlined the issues which had arisen under the price regulations applicable to crude oil resellers, and it set forth proposed amendments and possible alternatives to address these matters. Public hearings on this proposed rulemaking were held in Dallas, Tex., on September 15, 1977, and Washington, D.C., on September 20, 1977. The FEA is presently considering the comments received in response to its proposals, and it anticipates that amendments to the crude oil reseller price rules will be issued by December 1, 1977. Therefore, the FEA believes that any uncertainties generated by the pendency of that rulemaking proceeding, which might otherwise affect the decisions of producers, resellers and refiners under the amendments adopted today, should be resolved by December 1.

At the same time, the FEA has concluded that it should adopt today the basic procedural mechanism by which termination of the supplier/purchaser relationship between crude oil producers and crude oil resellers can be accomplished. In this way, producers, resellers and refiners will be apprised of their relative rights and obligations concerning substitutions in advance of the effective date of the rule, which is fixed as December 1.

C. GENERAL PURPOSE OF AMENDMENTS

The FEA believes that the reseller substitution method set forth in the amendments adopted today is reasonably well adapted to accomplishing the goal of permitting greater flexibility on the part of producers to select the resellers with which they do business, while at the same time avoiding undue disruption in the crude oil supply system and protecting the crude oil supply of refiners. As stated in the July Notice, the principal purpose of the basic crude oil supplier/purchaser rule is to assure continued supply of crude oil to refiners, and particularly small refiners. The amendments adopted today reflect this basis for the rule, by permitting small refiners to refuse the substitution of resellers as to them. Moreover, by providing all refiners the right of first refusal as to their volumes of crude oil, the amendments provide a means for all refiners to assure continuation of their supplies of domestic crude oil.

The FEA recognizes the concerns of those commenters that were opposed to the proposed amendments. A few resellers feared that they might be forced out of the market by large integrated companies. However, a majority of resellers commenting on the proposal, either individually or through associations, generally favored the proposal. Moreover, the FEA will monitor developments in the crude oil reselling industry as a result of these amendments, and it will consider adopting appropriate additional measures in the event that there appears to be any significant adverse effect upon competition in the crude oil reselling industry, especially with regard to independent crude oil marketers.

As previously indicated, some resellers and refiners expressed concern over the possibility of significant increased costs and unfair competition as a result of this proposal. Some commenters stated that the proposal would be likely to result in the offer of illegal inducements to producers by potential new resellers, in order to gain access to the crude oil sold by such producers. However, the FEA believes that these concerns, and the possible uncertainties prevailing as a result of the pendency of a rulemaking proceeding concerning crude oil reseller price regulations, should be substantially alleviated upon the issuance of amended crude oil reseller price regulations. For this reason, as stated above, the effective date of the amendments adopted hereby is December 1, 1977, by which time the new pricing regulations should have been issued.

Moreover, the FEA will monitor the activities of resellers, producers and refiners under these amendments, and is prepared to take appropriate action in the event of any abuses by any segment of the crude oil distribution chain. The FEA believes that it has adequate authority, for example, to prevent or redress the acceptance of consideration by producers which would have the effect of circumventing first sale ceiling prices of crude oil under Subpart D of Part 212 of the price regulations.

Finally, the FEA wishes to make very clear its position that the amendments adopted today are intended to operate as a mechanism for the substitution of resellers, and not for the multiplication (or "layering") of resellers in the distribution chain. FEA will closely monitor, and vigorously audit, any situation in which it may appear that these provisions are being utilized in such a manner as to inflate prices artificially.

III. Additional Matters

In the July Notice, the FEA requested comments concerning whether it should permit the substitution of refiners for resellers that have an existing supplier/purchaser relationship with a crude oil producer, and conversely whether it should permit the substitution of resellers for refiners that have a supplier/purchaser relationship with a crude oil producer. Comments were also requested concerning the criteria which should apply to any such substitutions.

The FEA received several comments in response to its request, some of which favored the idea of permitting such substitutions generally, some of which favored the idea of permitting only refiner displacement of resellers, and some of which opposed such substitutions altogther. However, the comments received were not sufficiently specific as to the criteria and safeguards to be applied in permitting such substitutions, and the FEA has determined that it is necessary to explore the implications of such substitutions further.

For example, several commenters suggested that the substitution rule should be applicable to any supplier/purchaser relationship between a crude oil producer and any "firm." This language would have permitted a substitution not only among resellers, but also between resellers and refiners. Thus, it would have permitted a reseller to be inserted between a producer and a refiner that had a direct supplier/purchaser relationship, as well as permitting a refiner to "eliminate" a reseller. However, several refiners expressed the concern that allowing a reseller to be inserted (against the refiner's wishes) would be likely to result in higher costs, by introducing a middleman's margin where none previously existed. Of course, whether increased costs would in fact result would be partly dependent upon the relative efficiencies of the refiner and the reseller in the performance of the same functions; but the possibility of increased costs occurring simply as a result of the introduction of a third party must be recognized and addressed.

FEA continues to be of the view that it would be generally desirable to further open up the crude oil distribution chain to competition, and thus to provide further flexibility in supplier/purchaser relationships in this chain, to the extent that this can be done consistent with the need to protect crude oil supplies to refiners and in a manner that does not result in unjustified increases in crude oil prices. Therefore, the FEA will attempt to formulate specific criteria and necessary safeguards under which such substitutions might be permitted. (As an example, the FEA may be able to devise some means to avoid specific adverse consequences such as increased costs resulting from the introduction of resellers into a producer-refiner relationship, without prohibiting such substitutions altogether.)

When the preliminary formulation of such criteria is accomplished, the FEA anticipates that it will issue a notice of proposed rulemaking requesting comments upon whether it would be feasible to permit certain additional substitutions under certain specified conditions.

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

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective December 1, 1977.

Issued in Washington, D.C., September 30, 1977.

Eric J. Fygi,
Acting General Counsel.

Section 211.63 is amended by revising paragraph (d)(1)(iv) to read as follows:

§ 211.63 Domestic crude oil supplier/purchaser relationships.

* * * * *

(d) *Termination of Supplier/purchaser relationships* * * *

(1) * * *

(iv) By a producer (as defined in Part 212 of this chapter) as to a reseller purchasing crude oil from that producer: *Provided,* That:

(A) At least thirty days in advance of any termination under this subdivision (iv), the producer shall give to the reseller purchasing from it whose supplier/purchaser relationship is proposed to be terminated a written termination notice stating the date of termination, the source, quality, and estimated volume of crude oil involved (including the portions of that volume that are priced as lower tier crude oil, upper tier crude oil and uncontrolled crude oil under Part 212 of this chapter), and the name and address of the new reseller to which such crude oil is proposed to be sold.

(B) Any reseller that has received a termination notice from a producer as provided in subclause (A) of this subdivision, which proposed termination would effect a reduction in deliveries of crude oil by that reseller, either directly or through exchanges, to any refiner or other reseller shall:

(*1*) Within 10 days of receipt of the termination notice, provide a copy of the termination notice, together with a statement as to the volume, quality, and price level of crude oil involved for the particular purchaser, to the purchasers of the crude oil subject to such termination notice. To the extent that such reseller has any option in deciding which of its customers is to be regarded as the purchaser of the crude oil subject to such termination notice, the following priorities shall apply:

(*i*) To that refiner other than a small refiner purchasing the greatest volume of crude oil subject to the termination notice, but only to the extent of the lesser of such purchaser's purchases or 1,000 barrells per day;

(*ii*) If the proposed termination would affect crude oil deliveries to crude oil refiners by more than the amount determined under subclause (B)(*1*)(*i*), of this subdivision, to additional refiners other than small refiners in the order determined under the criteria set forth in subclause (B)(*1*)(*i*), of this subdivision;

(*iii*) If the proposed termination would affect crude oil deliveries beyond that which could be accounted for as provided above in sales to refiners other than small refiners, to any reseller receiving crude oil subject to the termination notice. (Any reseller receiving such notice shall, in turn, comply with the requirements of this § 211.63(d)(1)(iv)(B); and

(*iv*) If only small refiners remain as purchasers of the crude oil subject to the termination notice, to such small refiners in the same order as provided in subclauses (B)(*1*)(*i*) and (B)(*1*)(*ii*), of this subdivision, for refiners other than refiners.

(*2*) At the same time that the notices required under subclause (B)(*1*), of this subdivision, are provided, provide copies of such notices to the proposed new purchaser, including the name and address of each person to which a copy of the termination notice was provided and the volume, quality, and price level of the crude oil affected for each such person.

(C) The proposed new purchaser of the crude oil shall make written offer to continue to supply the volume of that crude oil to each refiner provided with a copy of the termination notice as that refiner would otherwise lose as a result of the proposed termination. Such offer or offers shall be at prices consistent with the provisions of Part 212 of this chapter; *Provided,* That, no firm that resells that crude oil may charge a price in any sale of that crude oil in excess of the actual price paid for that crude oil, where such firm does not provide a service or other function traditionally and historically associated with the resale of crude oil. Each refiner receiving an offer under this subclause (C) of this subdivision have 10 days within which to accept or reject such offer. For purposes of these

provisions, if notice of acceptance is not provided within 10 days, the offer shall be deemed to have been rejected. Acceptance of any such offer shall not constitute a waiver of any rights which the refiner may have under Part 212 of this chapter.

(D) Upon the acceptance or rejection of the offer or offers under subclause (C) of this subdivision by the refiner or refiners concerned, the proposed new purchaser may be substituted by the producer for the purchaser whose supplier/purchaser relationship has been proposed to be terminated; *Provided*, That, if a small refiner that was notified as to a proposed termination does not accept the offer of the proposed new purchaser, the proposed termination shall not be effective as to the volume of the crude oil being delivered to that small refiner.

(E) Nothing in this paragraph (d) shall be construed as authorizing a producer to terminate a supplier/purchaser relationship in breach of a contract or agreement it may have with another firm.

(F) Copies of all notices, offers, acceptances, and rejections required under this subdivision (iv) shall be sent by the new reseller to the National Office of the Department of Energy (Economic Regulatory Administration, Office of Fossil Fuels).

[FR Doc.77-29290 Filed 10-3-77;8:45 am]

[3128-01]

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Procedural Regulations for the Submission and Disposition of Petitions for Prescription of a Rule to Supersede a State Appliance Energy Use or Efficiency Regulation

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for the submission and disposition of petitions requesting the Administrator to prescribe a rule to supersede a State appliance energy use or efficiency regulation. These petitions may be submitted under the Energy Policy and Conservation Act.

EFFECTIVE DATE: November 10, 1977.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, (Office of Conservation), Room 307, Old Post Office Bldg., 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, (202-566-4635).

Elliott D. Light, (Office of the General Counsel), Room 7150, Federal Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, (202-566-9380).

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Energy Administration (FEA) hereby amends Part 430, Chapter II, Code of Federal Regulations, in order to prescribe procedural regulations governing the submission and disposition of petitions requesting that the Administrator issue a rule to supersede a State energy efficiency or use regulation. Such petitions are authorized by section 327 (b)(1) of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163). The regulations prescribed today will appear in subpart D of Part 430. A number of other regulations have been prescribed under Part 430, including a number of definitions contained in Subpart A which are applicable to Subpart D.

Proposed regulations governing petitions submitted under section 327 were issued June 8, 1977 (42 FR 30206, June 13, 1977). A hearing was held on July 15, 1977. Additional public comments were requested by notice issued August 3, 1977 (42 FR 40217, August 9, 1977).

B. Discussion of Comments

Comments were received from a State, a private citizen, industry associations, and a retailer. The major issues raised by the comments to the proposed procedures are discussed below.

1. Detailed information requirements

(a) Burden on interest commerce. The majority of comments were directed at section 430.43(d) of the proposed regulations. That section enumerated a number of factors which, at minimum, were considered to be necessary to any determination by the Administrator that the State regulations against which a petition was submitted unduly burden interstate commerce. Many of these factors were stated to be too stringent, possibly unknown, and not within the knowledge of many of the small retailers, manufacturers, and other parties subject to the State regulations. Trade associations argued that while individual manufacturers could not provide the required information because of a lack of resources and expertise, the associations could not provide such information because of antitrust and trade secret problems. In essence, the comments suggested that the "minimum" requirements would foreclose participation by many persons affected by the State regulations. While the comments suggested ways in which the language of section 430.43(d) might be made advisory rather than "a minimum" requirement there were no suggestions as to what constituted the facts necessary to demostrate an "undue burden on interstate commerce.

In evaluating the comments to section 430.43(d) of the proposed regulations, it has become clear that no minimum evidentiary requirement can adequately define the factual proof necessary to demonstrate whether a particular State regulation "unduly burdens" interstate commerce. Further, the legal standard for preempting a State regulation is not affected by a minimum filing requirement. The confusion of these two concepts appears to have affected both the proposal and the comments to the proposal. Meeting the "filing requirements" in no way assures demonstration of the statutory requirements. On the other hand, it is possible that the burden question could turn on a single fact. Thus, a petition which failed to meet the minimum filing requirements of the proposed regulations might actually meet the requirements of the Act.

The final regulations have been changed to reflect these concerns by deleting the minimum evidentiary requirements and replacing them with a list of factual items considered particularly relevant to the burden question. The new information items have been included in a new paragraph (e) to section 430.43 entitled "Information Guidelines." The change from "minimum requirements" to "guidelines" is intended to provide a broader opportunity for consideration of petitions of those subject to State appliance efficiency regulations. The change to more general statements of the subject matter considered by FEA to be relevant to the burden question is in response to comments concerning the extreme detail of the proposal.

While the final regulations provide only "guidelines" as to the evidentiary requirements of petitions, the statement that FEA considers these items as "particularly relevant" should be underscored. While FEA solicits any information a petitioner believes would prove that a State regulation unduly burdens interstate commerce, the subject areas enumerated in section 430.43(e) of the final regulations should be given particular attention by a petitioner. Where petitioner believes that a particular subject area is not relevant to the burden question and does not address that subject in its petition, a statement as to why the subject was not discussed would be appropriate.

b. State interest. Comments were also critical of section 430.43(d)(2)(x) of the proposed regulation in the handling of the requirements for demonstrating the lack of a State interest sufficient to justify the State regulation. A number of comments suggested that the proposal was too general. It was also argued that petitioner should not be required to argue the State's case for its regulations. Further, it was noted that much of the information necessary to evaluate the State interest was possessed by the State and could be best presented by the State.

The Act clearly places the burden on the petitioner to demonstrate that the State's interest in the regulations does not justify the burden imposed by the regulations on interstate commerce. A petition must, therefore, provide information regarding the State interest and a discussion comparing the State interest to the burden on commerce.

Section 430.43(e) of the final regulations include guidelines as to the nature of the information required to make this showing. Again, these are not minimum filing requirements. The State interest question is less susceptible to quantification than the burden question. The final regulations reflect this conceptual difference by delineating the matters which can be quantified (e.g., the energy which would be saved by the State regulation, the ability of the industry to finance the

implementation of the State requirements) and leaving other areas (e.g., the State interest in the regulations as they reflect environmental concerns) more general.

In adopting this approach, FEA has rejected a State comment which included detailed economic factors which a petitioner should present in demonstrating the lack of a State interest. (A number of statements very critical of these factors were received from commenters who reviewed the State proposal). The fact that these detailed factors were not incorporated in the final regulations is not to suggest that FEA considers them irrelevant. However, as in the case of the evidentiary requirements regarding the burden issue, requiring detailed information concerning the State interest question to be submitted in all cases could foreclose participation in the petition process.

The guideline approach requires the prospective petitioner to judge, in the first instance, the evidence needed to prevail on the merits. Thus, while the changes in the final regulations with respect to the undue burden and State interest questions increase the likelihood that a petition will be accepted for filing, the changes do not affect the legal standards established by the Act. A petitioner must still "demonstrate to the satisfaction of the Administrator" the factors delineated by the Act or the petition will be denied.

A commenter took issue with FEA's interpretation of section 327(b)(1) of the Act insofar as that provision is affected by the Supremacy Clause of the Constitution. It was suggested that the evidentiary requirements relating to the State interest be modified to reflect the position that only a State interest which is unique could support the regulation of energy-related characteristics of appliances. Otherwise, such regulation would be an undue burden on interstate commerce.

FEA has taken the position that section 327 of the Act defines the roles of the States in the regulation of appliance energy efficiency. Section 327(a) clearly speaks to protecting the federal interest against intrusion by State regulation. Section 327(b)(1) addresses the interest of the private sector, not the federal interest. Since section 327(a) reflects the extent of Congressional concern with State action, it follows that State action which does not contravene section 327(a) is permitted unless a person subject to the state regulation can show that the State interest in the regulations is not sufficient to justify the burden the regulations impose on interstate commerce. The State interest is not to be compared with the federal interest in appliance energy efficiency regulations because federal interests are already protected. Section 327 does not support requiring a State which desires to regulate appliance energy efficiency to have an interest different from other States. The question posed by section 327(b)(1) is whether the regulation can be justified on the particular interests of that State. Thus, the Supremacy Clause arguments are out of place with respect to section 327(b)(1).

No changes have been made in the regulation in response to this comment.

2. CONFIDENTIALITY

A number of comments asserted that some of the information necessary to demonstrate the impact of a State regulation on interestate commerce would be proprietary. The proposed regulations quite clearly provided for a public forum for the review of petitions filed under the Act. The impact of the outcome of any such proceedings could substantially affect a large number of persons, States, and industries. Given the extreme importance of a petition proceeding, it seems antithetical to protect from disclosure and comment evidence which would be crucial to an ultimate decision. It should be pointed out that if State regulations were attacked in the courts a plaintiff could not deny the defendant (i.e., the State) an opportunity to rebut the evidence which the plaintiff asserts supports the negotiation of the State law. The final regulations are also consistent with the practice of other administrative agencies which, as here, applications are filed at the applicants discretion.

For these reasons, and in view of changes made in response to other comments, the final regulations do not provide for confidential treatment of information.

3. DENIAL OF A PETITION PRIOR TO ISSUANCE OF A PROPOSED RULE

Under section 430.44(a) of the proposed regulations, a petition accepted for filing would be made available for public comment. Based upon the petition and the comments received, on the petition, a petition would be denied (without a formal hearing) or a proposed rule superseding the State regulation would be issued. A hearing would be held on the proposed rule. One commentator took issue with this procedure because it would allow for the denial of a petition prior to a hearing.

Section 327(b)(1) provides that "the Administrator shall * * * either deny a petition or prescribe a rule under this subsection superseding such State regulation." Section 336 of the Act requires that a rule issued under section 327(b)(1) be proposed and that "interested persons shall be afforded an opportunity to present written and oral data, views, and arguments with respect to any proposed rules * * *" While a right to present oral testimony on any proposed preemptory rule is specifically provided for, a petition can clearly be denied prior to this stage in the petition process. There is, therefore, no requirement that a hearing be held before a petition is denied.

No changes have been made to the final regulations in response to this comment.

The comment served to demonstrate, however, that section 430.44 of the proposed regulations failed to state the standard by which it will be determined whether a petition is denied or a proposed rule preempting the state regulations is issued. This standard is not whether a petition makes out a prima facie case since this judgment could have been made prior to the solicitation of comments on a petition. Further, under section 430.43(b)(1) of the regulations, only petitions which contain sufficient information for the purpose of a substantive decision will be accepted for filing. Since a petition could be denied after a proposed rule is issued, issuance of a proposed rule is also not a conclusive judgment as to the merits of the petition. The decision to issue a proposed preemptory rule should, therefore, be viewed as preliminary determination that the petition is likely to prevail on the merits. Section 430.44(a)(2) has been amended to provide that if the Administrator determines that a petition, in light of all the comments received, is likely to prevail with regard to the undue burden-state interest issues, a proposed rule will be issued. All other petitions will be denied. If a proposed rule is issued, interested persons will be afforded an opportunity to present their views both in writing and by oral testimony on the proposed rule and the decision to issue the proposed rule.

4. PUBLIC PARTICIPATION IN RECONSIDERATION

Section 430.44(a)(3) of the proposed regulations provided for reconsideration of a petition which was denied following the public comment period but before a preemptory rule was issued. The comments reflected some concern that interested persons were not allowed to participate in the decision to reconsider the denial of a petition. The primary basis of this concern was that a petitioner might submit new evidence to justify reconsideration of the petition and that this evidence would not be subject to public scrutiny.

The disposition of this comment clearly depends on the purpose for reconsideration. Upon reflection, FEA has concluded that the fault lies not in the exclusion of the public from participation in reconsideration but in the lack of guidance as to the scope of that review. Section 430.44(b) of the final regulations explicitly limit the function of reconsideration to errors of fact or law which can be demonstrated from review of the record of the petition proceeding. No new evidence will be considered in this process. New evidence will, however, be considered if petitioner chooses to submit a new petition.

5. ENVIRONMENTAL REPORT

Section 430.43(e) of the proposed regulations required a petition to include a report of the environmental impact of either a denial of a petition or the issuance of a peremptory rule. One comment questioned the purpose of this report and suggested that the requirement was burdensome.

The environmental report requirement stems from the duty of FEA under the

National Environmental Policy Act (NEPA) to reconsider the environmental impact of "major federal actions." Because FEA is charged with considering these impacts before a decision is made, it is appropriate that petitioner provide, in the first instance, an assessment of these impacts. In considering this comment, it has become clear that the proposed regulation was potentially burdensome in requiring a report which contained the information outlined in FEA's NEPA procedures. Section 430.44 (e)(4) of the final regulations has been modified to require that FEA's NEPA regulations be used as guidelines.

6. MISCELLANEOUS COMMENTS

It was suggested that at least one hearing should be held in the State whose regulations are the subject of the petition. Because any proceedings under section 327(b)(1) are of particular interest to the State whose regulations are the subject of those proceedings, FEA will make every effort to schedule at least one hearing in that State.

Other changes of a minor nature were made in the proposed regulations for the purpose of clarity and continuity.

C. REGULATIONS PRESCRIBED

The final regulations are substantially the same as those proposed with the exception of the deletion of the minimum filing requirement and the inclusion of a new information guidelines provision. Under the final regulations a petition accepted for filing will be made available for public comment. Following review of the comments, a petition either will be denied or a proposed rule preempting the State regulations will be issued. The issuance of a proposed rule will be followed by an opportunity for written and oral comment on the basis of the decision to issue a proposed rule and on the appropriateness of the proposed rule. After all comments have been received and evaluated, the petition either will be denied or a final rule preempting the State regulations will be issued.

The final regulations provide for the reconsideration of any petition which is deemed after the public comment period but before the issuance of a proposed preemptory rule. Reconsideration will lie only where it is alleged and proven that the denial was based on an error of fact or law which is clear in the record.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-383; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E. O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations is amended by adding a new Subpart D as set forth below, effective November 10, 1977.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

Subpart D—Petitions for Prescription of a Rule To Supersede a State Appliance Energy Use or Efficiency Regulation

Sec.
430.40 Purpose.
430.41 Definitions.
430.42 General requirements.
430.43 Petitions.
430.44 Disposition of petitions.

AUTHORITY: Energy Policy and Conservation Act, Pub. L. 94-163 as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E.O. 11790, 39 FR 23185.

Subpart D—Petitions for Prescription of a Rule To Supersede a State Appliance Energy Use or Efficiency Regulation

§ 430.40 Purpose.

Subpart D establishes procedures for the submission and disposition of petitions for prescription of a rule to supersede a consumer appliance energy efficiency or energy use State regulation pursuant to section 327(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)(1)).

§ 430.41 Definitions.

For the purpose of this subpart—

(1) "Day" means calendar day.

(2) "Petition" means a petition filed pursuant to section 327(b)(1) of the Act.

(3) "State regulation" means a law or regulation of a State or political subdivision thereof.

§ 430.42 General requirements.

(a) *Scope.* Unless otherwise noted, the provisions of this section apply to all documents required or permitted to be submitted under this subpart.

(b) *Copies.* An original, which shall be signed, and five copies of each document shall be submitted to:

Assistant Administrator,
Office of Conservation,
Attn: Appliance Program-Petition to Supersede,
Federal Energy Administration,
12th and Pennsylvania Ave., NW.,
Washington, D.C. 20461.

All submissions become part of the FEA's files and will not be returned.

(c) *Service.* All documents required to be served under this subpart shall, if mailed, be served by first class mail. Service upon a person's duly authorized representative shall constitute service upon that person.

(d) *Obligation to supply information.* A person who submits a petition is under a continuing obligation to provide any new or newly discovered information relevant to that petition. Such information includes, but is not limited to, information regarding any other petition or request for action subsequently submitted by that person.

(e) *The same or related matters.* A person who submits a petition or other request for action shall state whether, to the best knowledge of that person, the same or related issue, act, or transaction has been or presently is being considered or investigated by the FEA; by any other Federal agency, department, or instrumentality; by any Federal court; by a State or municipal agency, department, or instrumentality; or by a State court.

(f) *Computation of time.* (1) In computing any period of time prescribed by or allowed under this subpart, the day of the act frof which the designated period of time begins to run is not to be included. If the last day of the period is a Saturday, Sunday, or Federal legal holiday, the period runs until the end of the next day that is neither a Saturday, Sunday, nor Federal legal holiday.

(2) Saturdays, Sundays, and intervening Federal legal holidays shall be excluded from the computation of time when the period of time allowed or prescribed is 7 days or less.

(3) When a submission is required to be made within a prescribed time, the FEA may grant an extension of time upon good cause shown.

(4) Documents received after regular business hours are deemed to have been submitted on the next regular business day. Regular business hours for the FEA's National Office, Washington, D.C., are 8 a.m. to 4:30 p.m.

(5) The FEA reserves the right to refuse to accept, and not to consider, untimely submissions.

§ 430.43 Petitions.

(a) *Petition requirements.* (1) A petition shall conform to the General Requirements of § 430.42 of this subpart and, in addition, shall (i) state the name and address of the petitioner, (ii) contain a brief description of the interest of the petitioner, (iii) designate a person to be contacted by the FEA regarding disposition of the petition, (iv) include a copy of each State regulation for which a rule to supersede is sought, (v) identify each product covered by the State regulation for which a rule to supersede is sought, (vi) contain a summary of the position of the petitioner, and (vii) state whether the petitioner seeks a rule prescribing a State regulation in whole or in part and, if in part, which part or parts.

(2) The petitioner shall serve a copy of the petition, all supporting documents, and all future submissions on each State agency, department, or instrumentality whose regulation the petitioner seeks to supersede. The petition shall contain a certification of this service which states the name and mailing address of the served parties, and the date of service.

(3) A petition may be submitted on behalf of more than one person. A joint petition shall indicate each person participating in the submission. A joint petition shall provide the information required by subparagraph (a)(1) of this section 430.43 for each person on whose behalf the petition is submitted.

(4) All petitions shall be signed by the person submitting the petition or by a duly authorized representative. If submitted by a duly authorized representative, a petition shall certify this authorization.

(b) *Acceptance for filing.* (1) Within fifteen (15) days of the receipt of a petition by the FEA, the FEA will either accept it for filing or reject it, and the

petitioner will be so notified in writing. FEA will serve a copy of this notification on the affected State agency, department, or instrumentality. Only such petitions which conform to the requirements of this subpart and which contain sufficient information for the purposes of a substantive decision will be accepted for filing. Petitions which do not so conform will be rejected and an explanation provided to petitioner in writing.

(2) For purposes of the Act and this subpart, a petition is deemed to be filed on the date it is accepted for filing.

(c) *Docket.* A petition accepted for filing will be assigned an appropriate docket designation. Petitioner shall use the docket designation in all subsequent submissions.

(d) *Specific information requirements.* The petition shall provide information sufficient to demonstrate to the satisfaction of the Administrator that—

(1) The petitioner is a person subject to the State regulation sought to be superseded (or is the duly authorized representative of that person);

(2) Each product for which a rule to supersede is sought is a covered product under the Act;

(3) There is no significant State or local interest sufficient to justify the State regulation; and

(4) Such State regulation unduly burdens interstate commerce.

(e) *Informational guidelines.* The following information is considered particularly relevant to the demonstration required by paragraph (d) of this section:

(1) In demonstrating that the State regulation unduly burdens interstate commerce, an analysis of the effect of complying with the State regulation on

(i) Labor and capital costs;

(ii) Material costs;

(iii) Transportation costs;

(iv) Distribution, inventory, and other associated costs;

(v) Economies of scale;

(vi) The relationship of the investment capital necessary to comply with the State regulations to the size of a typical manufacturer of the product to which the State regulation applies and an estimate of the number of manufacturers which cannot meet the investment requirements; and

(vii) Retail price, sales volume, and employment.

(2) In demonstrating that there is no significant State or local interest sufficient to justify the State regulation—

(i) An estimate of the number of appliances meeting the State regulation which would be purchased in the State over a period of 10 years;

(ii) An estimate of the aggregate amount of energy saved by implementation of the State regulation over a period of 10 years;

(iii) A comparison of the present value of the energy saved by appliances meeting the State regulation and the increase in the retail cost of such appliances;

(iv) An estimate of the number of years of operation necessary to recoup the estimated increase in the cost of appliances;

(v) An evaluation of the environmental, health, safety, and economic interests of the State in its regulations; and

(vi) An explanation of why the State interest in the regulations is not sufficient to justify the burden imposed by the regulations on interstate commerce.

(3) Any of analysis of the effect of the State regulations shall include a discussion of the bases of the analysis.

(4) *Environmental report.* Each petition shall contain a report containing petitioner's assessment of the environmental consequences both of denial of the petition and of publication of a rule superseding the State regulation. This environmental report shall be guided by the requirements of § 208.7 of FEA's Regulations, as applicable, 10 CFR 208.7.

§ 430.44 Disposition of petitions.

(a) *Initial public comment period.* (1) The FEA will publish a notice in the FEDERAL REGISTER of the submission and acceptance for filing of a petition. The notice will include a summary of the State regulation at issue and the petitioner's objection to the regulation. The notice will provide instructions on how copies of the petition may be obtained and will invite on how copies of the petition may be obtained and will invite public comments by all interested persons.

(2) A reasonable time after the close of the initial public comment period, the FEA will either deny the petition or propose a rule to supersede the State regulation. If, on the basis of the petition, and in light of all information submitted as comments to the petition, the Administrator determines that petitioner is likely to prevail on the merits of the petition, a proposed rule to supersede the State regulations will be issued. Otherwise, the petition will be denied. Written notice of the decision and the reasons therefore will be served on the petitioner, the affected State agency, department, or instrumentality, and all persons who submitted comments, and will be published in the FEDERAL REGISTER.

(b) *Reconsideration of the denial of a petition.* (1) If the petition is denied, any interested person may, within twenty (20) days from the date of issuance of the decision, submit an application for reconsideration to the Assistant Administrator, Office of Conservation. An application is deemed accepted when received by the FEA. The applicant shall serve a copy of the application on all persons who submitted comments on the petition. The FEA will publish a notice of submission of an application in the FEDERAL REGISTER. The applicant shall clearly and concisely state the basis for the application and the relief sought.

(2) The denial of a petition will be reconsidered only where it is alleged and demonstrated that the denial was based on an error in law or fact and that the evidence of the error is in the record of the proceedings on the petition. Argument that new information is available which would reverse the denial of the petition may be considered if the petition is resubmitted but will not support reconsideration of the denied petition.

(3) The FEA will either deny the application for reconsideration or propose a rule to supersede the State regulation. Written notice of the decision and the reasons therefore will be served on the applicant, the affected State agency, the petitioner (if petitioner is not the applicant), and all persons who submitted comments in the initial public comment period, and will be published in the FEDERAL REGISTER.

(4) The denial of an application for reconsideration is a final decision and action for all purposes under section 327(b)(1), including judicial review. There is no other administrative appeal or review under this subpart.

(c) *Proposed rulemaking.* (1) The FEDERAL REGISTER notice of a proposed rulemaking for prescription of a rule to supersede a State regulation will invite written comments on the proposed rule from all interested persons, and will provide for a public hearing. This rulemaking will be conducted pursuant to 5 U.S.C. §553 and section 7(i) of the Federal Energy Administration Act of 1974, 15 U.S.C. § 767(i).

(2) A reasonable time after the close of the public hearing held pursuant to a notice of proposed rulemaking but no later than six months after acceptance for filing, the FEA will either deny the petition and withdraw the proposed rule, or prescribe a final rule which supersedes the State regulation in whole or in part. Written notice of the decision and the reasons therefore will be published in the FEDERAL REGISTER and served on the petitioner, the affected State agency, and all persons who submitted comments in the proposed rulemaking proceeding. The decision is a final decision and action for all purposes under section 327(b)(1) of the Act, including judicial review. There is no administrative appeal or application for reconsideration.

(c) *Consolidation.* Whenever two or more petitions are filed with respect to the same State regulation, the FEA may consolidate two or more proceedings under this subpart for the purpose of resolving one or more issues whenever it appears that such consolidation will expedite or simplify consideration of such issues. Consolidation shall not affect the running of any time period with respect to any petition.

(d) *Finality of decision.* A decision to prescribe a rule superseding a State regulation is final on the day the rule is issued, that is, signed at the FEA. A decision to deny a petition is final following the initial public comment period § 430.44(a)) on the day a denial of an application for reconsideration is issued, that is, signed at the FEA, and is final following a proposed rulemaking proceeding (§ 40.44(b)) on the day the denial is issued, that is, signed at the FEA.

[FR Doc.77-29298 Filed 10-3-77;8:45 am]

[3128-01]

PART 440—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

Final Rulemaking; Correction

AGENCY: Federal Energy Administration.

ACTION: Final rulemaking; correction.

SUMMARY: This document makes two corrections in § 440.30 of the final rulemaking regarding the program of weatherization assistance for low-income persons, which was published in the FEDERAL REGISTER (42 FR 27899) on June 1, 1977. Paragraph (e)(1) is corrected to require that the notice sent by the Regional Administrator informing a grantee of his or her intent to terminate its grant include a statement of reasons. Paragraph (h) is corrected to require that a grantee may appeal from an adverse final determination made by the Regional Administrator.

FOR FURTHER INFORMATION CONTACT:

Mary M. Bell, Director, Office of Weatherization Assistance, Room 6447, Federal Energy Administration, Washington, D.C. 20461 (202-566-3091).

SUPPLEMENTARY INFORMATION: Two changes are made to correct § 440.30, Administrative review, of the final rulemaking regarding the program of weatherization assistance for low-income persons in order to clarify the procedures for denial of a grant application and for termination of a grant. These two changes correct § 440.30 to achieve FEA's original intent that a grantee whose grant is terminated be accorded the same right of administrative review as an applicant whose application is denied.

As published, paragraph (e)(1) required that only the notice sent by the Regional Administrator informing a State or local applicant of his or her intent to deny its application include a statement of reasons for the Regional Administrator's determination. As corrected, paragraph (e)(1) requires that the notice sent by the Regional Administrator informing a grantee of his or her intent to terminate its grant include a statement of reasons as well. As published, paragraph (h) provided that only a State or local applicant could appeal from an adverse final determination made by the Regional Administrator. As corrected, paragraph (h) provides that a grantee may appeal from an adverse final determination made by the Regional Administrator as well.

Since the references to a grantee whose grant is terminated were omitted by oversight from paragraphs (e)(1) and (h) of the final rulemaking for the weatherization program, FEA is not offering an opportunity for public comment on these technical corrections.

(Part A of Title IV of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 (42 U.S.C. 6326); Pub. L. 93-275, as amended, 15 U.S.C. 761; E.O. 11790, 39 FR 23185.)

Accordingly, § 440.30, Chapter II of Title 10, Code of Federal Regulations, is corrected as set forth below.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

§ 440.30 [Amended]

1. Paragraph (e)(1) of 10 CFR 440.30 is corrected by adding the words, "or (d)", immediately following the words, "paragraph (c)".

2. Paragraph (h) of 10 CFR 440.30 is corrected by adding the words, "or grantee", immediately following the word, "applicant," and immediately before the word, "may", in the first sentence.

[FR Doc.77-29235 Filed 10-3-77;8:45 am]

[3128-01]

1977 PRICE AND ALLOCATION INTERPRETATIONS

AGENCY: Federal Energy Administration.

ACTION: Notice of interpretations.

SUMMARY: Attached are the interpretations issued by the General Counsel and Regional Counsels of the Federal Energy Administration (FEA) during the period September 1 through September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Kathleen Williams, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461 (202-566-2454).

SUPPLEMENTARY INFORMATION: FEA interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the FEDERAL REGISTER from time to time in accordance with the editorial and classification criteria set forth in 42 FR 7923, February 8, 1977, as modified in 42 FR 46270, September 15, 1977.

FEA Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, Interpretations are subject to appeal. The Interpretations appended hereto are published today only for general guidance in accordance with the reasons set forth in the FEA Notice first cited above.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

Appendix

No.	To	Date	Category
1977-34	Mobil Oil Corp.	Sept. 16	Allocation.
1977-35	Oil Transit Corp.	Sept. 27	Price.
1977-36	Guam Oil & Refining Co.	...do...	Allocation.
1977-37	Joseph J. C. Paine & Associates.	Sept. 28	Price.
1977-38	Dumson Oil Corp.	Sept. 30	Do.

[INTERPRETATION 1977-34]

To: Mobile Oil Corp.
Date: September 16, 1977.
Rules interpreted: §§ 211.62, 211.65.
Code: GCW—AI—Crude oil buy/sell program.

FACTS

Mobil Oil Corp. ("Mobil") is a refiner-seller as that term is defined in 10 CFR 211.62 and is required to offer crude oil for sale to those refiners classified as refiner-buyers under the Federal Energy Administration (FEA) domestic crude oil allocation program (the "buy/sell program") set forth at 10 CFR 211.65. The sales obligations of refiner-sellers are computed generally with reference to their respective refining capacities as reported to the Bureau of Mines as of January 1, 1973.

Mobil's total refining capacity reported to the Bureau of Mines as of that date was 918,000 barrels per day, including a 47,000 barrel per day refinery owned by Mobil located in East Chicago, Ind. Based on this report and when considered as a portion of the total refining capacity of all refiner-sellers as of January 1, 1973, Mobil's fixed percentage share under 10 CFR 211.65(d) was calculated to be 0.089 of the total allocation obligation for each allocation quarter, subject to the other adjustments provided for by the pertinent FEA regulations applicable to the buy/sell program. In July 1974, Mobil suspended operations of its East Chicago refinery and, for the allocation quarter commencing September 1, 1974, reported a resulting reduction of 47,000 barrels per day in its operable refining capacity.

ISSUE

The issue presented for interpretation is whether a 47,000 barrel per day reduction of Mobil's refining capacity from that reported by Mobil to the Bureau of Mines on January 1, 1973, results in a decrease in Mobil's fixed percentage share as a refiner-seller under 10 CFR 211.65(d).

INTERPRETATION

For the reasons set forth below, it has been concluded that decrease in a refiner-seller's refining capacity from that reported by the refiner-seller to the Bureau of Mines on January 1, 1973, is not a basis for a reduction of that refiner-seller's fixed percentage share under 10 CFR 211.65(d)(2)(iii).[1]

Each refiner-seller's sales obligation under the buy/sell program is determined with reference to its fixed percentage share of the total refining capacity of all refiner-sellers. 10 CFR 211.65(d)(iii) provides in relevant part that:

[1] The FEA Office of Exceptions and Appeals reached the same conclusion in *Atlantic Richfield Co.*, 3 FEA ¶ 83,177 (May 14, 1976).

A refiner-seller's fixed percentage share is its proportionate share of the total refining capacity of all refiner-sellers as reported to the Bureau of Mines on January 1, 1973, as certified by the FEA. New refining capacity or future refining capacity shall not subject a refiner-seller to any increase in its fixed percentage share. * * *[2]

Under 10 CFR 211.65(d)(2)(iii), as stated above, a refiner-seller's fixed percentage share is its proportionate share of the total refining capacity of all refiner-sellers as reported to the Bureau of Mines on January 1, 1973. In Mobil's request, it was contended that the use of the defined term "refining capacity" incorporates, in accordance with the provisions of the definition of that term, subsequent reductions in the actual refining capacity as reported to the Bureau of Mines on January 1, 1973, into the calculation of refiner-sellers' fixed percentage shares. Refining capacity is defined in 10 CFR 211.62 as follows:

"Refining capacity" means, for each refinery, the capacity reported to the Bureau of Mines as of January 1, 1973, as certified by the FEO. Any capacity of a refinery which has ceased to be operated continuously in the normal course of business since the January 1973 report to the Bureau of Mines shall be deducted from refining capacity.[3]

The reference to the Bureau of Mines report on January 1, 1973, in the context of the provisions for a refiner-seller's fixed percentage share, however, indicates that refinery capacity is not used in its defined sense, but rather specifically fixes refiner-sellers' percentage shares by reference to a historical event. Without this additional reference, the provisions of the definition would have been incorporated in their entirety in 10 CFR 211.65(d)(2)(iii). Thus, the context in which the term "refining capacity" appears in 10 CFR 211.65(d)(2)(iii) renders inapplicable the provision of 10 CFR 211.62 with regard to subsequent reduction in a seller's 1972 capacity.

The clear intent behind the additional reference to the January 1, 1973, report date was to establish permanent sales obligations for refiner-sellers and not permit fluctuations in a refiner-seller's share from allocation quarter to allocation quarter as a result of increases or decreases in its refining capacity. In addition, the explicit language of the regulation consistently refers to the refiner-seller's fixed percentage share which is further indicative of the intent to establish unvarying supply obligations under the buy/sell program.

The preamble to the revision of the Mandatory Crude Oil Allocation Program (30 FR 17288, May 14, 1974) further describes the general intent in so structuring the sales obligations of refiner-sellers:

Fixed share for allocating refiners * * * A refiner-seller's allocation obligation would be basically a fixed percentage share of the total amount to be allocated to all refiner-buyers in an allocation quarter. Each refiner-seller's percentage share would be its proportional share of the reported refinery capacity of all refiner-sellers as of January 1, 1973. It is important to note that a refiner-seller's relative share of the total allocation obligation would not increase as the refiner-seller acquires additional crude oil *since the percentage share is fixed by reference to an event in the past. Id.* (Emphasis added.)

Each refiner-seller's proportionate share of the total sales obligation was fixed as of a certain date for the purpose of lending predictability to the amount of that obligation and removing any disincentives to increase supplies through imports or to develop additional refining capacity. Refiners were specifically put on notice that since their percentage share was fixed with respect to a historic date that their proportionate share of the sales obligation could not be increased.

Finally, allowing decreases in actual refining capacity to reduce a refiner-seller's sales obligation under the buy/sell program would be inconsistent with the general intent of the regulations with regard to increases in sales obligations because any decreases in one refiner-seller's obligation would result in increases in all other refiner-sellers' obligations. Although most references are to increases in obligations, it is evident that increases or decreases are interrelated and neither is contemplated within the context of the buy/sell program.

[INTERPRETATION 1977-35]

To: Oil Transit Corp.
Date: September 27, 1977.
Rule interpreted: § 210.62(a).
Code: GCW—PI—Normal business practices.

FACTS

Oil Transit Corp. ("Oil Transit"), a supplier of motor gasoline, is a wholesale purchaser-reseller under Federal Energy Administration (FEA) Mandatory Allocation Regulations and is subject to FEA price regulations applicable to resellers. On May 15, 1973, Oil Transit sold motor gasoline to its purchasers based upon credit terms which required full payment within 30 days and allowed a one percent (1%) discount for payment within 10 days. No letter of credit or other financial assurance guaranteeing payment was required by Oil Transit of its purchasers on May 15, 1973. Since May 15, 1973, Oil Transit's accounts receivable have increased substantially because of the rising prices of the motor gasoline it sells. In light of this fact, Oil Transit proposes to require all motor gasoline purchasers to obtain a letter of credit in an amount reflecting increases in the sales price over May 15, 1973, price levels as a precondition to its sales of the product.

ISSUE

Would Oil Transit violate the provisions of 10 CFR 210.62(a) precluding the imposition of more stringent credit terms if Oil Transit required its motor gasoline purchasers to submit letters of credit or similar financial assurances guaranteeing payment to Oil Transit of any portion of the purchase price of motor gasoline since such letters of credit or other similar financial assurances were not imposed as a purchase prerequisite by Oil Transit on May 15, 1973?

INTERPRETATION

If Oil Transit required, as a prerequisite to the sale of motor gasoline to its purchasers, that such purchasers obtain letters of credit or other similar financial assurances not required by Oil Transit on May 15, 1973, Oil Transit would be imposing more stringent credit terms than those in effect on May 15, 1973, in violation of 10 CFR 210.62(a).

10 CFR 210.62(a) provides in pertinent part:

Suppliers will deal with purchasers of an allocated product according to normal business practices in effect during the base period specialized in Part 211 for that allocated product * * *. Credit terms other than those associated with seasonal credit programs are included as a part of the May 15, 1973, price charged to a class of purchaser under Part 212 of this Chapter. Nothing in this paragraph shall be construed to require suppliers to sell to purchasers who do not arrange proper credit or payments for allocated products, as customarily associated with that class of purchaser * * * on May 15, 1973 * * *. However, no supplier may require or impose more stringent credit terms * * * on purchasers than those in effect for that class of purchaser * * * on May 15, 1973 * * *.

FEA has previously addressed the impact of 10 CFR 210.62(a) upon credit terms. In *Crystal Oil Co.*, 1 FEA ¶ 20,161 (October 8, 1974), the FEA Office of Exceptions and Appeals affirmed an April 9, 1974, Interpretation issued by the Regional Administrator of FEA Region VI. In that case, the FEA concluded that a supplier's requirement of letters of credit as a precondition for the sales of covered products would be a violation of 10 CFR 210.62, if that practice had not been followed on May 15, 1973. The FEA further found that the imposition by a supplier of more stringent credit terms than those in effect for the class of purchaser on May 15, 1973, is in fact an impermissible price increase.[4]

It is clear then that Oil Transit is proposing a change in a credit term in the sale of a covered product more stringent than that which was in effect on May 5, 1973. On May 15, 1973, purchasers of Oil Transit's motor gasoline were not required to incur the additional cost of obtaining (solely for Oil Transit's benefit) letters of credit or other similar financial assurances guaranteeing payment to Oil Transit of any portion of the purchase price within the payment period specified. The effect of the imposition of this more stringent credit term would be to increase the cost of the motor gasoline to Oil Transit purchasers. Restricting the applicability of such financial assurances to the amount of the increase in the sales price of the covered product between May 15, 1973, and the present does not alter this conclusion, since any such requirement by Oil Transit was wholly absent on May 15, 1973. See FEA Ruling 1974-10, Federal Energy Guidelines (CCH) ¶16,020.

Oil Transit has asserted that it is exposed to greater financial risks because of increases in the magnitude of the firm's accounts receivable attributable to the substantial increase in the sales prices of motor gasoline

[2] Prior to the August 26, 1976, amendment to 10 CFR 211.65(d) (40 FR 39847, August 29, 1975), 10 CFR 211.65(d)(1) contained provisions identical to those of 10 CFR 211.65(d)(2)(iii) as set forth above. Revisions to the buy/sell program were adopted on August 19, 1977 (42 FR 42770, August 24, 1977), to be effective October 1, 1977. In the revised program, a refiner-seller's percentage share is defined in 10 CFR 211.65(f)(2)(ii). That section provides, in relevant part, that:

A refiner-seller's fixd percentage share is its proportionate share of the total refining capacity of all refiner-sellers as reported to the Bureau of Mines on January 1, 1973, as certified by the FEA. Changes in refining capacity shall not subject a refiner-seller to any change in its fixed percentage share over the share identified for the first allocation period.

Thus the recently adopted revisions to the buy/sell program eliminate any ambiguity in the regulations with regard to a refiner-seller's fixed percentage share and are fully consistent with this interpretation.

[3] In the revised program, the definition of refining capacity will be amended to read as follows:

"Refining capacity" means, for each refinery, the capacity thereof as certified by the FEA. Any capacity of a refinery which has ceased to be operated continuously in the normal course of business shall be deducted from refining capacity.

[4] Since the Temporary Emergency Court of Appeals' decision in *Marathon Oil Co.* v. *FEA*, 547 F. 2d 1140 (1976) there can be no doubt concerning the authority of the FEA to regulate credit terms as an incident to FEA price regulations.

that has occurred since May 15, 1973. A similar argument was noted and rejected in *Crystal Oil Co., supra*, which established that 10 CFR 210.62(a) did not contemplate the imposition of more stringent credit terms than those in existence on May 15, 1973 "based upon a change in general economic conditions."

Of course, if Oil Transit can show that a particular purchaser exhibits a pattern of late payment of financial instability, Oil Transit may request permission from FEA to impose stricter credit terms with regard to that purchaser, althogh "the burden of establishing the necessity of a change in credit practice with respect to any purchaser rests with the supplier." *Crystal Oil Co., supra* at 20,266.

[INTERPRETATION 1977-36]

To: Guam Oil & Refining Co. (GORCO).
Date: September 27, 1977.
Rules interpreted: §§ 211.67(d)(2) and 212.53(a).
Code: GCW—AI—Export sales deduction.

FACTS

Guam Oil & Refining Co. (GORCO) operates a refinery located in Guam. GORCO proposes to enter into a time exchange with Firm X. Pursuant to the proposed agreement, GORCO would deliver to Firm X, f.o.b. Guam, a specified quantity of high-sulphur residual fuel oil for shipment to a destination outside the United States. In exchange for this oil, within seven months of the delivery referred to above, Firm X would deliver to GORCO, f.o.b. Guam, an approximately equal volume of high-sulphur residual fuel oil originating from a source outside the United States. If the quantities of residual fuel oil exchanged are not exactly the same, the party receiving delivery of the larger volume would compensate the other party at the rate of $xxx per barrel. Firm X would compensate GORCO for the time exchange by payment of a monthly fee computed at the rate of xxx percent per annum multiplied by the number of barrels of residual fuel oil delivered by GORCO to Firm X, each barrel being valued at $xxx.

ISSUE

Is this exchange of residual fuel oil by GORCO an export sale within the meaning of 10 CFR 212.53(a), which requires GORCO to deduct the volume of residual fuel oil exchanged from its crude oil runs to stills pursuant to the export sales deduction requirement under the domestic crude oil allocation program (the "entitlements program") as set forth at 10 CFR 211.67(d)(2)?

INTERPRETATION

For the reasons set forth below, it has been concluded that the volume of residual fuel oil exchanged by GORCO for export pursuant to this agreement would not be an export sale within the meaning of 10 CFR 212.53(a), and therefore the volumes exchanged are not required to be deducted from GORCO's crude oil runs to stills under 10 CFR 211.67(d)(2), provided that the volumes of residual fuel oil exchanged are equal. If the volume of residual fuel oil delivered by GORCO to Firm X exceeds the volume of residual fuel oil received in exchange by it, the difference in volume would constitute an export sale by GORCO to be deducted from its crude oil runs to stills under the entitlements program by means of a retroactive adjustment.

10 CFR 211.67(d)(2) provides, in pertinent part, that:

The volume of a refiner's crude oil runs to stills in a particular month for purposes of the calculations in paragraph (a)(1) of this section (issuance of entitlements) and the calculations for the national domestic crude oil supply ratio shall be reduced by that refiner's volume of export sales under § 212.53 of Part 212 of this chapter in that month of refined petroleum products * * * and residual fuel oil, including sales to a domestic purchaser which certifies the product is for export * * *.

10 CFR 212.53(a) exempts "export sales" from the Federal Energy Administration's price regulations but does not define the term "export sales."

In FEA Interpretation 1977-16 (42 FR 31151, June 20, 1977), it was pointed out that export sales under 10 CFR 212.53(a) are those which produce revenues from foreign sources. The Interpretation also found that the export sales exemption was adopted to allow export sales to be made at the highest possible prices.[5] Thus, if GORCO and Firm X exchange the same volumes of residual fuel oil over time, no export sale will occur because GORCO will have received no sales revenue from a foreign source.

Moreover, the policy underlying the loss of entitlements for export sales under 10 CFR 211.67(d)(2), does not apply in this case. That statement of policy, set forth in the preamble to the amendments to that section issued on March 29, 1976 (41 FR 13899, April 1, 1976), notes that the entitlements program was established to equalize among all segments of the petroleum industry the benefits of access to lower priced domestic crude oil whose ceiling price is low in comparison to uncontrolled domestic or imported crude oil. Thus, the export deduction provision of the entitlements program is designed first to ensure that cost equalization benefits are not granted to the extent that a firm exports refined petroleum products or residual fuel oil and sells these products in the world market at uncontrolled prices and further to preserve the advantages of these cost benefits for domestic purchasers of petroleum products (id. at 13902). Allowing exported refinery products to earn entitlements would, in effect, constitute a subsidy to foreign oil consumers.

Since GORCO does not propose any net export of residual fuel oil in this case, the cost equalization benefits of any and all entitlements it receives will be retained in the domestic economy. Therefore, no export sales deduction is required. However, if a net export of a small volume of such oil results from the failure of Firm X to deliver in exchange to GORCO as much residual fuel oil as GORCO delivers to Firm X, GORCO will be required to make a retroactive adjustment to its Form P-102-M-1 and reduce its crude oil runs to stills under the entitlements program by the net volume of residential fuel oil exported pursuant to the agreement.

If Firm X fails to deliver to GORCO the volume of residual fuel oil specified in the time exchange agreement and Firm X accordingly pays GORCO for that residual fuel oil, GORCO's receipt of such payment would constitute an export sale under 10 CFR 211.67(d)(2), requiring the retroactive adjustment outlined above.

[INTERPRETATION 1977-____]

To: Joseph J. C. Paine & Associates.
Date: ----------
Rules interpreted: § 212.72, Ruling 1977-1.
Code: GCR (VIII)—PI—Definition of BPCL property.

FACTS

Joseph J. C. Paine & Associates ("Paine"), a crude oil producer, is a working interest owner with Chandler & Associates ("Chandler") in the section 10 sublease. The section 10 sublease is the site of an abandoned well, located in the larger 1,920 acre Kimball County, Nebr., base lease which has been producing crude oil since 1950. The base lease consists of five sections, only one of which, section 20, a stripper well property, is currently producing crude oil. The section 10 and section 20 subleases were developed separately, accounted for separately during the time both were producing crude oil, encompass separate reservoirs and are noncontiguous.

As part of its operations, Paine proposes to reactivate the section 10 sublease by drilling a new well in the place of one which was abandoned in October 1971 by a former working interest owner. No crude oil has been produced from section 10 since October 1971.

ISSUE

Does section 10 constitute a separate property pursuant to 10 CFR 212.72 and Ruling 1977-1? If so, is the crude oil produced from the well on the property subject to the upper tier ceiling price in accordance with 10 CFR 212.74(b)?

INTERPRETATION

For the reasons set forth below, it has been concluded that the section 10 sublease constitutes a separate property pursuant to section 212.72 and Ruling 1977-1 and that the crude oil produced from the sublease is subject to the upper tier ceiling price rule set forth in section 212.74(b).

The term "property" is defined in section 212.72 as: "Property" means the right to produce domestic crude oil, which arises from a lease or from a fee interest. A producer may treat as a separate property each separate and distinct producing rservoir subject to the same right to produce crude oil, provided that such reservoir is recognized by the appropriate governmental regulatory authority as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.

This concept of property was further interpreted by the Federal Energy Administration in Ruling 1977-1.

In this Ruling it was stated in part:

"In all cases in which it can be shown that since non-contiguous tracts were developed and produced separately, and where they have historically and consistently been accounted for as separate properties, FEA will permit them to be so regarded." (16,065 at 16,777).

This property concept is considered by FEA to be "generally synonymous with the concept of 'working interest'." Id., at 16,176. Thus, since production of crude oil from a producing area under one lease may constitute a "working interest" separate from that of another producing area subject to a different lease, that production area is a separate property for purposes of Part 212, Subpart D. Furthermore, then a large base lease such as the Kimball County base lease, containing a number of underlying reservoirs, has been divided into several production areas which are non-contiguous or were accounted for and developed separately or even developed by different working interest owners, the separate producing areas of the base lease are separate properties for purposes of Part 212, Subpart D.

Based upon the facts presented by Paine, section 10 meets all of these criteria. The section 10 lease appears to encompass a reservoir distinct from that of the remainder of the Kimball County base lease. In addition, the section 10 lease has historically been treated as distinct from the remaining producing area on the base lease, section 20, and must accordingly be treated as separate from the section 20 lease. Therefore, section 10

[5] See also CLC Phase IV Price Ruling 1974-3, issued March 14, 1974 (39 FR 10152, March 18, 1974), which dealt with a regulatory provision analogous to 10 CFR 212.53(a).

must establish selling prices for crude oil based upon its status as a separate property.

The appropriate ceiling price for crude oil produced from the section 10 lease may be determined by calculating the property's base production control level. Base production control level is defined in section 212.72 as:

"Base production control level" means: (1) with respect to months ending prior to February 1, 1976:

(A) If crude oil was produced and sold from the property concerned in every month of 1972, the total number of barrels of domestic crude oil produced and sold from the property in the same month of 1972;

(B) If crude oil was not produced and sold from the property concerned in every month of 1972, the total number of barrels of crude oil produced and sold from that property in 1972, divided by 12;

(2) With respect to months commencing after January 31, 1976, except as provided in § 212.76, either:

(A) The total number of barrels of old crude oil produced and sold from the property concerned during calendar year 1975, divided by 365, multiplied by the number of days in the month in 1975 which corresponds to the month concerned; * * *

Since no crude oil was produced from the section 10 property subsequent to October 1971, the section 10 sublease has no base production control level.

"New" crude oil is defined in section 212.72 to mean: with respect to a specific property:

(1) Prior to February 1, 1976, the total number of barrels of domestic crude oil produced and sold in a specific month, less (A) the base production control level for that month, and less (B) the current cumulative deficiency;

(2) Effective February 1, 1976, the total number of barrels of domestic crude oil produced and sold in a specific month, less (A) the property's base production control level for that month and less (B) the current cumulative deficiency since February 1, 1976; * * *

Thus, all crude oil produced from the section 10 property will, upon proven certification pursuant to section 212.131(a), be classified as new crude oil and will therefore be subject to the upper tier ceiling price rule set forth in section 212.74.

[INTERPRETATION 1977-38]

To: Damson Oil Corp.
Date: September 30, 1977.
Rule interpreted: § 212.72.
Code: GCW—PI—Definition of first sale.

FACTS

Damson Oil Corp. ("Damson") is a working interest owner and operator of the Avoca No. 3 producing well * in the Wyandotte Field in St. Mary's Parish, La. All production from this property is sold to Koch Oil Co. ("Koch"), a division of Koch Industries, Inc. Sales from the property are subject to the price regulations applicable to producers of crude oil in 10 CFR Part 212, Subpart D.

Damson measures production from the property concerned by meter prior to entry into its storage tank. Koch takes delivery of all of the production which is stored in Damson's storage tank at the tank site at regular intervals (approximately every 10 days). The property is located in the marshes of southern Louisiana and is accessible only by boat.

On January 28, 1976, Koch arranged with Damson for Koch to take delivery of crude oil on January 31, 1976. Due to fog, the barge which was to pick up the crude oil was unable to arrive on January 31. A subsequent meeting was arranged for 6:30 a.m., February 1, 1976. Damson's guager was present at 6:30 a.m. to witness the delivery, but the barge operator would not commence receiving the load of crude oil until Koch's guager arrived to check the tanks and the barge. Koch's guager arrived at approximately 7 a.m., but the loading valve was not opened until 7:40 a.m. Damson states that the sale would have constituted a sale occurring in January 1976 under the terms of the contract between the parties, "[h]ad sale been completed prior to 7 a.m.," February 1, 1976.

The first stage of regulations issued under the Energy Policy and Conservation Act, Pub. L. 94-163, December 22, 1975, became effective February 1, 1976. These regulations eliminated the "released" crude oil regulatory classification, under which sales of such crude oil were permitted at uncontrolled prices. They also subjected crude oil that formerly had been sold at market price levels as "new" crude oil to an "upper tier" ceiling price set at levels somewhat below the formerly uncontrolled price. As a result of these regulatory changes effective February 1, 1976, Damson claims that it will suffer a loss in excess of $56,000 on the sale of crude oil described above if this sale is deemed to have occurred after January 31, 1976.

ISSUE

Where crude oil is metered upon production and all such production is sold to a single purchaser, may the "first sale" under 10 CFR 212.72 be deemed to have occurred upon production even though delivery was not completed until the following month?

INTERPRETATION

Mere production of crude oil generally does not constitute a "first sale" under FEA price regulations applicable to producers of crude oil. On the facts presented to FEA in this instance, Damson may not treat the production of crude oil from the property concerned as the "first sale" of that crude oil.

Section 212.2 of 10 CFR provides that Part 212 of the FEA regulations "applies to each *sale* or purchase of a covered product in the United States * * *" (emphasis added). Section 212.71 states that Subpart D of Part 212, applicable specifically to producers of crude oil, applies to "each *first sale* of domestic crude oil * * *" (emphasis added), as distinct from subsequent sales of crude oil which are subject to the reseller rules in Subpart F of Part 212.

Further, § 212.72 defines "first sale" as "the first transfer for value by the producer or royalty owner." Thus, the applicability of the FEA's price regulations for producers relates to the first "sale" of crude oil.

The FEA price regulations applicable to producers sometimes refer to crude oil "produced and sold," or "production and sale" of crude oil, reflecting in part the usual concurrence or close temporal relationship between the production and initial sale of crude oil. See, e.g., the definition of "base production control level" and "current cumulative deficiency" in § 212.72. In Interpretation 1976-16, August 26, 1976, FEA followed the interpretation of "produced and sold" originally adopted by the Cost of Living Council in Phase IV Question and Answer No. 15-1, October 1, 1973. The Council stated that "[i]f crude petroleum was produced in one month, but sold in another, that amount is considered 'produced and sold' in the month of sale for purposes of determining the base production control level." Thus, even in situations in which crude oil may have been produced in one month and sold in another, the time of sale is used for purposes of applying the FEA price regulations applicable to producers.

As indicated above, the "first sale" is defined by FEA as "the first transfer for value." It is clear from the facts that there was no transfer of physical possession of the crude oil concerned to Koch upon production in January 1976 and it is not alleged by Damson that the bare title to the crude oil passed at that time. On the contrary, the interpretation request admits that "sale" was not completed prior to 7 a.m. on February 1, 1976. In the absence of a clear showing to the contrary, FEA presumes that the first transfer for value—i.e., the first sale—occurs upon delivery, in accordance with normal business practice. FEA cannot conclude, therefore, as a matter of interpretation, that the sale in question occurred upon production.

The fact that the delay in the sale until February 1 was unintended and inadvertent, or that the crude oil was metered upon production and that all production was sold to a single purchaser, does not alter the fact that the crude oil in question was sold in February 1976. The economic consequences resulting to Damson in this case because of the effectiveness of new price regulations applicable to first sales of crude oil beginning February 1, 1976, while possibly forming the basis for a request for exception from FEA price regulations applying to producers, are not relevant to an interpretation of the meaning or applicability of those regulations.

[FR Doc.77-29241 Filed 10-3-77;8:45 am]

* For purposes of this Interpretation, the Avoca No. 3 producing well will be referred to as the "property" to which price controls apply under 10 CFR Part 212, Subpart D.

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 5, Amdt. 10]

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Limited Partnership Small Business Investment Companies

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule adopts regulations, published in proposed form on October 29, 1976 (41 FR 47502), authorizing small business investment companies (SBICs) to be organized as limited partnerships. The Small Business Investment Act (SBI Act) was amended on June 4, 1976 to permit unincorporated SBICs to be licensed by SBA (Pub. L. 94-305, sec. 106, 90 Stat. 663 et seq.). On June 25, 1976, technical amendments were incorporated into the SBIC Regulation accommodating existing regulatory provisions to limited partnerships (13 CFR Part 107, Rev. 5, Amdt. 5, 41 FR 26201). The present implementing policy regulations enable the limited partnership SBIC program to become operative.

EFFECTIVE DATE: The amendments will become effective on November 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. McNeish, Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, (202-653-6584).

SUPPLEMENTARY INFORMATION: A substantial number of comments were received following publication of the Notice of Proposed Rulemaking on October 29, 1976. Major subjects covered were: (1) restrictions on use of funds by, and outside activities of, the corporate general partner (CGP); (2) the CGP's liability for leverage indebtedness to SBA; (3) limitation to a sole CGP as distinguished from multiple general partners (including individuals); (4) aggregation of CGP's separate corporate capital with SBIC's partnership capital for leverage purposes; (5) prohibition against removal of CGP by limited partners without SBA's prior approval; and (6) conversion of limited partnership SBIC to corporate form without SBA prior approval.

(1) *Restrictions on Use of Funds and Outside Activities of CGP.* Section 107.4(b) requires the limited partnership SBIC to have a sole corporate general partner, "organized under State law solely for service as such, which shall not serve in such capacity for any other Licensee * * *." Under § 107.4(d), the CGP's corporate capital not invested in the partnership Licensee "shall be invested only as permitted by the last sentence of section 308(b) of the [SBI] Act [U.S. Government and Government-guaranteed obligations, pursuant to § 107.808] and § 107.1004(c) [joint Financing of small concerns with the Licensee] * * *." The limited partnership SBIC organized under applicable State law, is licensed by SBA under Section 301 of the SBI Act and is eligible to receive from SBA leverage funds in an amount up to four times its private capital, but not to exceed $35 million. Pursuant to the SBI Act, limited partnership as well as corporate SBICs are subject to SBA examination, reporting, conflicts of interest, disciplinary, and other enforcement and administrative requirements under the statute, and regulations thereunder.

The CGP will be vested with sole management powers over the affairs of the limited partnership SBIC; it will represent for all practical purposes the SBIC in actual operation. Accordingly, consistent with its management authority and fiduciary relationship, obligations, and accountability under the Uniform Limited Partnership Act, SBA considers it administratively necessary to the practicable administration of the SBIC program, to subject the CGP to the same examination, reporting, self-dealing, administrative, enforcement, and other requirements applicable to the Licensees themselves. It would impose a virtually impossible administrative burden on SBA to examine and regulate, from SBA's standpoint as creditor and supervisory authority, the CGP's Licensee-related activities as distinguished from its outside business interests and operations assertedly separate from, and unrelated to, the Licensee.

(2) *Corporate General Partner's (CGPs) Liability for Leverage Indebtedness to SBA.* The comments assert that partnership SBIC debentures issued to SBA evidencing leverage pursuant to Section 303(b) of the SBI Act, should be non-recourse loans, recovery of which is limited to SBIC assets, without recourse (in case of deficiency) against the CGP's separate corporate assets. In effect, the claim is that SBA should relinquish its creditor's rights pursuant to Section 9(1) of the Uniform Limited Partnership Act, which renders a general partner in a limited partnership liable for partnership debts and obligations. It is asserted that subjection of the CGP to such liability, will discourage the formation of partnership SBICs and substantially impede implementation of the limited partnership SBIC program contemplated by Congress.

As explained in the preamble to the Notice of Proposed Rulemaking (41 FR 47502), SBA is considering its legal authority as well as the administrative desirability of not looking to the CGP's separate assets. Accordingly, SBA invited written comments to be submitted on the merits of this question. The matter is still under active consideration; a formal submission has been made by SBA to the Comptroller General for his decision concerning SBA's legal authority to make such non-recourse loans. His decision is now being awaited before SBA's final determination.

(3) *Limitation to Sole CGP as Distinguished from Multiple General Partners (including individuals).* The comments assert that the limitation to a sole corporate general partner, excluding multiple corporate general partners as well as individuals, is unduly restrictive and prevents the entrance into the SBIC program of financially stable, well-managed corporations with added resources and management expertise. It is also asserted that multiple general partners will assure continuity of operation, without termination of the partnership in the event of removal or dissolution of the sole CGP.

The matter of permitting limited partnership SBIC's to have multiple general partners, with one vested with active management authority, is under current review. After full consideration, SBA will make its final determination of this issue.

(4) *Aggregation of CGP's Separate Corporate Capital with SBIC's Partnership Capital for Leverage Purposes.* Some of the comments submitted assert that since the CGP's separate assets will be dedicated to the SBIC program under § 107.4(d), its corporate capital should be aggregated with the SBIC's capital for leverage purposes. There is no present explicit legal basis in the June 4, 1976 legislation or its legislative history, for the extension of leverage in the manner suggested. Nevertheless, SBA is now considering the advisability of submitting to the Comptroller General for decision, the question of SBA's statutory authority to leverage the corporate capital of the CGP [after receipt from the Internal Revenue Service of its advice concerning possible tax consequences to the partnership and its investors of such leverage].

(5) *Prohibition Against Removal of CGP by Limited Partners Without SBA's Prior Approval.* Section 107.4(b) prohibits the removal or replacement of the CGP by action of the limited partners, without SBA's prior written approval. The point is made in the comments that the limited partners should have power of removal, free of SBA control, in order to assure continuity of operation if it becomes necessary to replace the CGP. SBA, however, deems it essential to its responsibility as creditor and supervisory authority to retain an effective administrative hold over the CGP as fiduciary-manager of the partnership SBIC. If circumstances warrant removal or replacement, SBA approval will be forthcoming; its consent will not be unreasonably withheld. The CGP's removal and replacement do not merely involve matters of concern to the general and limited partners, but also SBA's vital interests in the context of leverage extended, and SBIC management in conformity with the SBI Act and regulations thereunder. An exit-examination of the CGP's affairs, for example, may be appropriate before terminating its existing relationship to the SBIC.

(6) *Conversion of Limited Partnership SBIC to Corporate Form Without SBA Prior Approval.* Under § 107.903 of the SBIC Regulation, merger, consolidation or reorganization of a Licensee requires prior SBA approval. This provision applies to both corporate Licensees and limited partnership SBIC's. The contention that a partnership SBIC should be allowed to convert freely to the corporate form, without the necessity of SBA approval, is based on the unwarranted assumption that its consent may be unreasonably withheld. In any event, to permit partnership SBIC's to convert, without SBA review and approval, would unfairly discriminate against corporate Licensees desiring to reorganize into the partnership form, with SBA consent.

Section 107.805, which restricts eligible consideration for the issuance of SBIC securities to cash, U.S. Government obligations, and certain types of non-cash property and services, was not made explicitly applicable to the CGP's corporate capital under the technical amendments to the SBIC Regulation adopted on June 25, 1976 (41 FR 26201). It is not now necessary to do so in view of the fact that § 107.4(d) of the present amendments requires such corporate capital to be invested as Idle Funds [U.S. Government obligations] or in joint financing of small concerns with the partnership SBIC, pursuant to §§ 107.808 and 107.1004(c). Accordingly, its corporate capital must consist of funds available for such investment.

Certain miscellaneous minor corrections are made in §§ 107.103, 107.701(b)(2), 107.702, 107.1102 (a) and (b)(1)(iii), and 107.1105(a). They were listed in the October 29, 1976 Notice and no objections or other comments were submitted concerning them.

Pursuant to the authority contained in section 308 of the Small Business Investment Act of 1958, 15 U.S.C. 661, *et seq.*, Part 107 is amended as follows:

1. Section 107.3 Definition of terms is amended as follows:

(1) The definition of "Associate of a Licensee" is amended by amending paragraph (b);

(2) The definition of "Licensee" is amended; and

(3) Section 107.3 *Definition of terms* is further amended by inserting at the appropriate alphabetical places the definitions of "Corporate Licensee" and "Unincorporated Licensee."

§ 107.3 Definition of terms.

"Associate of a Licensee" * * *

(b) Any Person owning or Controlling, directly or indirectly ten or more percent of any class of stock of such Corporate Licensee, or ten or more percent of the partnership capital of such Unincorporated Licensee.

* * * * *

"Corporate License" see *"Licensee."*

* * * * *

Licensee. 'Licensee' means either a corporation ('Corporate Licensee'), or a limited partnership organized pursuant to § 107.4 ('Unincorporated Licensee'), to which a license has been granted pursuant to the Act. For sections deeming 'Licensee' to include the corporate general partner of an Unincorporated Licensee, see § 107.4(c).

* * * * *

"Unincorporated License" see *"Licensee."*

2. A new § 107.4 is added reading as follows:

§ 107.4 Limited Partnership SBIC.

(a) *General.* A limited partnership organized under State law solely for the purpose of performing the functions and conducting the activities contemplated under the Act may apply for a license pursuant to section 301(c) of the Act.

(b) *Application.* Such application shall include the Articles, providing for a sole corporate general partner organized under State law solely for service as such, which shall not serve in such capacity for any other Licensee, and which may not be removed or replaced by action of the limited partners without prior written approval of SBA.

(c) *Obligations of the corporate general partner.* Such general partner shall be subject to the same examination and reporting requirements as a Corporate Licensee under section 310(b), the disciplinary provisions of sections 313 and 314, and its officers, directors and shareholders shall be bound by the conflict of interest rules under section 312 of the Act. Moreover, the events of default specified in § 107.203(b)(1) (ii) and (iii) and (b)(2), relating to contractual and regulatory violations and to insolvency and bankruptcy, and § 107.203(b) (3) (iii) and (4), relating to salaries and to the employment of former SBA personnel, shall apply to the corporate general partner and be deemed to have been agreed to by the Unincorporated Licensee. "Licensee" in (1) the definition of *"Associate of a Licensee"* in § 107.3, and (2) §§ 107.701, 107.702, 107.703, 107.801, 107.802, 107.803, 107.806, 107.809, 107.901, 107.902, 107.903, 107.1005, 107.1101, 107.1102, 107.1105, 107.1203 and 107.1301 shall be deemed to include the corporate general partner of an Unincorporated Licensee.

(d) *Capital of corporate general partner.* The corporate capital of such general partner which is not invested in the Unincorporated Licensee shall be invested only as permitted by the last sentence of section 308(b) of the Act, pursuant to §§ 107.808 and 107.1004(c), or any of them.

(e) *Reorganization of Corporate Licensee.* A Corporate Licensee wishing to reorganize as an Unincorporated Licensee, or an Unincorporated Licensee wishing to reorganize as a Corporate Licensee, may apply to SBA for approval pursuant to § 107.903 of these Regulations.

3. Miscellaneous minor amendments are as follows:

(1) Section 107.103 Public notice is amended to read as follows:

§ 107.103 Public notice.

SBA shall publish notice of the license application in the FEDERAL REGISTER. It shall include such appropriate information as the name and location of the proposed Corporate Licensee, its areas of operation, the names and addresses of its officers, directors, and owners of ten or more percent of its voting stock; and, in the case of an Unincorporated Licensee, its name, location and areas of operation and the names and addresses of the officers, directors and owners of ten or more percent of any class of stock of the corporate general partner, the corporate general partner's name and address, and each partner owning ten percent or more of the Unincorporated Licensee's Private Capital, and shall provide an opportunity for the submission of written comments. The proposed Licensee shall publish a similar notice in a newspaper of general circulation in the city or proposed areas of operation, and a certified copy shall be furnished to SBA within ten days.

§ 107.701 [Amended]

(2) Section 107.701(b)(2) is amended by inserting the word "or" after the semicolon at the end thereof.

§ 107.702 [Amended]

(3) Section 107.702 *Common Control* is amended by replacing the upper-case "P" with a lower-case "p" in the word "partner" appearing in the lead-in paragraph and paragraph (a) thereof.

§ 107.1102 [Amended]

(4) Section 107.1102(a) is amended by inserting a comma after the words "Unincorporated Licensee."

§§ 107.1102 and 107.1105 [Amended]

(5) Section 107.1102(b)(1)(iii) *Preservation of records* and § 107.1105(a) *Changes to be reported* are amended by replacing the lower-case "a" with an upper-case "A" in the word "Articles."

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 29, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29222 Filed 10-4-77;8:45 am]

[6355-01]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1505—REQUIREMENTS FOR ELECTRICALLY OPERATED TOYS OR OTHER ELECTRICALLY OPERATED ARTICLES INTENDED FOR USE BY CHILDREN

Electrically Operated Toys (Labeling); Interpretation

AGENCY: Consumer Product Safety Commission.

ACTION: Interpretation of regulation.

SUMMARY: The Commission publishes a Letter of Advice, approved by the Commissioners, from the Associated Executive Director for Compliance and Enforcement, concerning lettering height requirements for marking on electrically operated toys and accompanying instruction sheets and outer packaging. The Letter of Advice, issued September 26, 1977, responds to a petition from Hasbro Industries, Inc., requesting clarification of the lettering requirements. The Commission is publishing the Letter of Advice to inform all interested persons of its interpretation of the regulation.

FOR FURTHER INFORMATION CONTACT:

Dale Miller, Director, Regulatory Management, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, (301-492-6617).

SUPPLEMENTARY INFORMATION: On September 19, 1974, Hasbro Industries, Inc., petitioned the Commission (HP 75-8) to amend the lettering height provisions of the regulation entitled "Requirements for Electrically Operated Toys or Other Electrically Operated Articles Intended for Use by Children" (16 CFR Part 1505). Specifically, the petitioner sought amendment of the lettering height requirement in 16 CFR 1505.3(d)(2) which pertains to all markings on electrically operated toys and accompanying instruction sheets and outer packaging required by 16 CFR 1505.3(b).

The petitioner stated that the minimum lettering height provision is unclear because it does not specify whether the upper or lower case letter is to be used as the guide in measuring the minimum lettering height. The petitioner suggested that 16 CFR 1505.3(d)(2) be amended to state:

Minimum lettering height, as delineated by the height of the riser in the lower case alphabet, shall be as follows: * * *

By letter dated August 27, 1976, the petitioner suggested that the regulation require that the letter "n" be used for determining letter height for lower case lettering and the letter "N" for capital lettering within any desired type face.

The Commission, on September 16, 1977, denied the petition because it does not believe that an amendment to the regulation is necessary to clarify the minimum letter height requirement. Although the section does not describe a particular method of letter measurement or type letter to be measured, the term "minimum" appears to be explicit, i.e., the smallest letter used in a required label must be equal to or greater than the specified size requirements.

The Commission approved a Letter of Advice to the petitioner from the Associate Executive Director for Compliance and Enforcement recommending that an actual ruler measurement be made of the smallest lower case letter in the selected print or mold lettering since a specified type size, such as ¼ inch, may or may not provide that size lettering in the finished form.

The Commission publishes below the text of the Letter of Advice in order to apprise manufacturers of electrically operated toys of the Commission's interpretation of the minimum lettering height requirements of 16 CFR 1505.3 (d)(2).

September 26, 1977.

Mr. JAMES BOLLS,
Director, Quality Assurance,
Hasbro Industries, Inc.,
1027 Newport Ave.,
Pawtucket, R.I.

Re: HP 75-8

DEAR MR. BOLLS: Your letter of September 19, 1974 concerning the lettering height requirements of Part 1505.3(d)(2) of the Electric Toy Regulations, including an amendment request, has been reviewed by the appropriate staff and by the Commission.

As you know, 1515.3(d)(2) specifies the "minimum" lettering height for labeling required by the regulation. Although the section does not describe a particular method of letter measurement or type of letter to be measured, the term "minimum" appears to be explicit, i.e., the smallest letter used in a required label must be equal to or greater than the specified size requirements. As additional guidance, we would recommend an actual ruler measurement of the smallest lower case letter in the selected print or mold lettering. A specified type size such as one-quarter inch may or may not provide that size lettering height in the finished form.

If you have any questions or need further assistance, please contact Dale Miller, Director, Regulatory Management, Directorate of Compliance and Enforcement, 5401 Westbard Avenue, Bethesda, Maryland, (301) 492-6617.

Sincerely,

DAVID SCHMELTZER,
Associate Executive Director
for Compliance & Enforcement.

Dated: September 29, 1977.

RICHARD E. RAPPS,
Secretary, Consumer
Product Safety Commission.

[FR Doc.77-29215 Filed 10-4-77;8:45 am]

[4810-22]

Title 19—Customs Duties

[T.D. 77-241]

CHAPTER I—UNITED STATES CUSTOMS SERVICE

VESSELS IN FOREIGN AND DOMESTIC TRADES; TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT; CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE; ENTRY OF MERCHANDISE; PERSONAL DECLARATIONS AND EXEMPTIONS

AGENCY: United States Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule revises the Customs Regulations setting forth the general provisions relating to the operation of the United States Customs Service. This revision, which is part of the general revision of the Customs Regulations, follows a new format and contains changes or additions to language to clarify the former provisions.

EFFECTIVE DATE: November 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard M. Belanger, Attorney, Regulations and Legal Publications Division, United States Customs Service, 1301 Constitution Ave., NW., Washington, D.C. 20229, (202-566-8237).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 13, 1976, a notice of proposed rulemaking which would revise the Customs Regulations setting forth general provisions relating to the operation of the Customs Service was published in the FEDERAL REGISTER (41 FR 34261). The revision is part of the general revision of the Customs Regulations, and replaces Part 1 with a new Part 101. Part 101 follows a new format, and contains changes or additions to language to clarify the former provisions. No substantive changes were proposed. Interested parties were given until October 12, 1976, to submit data, views, or arguments in regard to the proposal.

DISCUSSION OF COMMENTS

The Customs Service received comments which pointed out several clerical or typographical errors. These have been corrected. Other comments involved substantive changes to the Customs Regulations and, consequently, were beyond the scope of this revision. These comments will be considered separately at a later time as possible amendments to new Part 101.

After review of the proposed revision, the following changes have been made:

1. The table in section 101.3 is updated to include the following changes in Customs regions, districts, and ports: Orlando, Fla., Battle Creek, Mich., and Grand Rapids, Mich., have been designated ports of entry; the port limits of Charleston, S.C., Mobile, Ala., Progreso, Tex., Dayton, Ohio, and Erie, Pa., have been extended; Richmond County N.J., has been transferred from Region III to Region II; and the district of St. Albans, Vt., has been reorganized.

2. The table in § 101.4 is updated to reflect the transfer of supervision over the Customs station at Los Ebanos, Tex., from Hidalgo to Rio Grande City, and the reorganization of the St. Albans, Vt., district.

3. Sections 101.6 (Assignment of Customs regions to regional directors, internal affairs), 101.7 (Office of Investigations), and 101.8 (Customs laboratories) of the proposed revision are deleted. The matter formerly contained in these sections will be published annually in a notice in the FEDERAL REGISTER in accordance with 5 U.S.C. 552(a)(1).

4. Section 101.0, relating to the scope of this part of the Customs Regulations, is changed to eliminate references to the subject matter of the deleted sections referred to in the previous paragraph.

5. Sections 101.9, 101.10, and 101.11 of the proposed revision are respectively redesigned §§ 101.6, 101.7, and 101.8. The index and Appendix I to Part 101 are changed to reflect these deletions and redesignations. Appendix I is further changed by adding a parallel reference table listing in order the old section numbers and their corresponding new section numbers.

In addition to the above changes, a number of editorial corrections have been made to the text of the provisions originally proposed. Further, conforming changes have been made to other sections of the Customs Regulations necessitated by this revision.

Accordingly, Part 1 is deleted, conforming changes are made to Parts 4, 18, and 24, and new Part 101 is adopted, as set forth below.

DRAFTING INFORMATION

The primary author of this revision was Richard M. Belanger, Attorney, Regulations and Legal Publications Division, Office of Regulations and Rulings, United States Customs Service (202-566-8237). However, personnel from other offices of the United States Customs Service participated in the development of the revision, both in matters of substance and style.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: September 22, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

PART 1—GENERAL PROVISIONS

Chapter I of Title 19, Code of Federal Regulations, is amended by deleting Part 1.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

§ 4.6 [Amended]

Section 4.6(b) is amended by substituting "101.1(b)" for "1.1".

§ 4.81 [Amended]

Section 4.81(g)(6) is amended by substituting "101.4 (a) and (b)" for "1.3 (b) and (c)".

§ 4.96 [Amended]

Sections 4.96 (d) and (e) are amended by substituting "101.4" for "1.2(b)" wherever it appears therein.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

§ 18.13 [Amended]

Section 18.13(a) is amended by substituting "101.4" for "1.2".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

§ 24.17 [Amended]

Section 24.17(a)(4) is amended by substituting "101.4" for "1.2" and "101.4 (b)" for "1.2(c)".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 101—GENERAL PROVISIONS

Chapter I of Title 19, Code of Federal Regulations, is amended by adding a new Part 101 to read as follows:

Sec.
101.0 Scope.
101.1 Definitions.
101.2 Authority of Customs officers.
101.3 Customs regions, districts and ports.
101.4 Entry and clearance of vessels at Customs stations.
101.5 Customs preclearance offices in foreign countries.
101.6 Hours of business.
101.7 Customs seal.
101.8 Identification cards.

AUTHORITY: R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14, 79 Stat. 1317; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624, Reorganization Plan 1 of 1965; 3 CFR 1965 Supp. Additional authority and statutes interpreted or applied are cited in the text or following the section affected.

§ 101.0 Scope.

This part sets forth general regulations governing the authority of Customs officers, and the location of Customs regions, districts, and ports of entry, and of Customs stations. It further sets forth regulations concerning the entry and clearance of vessels at Customs stations and a listing of Customs preclearance offices in foreign countries. In addition, this part contains provisions concerning the hours of business of Customs offices, the Customs seal, and the identification cards issued to Customs officers and employees.

§ 101.1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular part or portion thereof:

(a) *Area.* "Area" refers to any of the three administrative areas created in the Customs district of New York City, New York, which is coextensive with Customs Region II, New York City, New York, and identified as Kennedy Airport Area, Newark Area, and New York Seaport Area, each of which is under the jurisdiction of an area director of Customs.

(b) *Customs district.* A "Customs district" is the geographical area under the jurisdiction of a district director of Customs.

(c) *Customs region.* A "Customs region" is the geographical area under the jurisdiction of a regional commissioner of Customs.

(d) *Customs station.* A "Customs station" is any place, other than a port of entry, at which Customs officers or employees are stationed, under the authority contained in article IX of the President's Message of March 3, 1913 (T.D. 33249), to enter and clear vessels, accept entries of merchandise, collect duties, and enforce the various provisions of the Customs and navigation laws of the United States.

(e) *Customs territory of the United States.* "Customs territory of the United States" includes only the States, the District of Columbia, and Puerto Rico.

(f) *Date of entry.* The "date of entry" or "time of entry" of imported merchandise shall be the effective time of entry of such merchandise, as defined in § 141.68 of this chapter.

(g) *Date of exportation.* "Date of exportation" or "time of exportation" shall be as defined in § 152.1(c) of this chapter.

(h) *Date of importation.* "Date of importation" means, in the case of merchandise imported otherwise than by vessel, the date on which the merchandise arrives within the Customs territory of the United States. In the case of merchandise imported by vessel, "date of importation" means the date on which the vessel arrives within the limits of a port in the United States with intent then and there to unlade such merchandise.

(i) *Duties.* "Duties" means Customs duties and any internal revenue taxes which attach upon importation.

(j) *Entry or withdrawal for consumption.* "Entry or withdrawal for consumption" means entry for consumption or withdrawal from warehouse for consumption.

(k) *Importer.* "Importer" means the person primarily liable for the payment of any duties on the merchandise, or an authorized agent acting on his behalf. The importer may be:

(1) The consignee, or

(2) The importer of record, or

(3) The actual owner of the merchandise, if an actual owner's declaration and superseding bond has been filed in accordance with § 141.20 of this chapter, or

(4) The transferee of the merchandise, if the right to withdraw merchandise in a bonded warehouse has been transferred in accordance with subpart C of Part 144 of this chapter.

(l) *Port and port of entry.* The terms "port" and "port of entry" refer to any place designated by Executive order of the President, by order of the Secretary of the Treasury, or by Act of Congress, at which a Customs officer is authorized to accept entries of merchandise to collect duties, and to enforce the various provisions of the Customs and navigation laws. The terms "port" and "port of entry" incorporate the geographical area under the jurisdiction of a port director when such port is one other than a district headquarters port. (The Customs District of the Virgin Islands, although under the jurisdiction of the Secretary of the Treasury, has its own Customs laws (48 U.S.C. 1406(i)). This district, therefore, is outside the Customs territory of the United States and the ports thereof are not "ports of entry" within the meaning of these regulations.)

(m) *Principal field officer.* A "Principal field officer" is an officer in the field service whose immediate supervisor is located at Customs Service Headquarters.

§ 101.2 Authority of Customs officers.

(a) *Supremacy of delegated authority.* Action taken by any person pursuant to authority delegated to him by the Secretary of the Treasury, whether directly or by subdelegation, shall be valid despite the existence of any statute or regulation, including any provision of this chapter, which provides that such action shall be taken by some other person. Any person acting under such delegated authority shall be deemed to have complied with any statute or regulation which provides or indicates that it shall be the duty of some other person to perform such action.

(b) *Consolidation of functions.* Any reorganization of the Customs Service or consolidation of the functions of two or more persons into one office which results in the failure of a designated customs officer to perform an action required by statute or regulation, shall not invalidate the performance of that action by any other Customs officer.

§ 101.3 Customs regions, districts and ports.

(a) *Redesignation of Customs districts and ports of entry.* The Under Secretary of the Treasury, pursuant to authority delegated by the Secretary of the Treasury, is authorized from time to time, as the needs of the Customs Service may require, to rearrange or consolidate the Customs districts, to discontinue ports of entry by abolishing them and establishing others in their place, and to change the location of the headquarters in any Customs district as the needs of the Customs Service may require.

(b) *Customs regions, districts and ports of entry listed.* The following is a list of Customs regions and districts, with a list of the ports in each district. (The Customs region of New York City, New York, is coextensive with the Customs district of New York City, New York). The first-named port in each district, listed in capital letters, is the headquarters port. Many of the ports listed were created by the President's message of March 3, 1913, concerning a reorganization of the Customs Service pursuant to the Act of August 24, 1912 (37 Stat. 434; 19 U.S.C. 1). Subsequent orders of the President or of the Secretary of the Treasury which affected these ports, or which created (or subsequently affected) additional ports, are cited following the name of the ports.

Region		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
I	Boston, Mass.	Portland, Maine.	The States of Maine and New Hampshire except the county of Coos.	Portland, Maine, including territory described in E.O. 9297, Feb. 1, 1943; 8 F.R. 1479. Bangor, Maine, including Brewer, Maine (E.O. 9297, Feb. 1, 1943; 8 F.R. 1479). Bar Harbor, Maine, including Mount Desert Island, the city of Ellsworth, and the townships of Hancock, Sullivan, Sorrento, Gouldsboro, and Winter Harbor (E.O. 4572, Jan. 27, 1927). Bath, Maine, including Booth Bay and Wiscasset (E.O. 4356, Dec. 15, 1925). Belfast, Maine, including Searsport (E.O. 6754, June 28, 1934). Bridgewater, Maine (E.O. 8079, Apr. 4, 1939; 4 F.R. 1475). Calais, Maine, including townships of Calais, Robbinston, and Baring (E.O. 6284, Sept. 13, 1933). Eastport, Maine, including Lubec and Cutler (E.O. 4296, Aug. 26, 1925). Fort Fairfield, Maine. Fort Kent, Maine. Houlton, Maine (E.O. 4156, Feb. 14, 1925). Jackman, Maine, including the townships of Jackman, Sandy Bay, Bald Mountain, Holeb, Attean, Lowelltown, Dennistown, and Moose River (T.D. 54683). Jonesport, Maine, including the towns (townships) of Beals, Jonesboro, Roque Bluffs, and Machiasport (E.O. 4296, Aug. 26, 1925; E.O. 8695, Feb. 25, 1941). Limestone, Maine. Madawaska, Maine. Portsmouth, N.H., including Kittery, Maine. Rockland, Maine. Van Buren, Maine. Vanceboro, Maine.
		St. Albans, Vt.	The State of Vermont and the county of Coos, N.H.	St. Albans, Vt., including township of St. Albans: (E.O. 3925, Nov. 13, 1923; E.O. 7632, June 15, 1937; 2 F.R. 1042). T.D. 77-165 Beecher Falls, Vt. Burlington, Vt., including the town of South Burlington (T.D. 54677). Derby Line, Vt. Highgate Springs/Alburg, Vt., including territory described in T.D. 77-165. Norton, Vt., including the territory described in T.D. 73-249. Richford, Vt.
		Boston, Mass..	The State of Massachusetts..	Boston, including territory and waters adjacent thereto described in T.D. 56493. Fall River, including territory described in T.D. 54476. Gloucester. Lawrence, including the territory described in T.D. 71-12; E.O. 5444, Sept. 16, 1930; E.O. 10088, Dec. 3, 1949; 14 F.R. 7287. New Bedford. Plymouth. Salem, including Beverly, Marblehead, Lynn, and Peabody (E.O. 9207, July 29, 1942). Springfield (T.D. 69-189). Worcester.
		Providence, R.I.	The State of Rhode Island..	Providence, including the territory described in T.D. 67-3. Newport.
		Bridgeport, Conn.	The State of Connecticut...	Bridgeport, including territory described in T.D. 68-224. Hartford, including territory described in T.D. 68-224. New Haven, including territory described in T.D. 68-224. New London, including territory described in T.D. 68-224.
		Ogdensburg, N.Y.	The counties of Clinton, Essex, Franklin, St. Lawrence, Jefferson, and Lewis, in the State York.	Ogdensburg. Alexandria Bay, including territory described in E.O. 10042, Mar. 10, 1949; 14 F.R. 1155. Cape Vincent. Champlain-Rouses Point, including territory described in T.D. 67-68. Chateaugay. Clayton. Fort Covington. Massena (T.D. 54834). Trout River (T.D. 56074).
		Buffalo, N.Y.	The counties of Oswego, Oneida, Onondaga, Cayuga, Seneca, Wayne, Broome, Tompkins, Chenango, Madison, Cortland, Hamilton, Schuyler, Chemung, Herkimer, Monroe, Ontario, Livingston, Yates, Steuben, Orleans, Genesee, Wyoming, Allegany, Erie, Niagara, Cattaraugus, Chautauqua, and Tioga, in the State of New York.	Buffalo-Niagara Falls, N.Y. (T.D. 56512) Oswego. Rochester. Sodus Point. Syracuse. Utica.

Region		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
II	New York City N.Y.	New York City N.Y.	The counties of Sussex, Passaic, Hudson, Bergen, Essex, Union, Middlesex, and Monmouth, in the State of New Jersey and that part of the State of New York not expressly included in the districts of Buffalo and Ogdensburg. (The district is divided into 3 areas; namely, Kennedy Airport area, Newark area, and New York seaport area, the limits of which are described in T.D. 71-19 and T.D. 76-59).	New York, N.Y., including territory described in E.O. 4205, Apr. 15, 1925; T.D. 53786. Albany, N.Y. Perth Amboy, N.J.
III	Baltimore, Md.	Philadelphia, Pa.	The State of Pennsylvania except the county of Erie, the State of Delaware, and that part of the State of New Jersey not included in the district of New York City.	Philadelphia, Pa., including Camden and Gloucester City, N.J., and territory described in E.O. 7840, Mar. 15, 1938; 3 F.R. 687; T.D. 53738 and T.D. 54303. Chester Pa. (E.O. 7706, Sept. 11, 1937; 2 F.R. 1848). Harrisburg, Pa. (T.D. 71-233). Pittsburgh, Pa, including the territory described in T.D. 67-197. Wilkes-Barre/Scranton, Pa., including the territory described in T.D. 75-64. Wilmington, Del., including territory described in T.D. 54202; E.O. 4496, Aug. 12, 1926.
		Baltimore, Md.	The State of Maryland except the counties of Montgomery and Prince Georges.	Baltimore, Md., including territory described in T.D. 68-123. Annapolis, Md. Cambridge, Md. (E.O. 3888, Aug. 13, 1923). Crisfield, Md.
		Washington, D.C.	The District of Columbia, the counties of Montgomery and Prince Georges, in the State of Maryland; the counties of Loudoun, Fairfax, and Arlington, and the city of Alexandria, in the State of Virginia, including any independent cities and towns within the boundaries of such counties.	Washington, D.C., including the territory described in T.D. 68-67. Alexandria, Va. (T.D. 68-67).
		Norfolk, Va...	The State of Virginia except the counties of Loudoun, Fairfax, and Arlington, and the city of Alexandria, including any independent cities and towns within the boundaries of such counties, and the State of West Virginia.	Norfolk and Newport News, including the waters and shores of Hampton Roads. Cape Charles City. Charleston, W. Va., including the territory described in T.D. 73-221. Reedville. Richmond-Petersburg, including the territory described in T.D. 68-179.
IV	Miami, Fla...	Wilmington, N.C.	The State of North Carolina.	Wilmington, including townships of Northwest, Wilmington, and Cape Fear (E.O. 7761, Dec. 3, 1937; 2 F.R. 2679, and territory described in E.O. 10042, Mar. 10, 1949; 14 F.R. 1155). Beaufort-Morehead City (T.D. 55637). Charlotte (T.D. 56079). Durham (E.O. 4876, May 3, 1928), including territory described in E.O. 9433, Apr. 6, 1944; 9 F.R. 3761. Reidsville (E.O. 5159, July 18, 1929), including territory described in E.O. 9433, Apr. 6, 1944; 9 F.R. 3761. Winston-Salem (E.O. 2366, Apr. 24, 1916).
		Charleston, S.C.	The State of South Carolina.	Charleston, including territory described in T.D. 76-142. Georgetown. Greenville-Spartanburg, S.C., including territory described in T.D. 70-148.
		Savannah, Ga.	The State of Georgia, except the north shore of the St. Marys River and the city of St. Marys, Ga.	Savannah, including territory described in E.O. 8367, Mar. 5, 1940; 5 F.R. 985. Atlanta, including territory described in T.D. 55548. Brunswick.
		Tampa, Fla...	The north shore of the St. Marys River and the city of St. Marys, Ga., and all the State of Florida lying east of the east bank of the Ochlockonee River except the counties of Hendry, Indian River, St. Lucie, Martin, Okeechobee, Palm Beach, Collier, Broward, Monroe, and Dade.	Tampa, including territory described in T.D. 68-91. Boca Grande. Fernandina Beach, including St. Marys, Ga. (T.D. 53033). Jacksonville (T.D. 69-45). Orlando (T.D. 76-366). Port Canaveral, Fla., including territory described in T.D. 66-212. St. Petersburg (E.O. 7928, July 14, 1938; 3 F.R. 1749, including territory described in T.D. 53994.
		Miami, Fla....	The counties of Hendry, Indian River, St. Lucie, Martin, Okeechobee, Palm Beach, Collier, Broward, Monroe, and Dade in the State of Florida.	Miami, Fla., including territory described in T.D. 53514. Key West, including territory described in T.D. 53994. Port Everglades (E.O. 5770, Dec. 31, 1931), including territory described in T.D. 53514. Mail: Fort Lauderdale, Fla. West Palm Beach (E.O. 4324, Oct. 15, 1925), including territory described in T.D. 53514.

Region		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
		San Juan, P.R.	The Commonwealth of Puerto Rico.	San Juan, including territory described in T.D. 54017. Aguadilla. Fajardo. Guanica. Humacao, including the territory described in T.D. 70-157. Jobos (E.O. 9162, May 13, 1942). Mayaguez (T.D. 22305). Ponce, including territory described in T.D. 54017.
		Charlotte Amalie, St. Thomas, V.I.	All of the Virgin Islands of the United States.	Charlotte Amalie, St. Thomas, V.I. Christiansted, St. Croix. Coral Bay, St. John. Cruz Bay, St. John. Frederiksted, St. Croix.
V	New Orleans, La.	Mobile, Ala.	The State of Alabama and that part of the State of Mississippi lying south of lat. 31° N., and that part of the State of Florida lying west of the east bank of the Ochlockonee River.	Mobile, Ala., including territory described in T.D. 76-259. Apalachicola, Fla. Birmingham, Ala. Carrabelle, Fla. (E.O. 7508, Dec. 11, 1936; 1 F.R. 2149). Gulfport, Miss. Panama City, Fla. (E.O. 3919, Nov. 1, 1923). Pascagoula, Miss., including territory described in T.D. 56333. Pensacola, Fla. Port St. Joe, Fla. (E.O. 7818, Feb. 17, 1938; 3 F.R. 508).
		New Orleans, La.	The States of Tennessee, Arkansas, and Louisiana, except the parishes of Cameron and Calcasieu and that part of the State of Mississippi lying north of lat. 31° N.	New Orleans, La., including territory described in T.D. 74-206. Baton Rouge, La. (E.O. 5093, Jan. 13, 1933), including territory described in T.D. 53514 and T.D. 54361. Chattanooga, Tenn. Greenville, Miss., including the territory described in T.D. 73-325. Knoxville, Tenn., including the territory described in T.D. 75-128. Little Rock-North Little Rock, Ark., including territory described in T.D. 70-146. Memphis, Tenn. Morgan City, La., including territory described in T.D. 66-266. Nashville, Tenn. Vicksburg, Miss., including territory described in T.D. 72-123.
VI	Houston, Tex.	Port Arthur, Tex.	That part of the State of Texas from Sabine Pass north along State line to north boundary line of Shelby County; west to Neches River; down western shore of said river to north boundary of Jefferson County; westerly along said boundary to east boundary of Liberty County; south to Gulf; also the parishes of Cameron and Calcasieu in the State of Louisiana	Beaumont, Orange, Port Arthur, and Sabine, Tex., including territory described in T.D. 74-231. Lake Charles, La. (E.O. 5475, Nov. 3, 1930) including territory described in T.D. 54137.
		Galveston, Tex.	The Counties of Galveston, Matagorda, Chambers, Calhoun, Refugio, Brazoria, San Patricio, Nueces, and Aransas in the State of Texas.	Galveston, including Port Bolivar and Texas City. Corpus Christi (E.O. 8288, Nov. 22, 1939; 4 F.R. 4691). Freeport (E.O. 7632, June 15, 1937; 2 F.R. 1042). Port Lavaca-Point Comfort, Tex. (T.D. 56115).
		Houston, Tex.	That part of the State of Texas lying north of lat. 33° N. and that part of the State of Texas lying east of long. 97° W., except the territory embraced in the Port Arthur and Galveston districts. Also, the counties of Dallas and Tarrant and the State of Oklahoma.	Houston, Tex., including territory described in T.D. 54409. Amarillo, Tex. (T.D. 75-129). Dallas/Fort Worth, Tex., including territory described in T.D. 73-297. Oklahoma City, Okla., including territory described in T.D. 66-132. Tulsa, Okla. (T.D. 69-142).
		Laredo, Tex..	That part of the State of Texas lying west of long. 97° W. and east of the Pecos River except that territory included in the Houston and Galveston districts.	Laredo. Brownsville, Tex. including territory described in T.D. 54900. Del Rio. Eagle Pass. Hidalgo (E.O. 3600, Jan 9, 1922). Lubbock, Tex. (T.D. 75-143). Progreso, Tex. including territory described in T.D. 76-339. Rio Grande City. Roma (E.O. 4830, Mar. 14, 1928). San Antonio.
		El Paso, Tex..	That part of the State of Texas lying west of the Pecos River and the States of New Mexico and Colorado.	El Paso, Tex. (T.D. 54407). Albuquerque, N. Mex., including the territory described in T.D. 74-304. Columbus, N. Mex. Denver, Colo. Fabens, Tex. (E.O. 4869, May 1, 1928). Presidio, Tex. (E.O. 2702, Sept. 7, 1917).

Region		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
VII	Los Angeles, Calif.	Nogales, Ariz.	The State of Arizona	Nogales, including the territory described in T.D. 71-196. Douglas, including territory described in E.O. 9382, Sept. 25, 1943; 8 F.R. 13083. Lukeville (E.O. 10088, Dec. 3, 1949; 14 F.R. 7287). Naco. Phoenix, Ariz. (T.D. 71-103). San Luis (E.O. 5322, Apr. 9, 1930). Sasabe (E.O. 5606, Apr. 22, 1931).
		San Diego, Calif.	The counties of San Diego and Imperial in the State of California.	San Diego (T.D. 54741), including the territory described in T.D. 66-229. Andrade (E.O. 4780, Dec. 13, 1927). Calexico. Tecate (E.O. 4780, Dec. 13, 1927).
		Los Angeles, Calif.	That part of the State of California lying south of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, except the counties of San Diego and Imperial and that part of the State of Nevada comprising Clark County.	Los Angeles-Long Beach, including territory described in T.D. 55341; T.D. 56383. Las Vegas, Nev., including the territory described in T.D. 73-55. Port San Luis.
VIII	San Francisco, Calif.	San Francisco, Calif.	That part of the State of California lying north of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, and the State of Utah and the State of Nevada except Clark County.	San Francisco-Oakland, Calif., including all points on San Francisco Bay and territory described in E.O. 10042, Mar. 10, 1949; 14 F.R. 1155; and T.D. 53738 and including territory described in T.D. 56020. Eureka, Calif. Fresno, Calif., including the territory described in T.D. 74-18. Reno, Nev., including the territory described in T.D. 73-56. Salt Lake City, Utah (T.D. 69-76).
		Honolulu, Hawaii.	The State of Hawaii	Honolulu (T.D. 53514). Hilo. Kahului. Nawiliwili-Port Allen (E.O. 4385, Feb. 25, 1926), including the territory described in T.D. 56424.
		Portland, Oreg.	The State of Oregon and that part of the State of Washington which embraces the waters of the Columbia River and the north bank of the said river west of long. 119° W.	Columbia River (Portland, Astoria, Longview), including territory described in T.D. 73-338. Coos Bay, Oreg. (E.O. 4094, Oct. 28, 1924, E.O. 5193, Sept. 14, 1929; E.O. 5445, Sept. 16, 1930; E.O. 9535, Mar. 23, 1945; 10 F.R. 3173). Newport, Oreg.
		Seattle, Wash.	The State of Washington except that part which embraces the waters of the Columbia River and the north bank of the said river west of long. 119° W.	Puget Sound (Seattle, Anacortes, Bellingham, Everett, Friday Harbor, Neah Bay, Olympia, Port Angeles, Port Townsend, Tacoma), including the territory described in T.D. 75-130. Aberdeen, including territory described in T.D. 56229 Blaine (E.O. 5835, Apr. 13, 1932). Boundary (T.D. 67-65). Danville. Ferry. Frontier (T.D. 67-65). Laurier. Lynden (E.O. 7632, June 15, 1937; 2 F.R. 1042). Metaline Falls (E.O. 7632, June 15, 1937; 2 F.R. 1042). Nighthawk. Oroville (E.O. 5206, Oct. 11, 1929). South Bend-Raymond (T.D. 53576). Spokane. Sumas.
		Anchorage, Alaska.	The State of Alaska	Anchorage, Alaska (T.D. 55295; T.D. 68-30). Alcan, Alaska (T.D. 71-210). Fairbanks (E.O. 8064, Mar. 9, 1939; 4 F.R. 1191). Juneau. Ketchikan, Alaska, including the territory described in T.D. 74-100. Kodiak, Alaska (T.D. 55206). Pelican (E.O. 10238, Apr. 27, 1951; 16 F.R. 3627). Petersburg (E.O. 4132, Jan. 24, 1925). Sand Point (T.D. 53514). Sitka, including territory described in T.D. 55609. Skagway. Wrangell, including territory described in T.D. 56420.
		Great Falls, Mont.	The States of Montana, Idaho, and Wyoming.	Great Falls, Mont. Butte, Mont., including the territory described in T.D. 73-121. Del Bonita, Mont. (E.O. 7947, Aug. 9, 1938; 3 F.R. 1965). Mail: Cut Bank, Mont. Eastport, Idaho. Morgan, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Mail: Loring, Mont. Opheim, Mont. (E.O. 76June 125, 1937; 2 F.R. 1042). Piegan, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Mail: Babb, Mont. Porthill, Idaho. Raymond, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042).

Region		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
				Roosville, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Mail: Eureka, Mont.
				Scobey, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Sweetgrass, Mont.
				Turner, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Whitetail, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Whitlash, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
IX	Chicago, Ill..	Pembina, N. Dak.	The States of North and South Dakota and the counties of Kittson, Roseau, Lake of the Woods, Marshall, Beltrami, Polk, Red Lake, and Pennington in the State of Minnesota.	Pembina, N. Dak.
				Ambrose, N. Dak. (E.O. 5835, Apr. 13, 1932).
				Antler, N. Dak.
				Baudette, Minn. (E.O. 4422, Apr. 19, 1926).
				Carbury, N. Dak. (E.O. 5137, June 17, 1929).
				Dunseith, N. Dak. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Fortuna, N. Dak. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Hannah, N. Dak.
				Hansboro, N. Dak.
				Maida, N. Dak. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Neche, N. Dak.
				Noonan, N. Dak. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Northgate, N. Dak.
				Noyes, Minn. (E.O. 5835, Apr. 13, 1932).
				Pinecreek, Minn. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Portal, N. Dak.
				Roseau, Minn. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Sarles, N. Dak.
				Sherwood, N. Dak.
				St. John, N. Dak. (E.O. 5835, Apr. 13, 1932).
				Walhalla, N. Dak.
				Warroad, Minn.
				Westhope, N. Dak. (E.O. 4236, June 1, 1925).
		Minneapolis, Minn.	The State of Minnesota except those counties in the Pembina, N. Dak., and Duluth, Minn., districts.	Minneapolis-St. Paul, including the territory described in T.D. 69-15.
		Duluth, Minn.	The counties of Kochiching, Itaschi, St. Louis, Carlton, Pine, Lake, Cook, Clay, Aitkin, Norman, Wilkin, Ottertail, Becker, Mahnomen, Clearwater, Hubbard, Wadena, Cass, and Crow Wing in the State of Minnesota and the counties of Douglas, Bayfield, Ashland, and Iron in the State of Wisconsin, and the island of Isle Royale in the State of Michigan.	Duluth, Minn., and Superior Wis., including the territory described in T.D. 55004.
				Ashland, Wis.
				Grand Portage, Minn (T.D. 56073).
				International Falls-Ranier, Minn., including the territory described in T.D. 66-246.
		Milwaukee, Wis.	The State of Wisconsin, except the counties of Douglas, Bayfield, Ashland, and Iron and the county of Menominee in the State of Michigan.	Milwaukee, including the territory described in T.D. 72-105.
				Green Bay, including the townships of Ashwaubenon, Allouez, Preble, and Howard, and the city of De Pere (T.D. 54597).
				Manitowoc.
				Marinette, including Menominee, Mich.
				Racine, including the city of Kenosha and the townships of Mt. Pleasant and Somers (T.D. 54884).
				Sheboygan.
		Chicago, Ill...	The State of Illinois lying north of lat. 39° N.; that part of the State of Indiana north of lat. 41° N.; and the States of Iowa and Nebraska.	Chicago, Ill., including the territory described in T.D. 71-121.
				Des Moines, Iowa, including the territory described in T.D. 75-104.
				Omaha, Nebr., including the territory described in T.D. 73-228.
				Peoria, Ill., including the territory described in T.D. 72-130.
		Cleveland, Ohio.	The States of Ohio, Kentucky, that part of the State of Indiana lying south of lat. 41° N., and the county of Erie in the State of Pennsylvania.	Cleveland, Ohio, including the territory described in TxD. 77-232.
				Akron, Ohio (E.O. 4597, Feb. 25, 1927), including the territory described in T.D. 77-232.
				Ashtabula/Conneaut, Ohio, including the territory described in T.D. 77-232.
				Cincinnati, Ohio, including the territory described in T.D. 75-144.
				Columbus, Ohio.
				Dayton, Ohio, including the territory described in T.D. 76-77.
				Erie, Pa., including the territory described in T.D. 77-5.
				Evansville, Ind.
				Indianapolis, Ind.
				Lawrenceburg, Ind., including Greendale (E.O. 6634, Mar. 7, 1934).
				Louisville, Ky., including the territory described in T. D. 77-232.
				Sandusky, Ohio.
				Toledo, Ohio, including the territory described in T.D. 71-157.
		St. Louis, Mo.	The States of Missouri and Kansas, and that part of the State of Illinois lying south of lat. 39° N.	St. Louis, Mo., including the territory described in T.D. 69-224.
				Kansas City, Mo., including Kansas City, Kans., and North Kansas City, Mo. (E.O 8528, Aug. 27, 1940), including the territory described in T.D. 67-56.
				St. Joseph, Mo.
				Wichita, Kans., including the territory described in T.D. 74-93.

Region		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
		Detroit, Mich.	The State of Michigan except the island of Isle Royale and the county of Menominee, Mich.	Detroit, including the territory described in E.O. 9073, Feb. 25, 1942; 7 F.R. 1588; and T.D. 53738. Battle Creek (T.D. 76-233). Grand Rapids (T.D. 77-4). Muskegon (E.O. 8315, Dec. 22, 1939), including territory described in T.D. 56230. Port Huron, including territory described in T.D. 53576. Saginaw-Bay City (T.D. 53738). Sault Ste. Marie.

§ 101.4 Entry and clearance of vessels at Customs stations.

(a) *Entry at Customs station.* A vessel shall not be entered or cleared at a Customs station, or any other place that is not a port of entry, unless entry or clearance is authorized by the district director for the district in which such station or place is located pursuant to the provisions of section 447, Tariff Act of 1930, as amended (19 U.S.C. 1447).

(b) *Authorization to enter.* Authorization to enter or be cleared at a Customs station shall be granted by the district director for the district in which such station or place is located provided the district director is notified in advance of the arrival of the vessel concerned and the following conditions are met:

(1) Such Customs supervision as may be necessary can be provided.

(2) All applicable Customs and navigation laws and regulations are complied with.

(3) The owner, master or agent of a vessel sought to be entered at a Customs station reimburses the Government for the salary and expenses of the Customs officer or employee stationed at or sent to such Customs station or other place which is not a port of entry for services rendered in connection with the entry or clearance of such vessel, and

(4) Except as otherwise provided by these regulations, the Government is reimbursed by the interested parties for the expenses, including any per diem allowed in lieu of subsistence, but not the salary of a Customs officer or employee for services rendered in connection with the entry or delivery of merchandise.

(c) *Customs stations designated.* The Customs stations and the ports of entry having supervision thereof are listed below:

District	Customs stations	Port of entry having supervision
Portland, Maine	Bucksport, Maine	Belfast.
	Conbrn Gore, Maine	Jackman.
	Easton, Maine	Fort Fairfield.
	Forest City, Maine	Houlton.
	Hamlin, Maine	Van Buren.
	Knoxford Line (Mars Hill)	Bridgewater.
	Monticello, Maine	Houlton.
	Orient, Maine	Do.
St. Albans, Vt	Beebe Plaine, Vt	Derby Line.
	Beebe Plaine, Vt	Derby Line.
	Canaan, Vt	Beecher Falls.
	East Richford, Vt	Richford.
	Newport, Vt	Derby Line, Vt.
	North Troy, Vt	Do.
	Pittsburg, N.H	Beecher Falls.
	West Berkshire, Vt	Richford.
Boston, Mass	Provincetown, Mass	Plymouth.
Ogdensburg, N.Y	Cannons Corners, N.Y	Mooers.
	Chiirubusco, N.Y	Chateaugay.
	Hogansburg, N.Y	Massena.
	Jamieson's Line, N.Y	Trout River.
	Morristown, N.Y	Ogdensburg.
	Waddington, N.Y	Do.
Philadelphia, Pa	Atlantic City, N.J	Philadelphia.
	Lewes, Del	Do.
	Port Norris, N.J	Do.
	Tuckerton, N.J	Do.
Baltimore, Md	Salisbury, Md	Baltimore.
Miami, Fla	Fort Pierce, Fla	West Palm Beach.
Mobile, Ala	Biloxi, Miss	Mobile.
New Orleans, La	Gramercy, La	New Orleans.
	Houma, La	Morgan City.
Houston, Tex	Muskogee, Okla	Tulsa, Oklahoma.
Laredo, Tex	Amistad Dam, Tex	Del Rio.
	Falcon Dam, Tex	Roma.
	Los Ebanos, Tex	Rio Grande City.
El Paso, Tex	Antelope Wells, N. Mex. (mail: Hachita, N. Mex.).	Columbus.
	Fort Hancock, Tex	Fabens.
	Marathon, Tex	El Paso.
Nogales, Ariz	Lochiel, Ariz	Nogales.
	Tucson, Ariz	Do.
San Diego, Calif	Campo, Calif	Tecate.
Los Angeles, Calif	Port Hueneme, Calif	Los Angeles.
San Francisco, Calif	Monterey, Calif	San Francisco.
Seattle, Wash	Point Roberts, Wash	Blaine.
Anchorage, Alaska	Annette Island, Alaska	Ketchikan.
	Eagle, Alaska	Fairbanks.
	Haines, Alaska	Skagway.
	Hyder, Alaska	Ketchikan.
	Tok, Alaska	Fairbanks.
Great Falls, Mont	Wild Horse, Mont	Great Falls.
	Willow Creek, Mont	Do.
Pembina, N. Dak	Grand Forks, N. Dak	Pembina.
	Lancaster, Minn	Noyes.
	Oak Island, Minn	Warroad.

District	Customs stations	Port of entry having supervision
Duluth, Minn.	Crane Lake, Minn.	International Falls/Ranier.
	Ely, Minn.	Grand Portage.
Cleveland, Ohio	Fairport, Ohio	Cleveland.
	Huron, Ohio	Sandusky.
	Lorain, Ohio	Cleveland.
	Marblehead-Lakeside, Ohio	Sandusky.
	Put-in-Bay, Ohio	Do.
Detroit, Mich.	Algonac, Mich.	Port Huron.
	Alpena, Mich.	Saginaw-Bay City.
	Detour, Mich.	Sault Ste. Marie.
	Escanaba, Mich.	Do.
	Grand Haven, Mich.	Muskegon.
	Houghton, Mich.	Sault Ste. Marie.
	Marine City, Mich.	Port Huron.
	Marquette, Mich.	Sault Ste. Marie.
	Roberts Landing, Mich. (mail: Route 1, Algonac, Mich.).	Port Huron.
	Rogers City, Mich.	Saginaw-Bay City.

(d) *Temporary Customs stations.* Customs stations may be designated for a temporary time only, to provide Customs facilities where needed because of certain large-scale operations. Because these designations change from time to time they are not listed. However, current information as to the existence of such stations in any district may be obtained from the district director.

§ 101.5 Customs preclearance offices in foreign countries.

Listed below are the preclearance offices in foreign countries where United States Customs officers are stationed and the Customs districts under which they function:

Customs office:	*Customs district having supervision*
Montreal, Quebec	St. Albans, Vt.
Toronto, Ontario	Buffalo, N.Y.
Kindley Field, Bermuda.	Kennedy Airport area, Jamaica, N.Y.
Nassau, Bahama Islands.	Miami, Fla.
Vancouver, British Columbia.	Seattle, Wash.
Prince Rupert, British Columbia.	Anchorage, Alaska.
Winnipeg, Manitoba.	Pembina, N. Dak.

§ 101.6 Hours of business.

Except as specified in paragraphs (a)–(g) of this section, each Customs office shall be open for the transaction of general Customs business between the hours of 8:30 a.m. and 5 p.m. on all days of the year:

(a) *Saturdays, Sundays and national holidays.* In addition to Saturdays, Sundays, and any other calendar day designated as a holiday by Federal statute or Executive order, Customs offices shall be closed on the following national holidays:

(1) The first day of January.
(2) The third Monday of February.
(3) The last Monday of May.
(4) The fourth day of July.
(5) The first Monday of September.
(6) The second Monday of October.
(7) The fourth Monday of October.
(8) The fourth Thursday of November.
(9) The twenty-fifth day of December.

If a holiday falls on Saturday, the day immediately preceding such Saturday will be observed. If a holiday falls on Sunday, the day immediately following such Sunday will be observed. (5 U.S.C. 6103(b)(1); (E.O. No. 11582, January 1, 1971; 34 FR 2957; 3 CFR Ch. 11)

(b) *Local conditions requiring different hours.* If, because of local conditions, different but equivalent hours are required to maintain adequate service, such hours shall be observed provided the Commissioner of Customs approves them and provided further that a notice of business hours is prominently displayed at the principal entrance and in each public room of the Customs office.

(c) *Fixing of hours.* At each port or station where there is no full-time Customs employee, the appropriate district director shall, with the approval of the regional commissioner of Customs, fix the hours during which the Customs office will be open for the transaction of general Customs business. Notice of such hours shall be prominently displayed at the principal entrance of the office.

(d) *State and local holidays.* Each Customs office shall be open for the transaction of business on all state and local holidays occurring on days other than Saturdays, Sundays, and national holidays listed in paragraph (a) of this section. The appropriate principal field officer may excuse any employee(s) without charge to leave when a state or local holiday interferes with the performance of his work in a Customs office.

(e) *Services performed outside a Customs office.* Customs services required to be performed outside a Customs office shall be furnished between the hours of 8 a.m. and 5 p.m. (or between the corresponding hours at ports where different but equivalent hours are required for the maintenance of adequate service and are approved by the Commissioner of Customs) on all days when the Customs office is open for the transaction of general Customs business. The regional commissioner of Customs shall, from time to time, and upon reasonable advance notice to the principal local officer concerned, issue instructions for the furnishing of such services on Saturdays.

(f) *Customs services not within prescribed hours.* Where there is a regularly recurring need for Customs services outside the hours prescribed in paragaphs (a)–(e) of this section and the volume and duration of the required services are uniformly such as to require, of themselves or in immediately consecutive combination with other essential Customs activities of the port, the full time of one or more Customs employees, the necessary number of regular tours of duty to furnish such services on all days of the year except Sundays and national holidays may be established with the approval of the Commissioner of Customs.

(g) *Customs services furnished private interests.* Other than as specified in this section, Customs services shall be furnished private interests only in accordance with the provisions of section 24.16 of this chapter.

§ 101.7 Customs seal.

(a) *Design.* According to the design furnished by the Department of the Treasury, the Customs seal of the United States shall consist of the seal of the Department of the Treasury surrounded by an outer circle in which appear the words "Treasury" at the top and "U.S. Customs Service" at the bottom.

(b) *Use of the Customs seal.* The Customs seal currently in official use, including the dies, rolls, plates, and like devices now in the possession of the Bureau of Engraving and Printing, shall continue to be equally effective as the official seal of the United States Customs Service and shall continue to be so used by each Customs officer and employee having possession of the seal until that particular device requires replacing and is replaced. Use of the United States Customs seal shall be restricted in the following manner:

(1) The Customs seal of the United States shall be impressed upon all official documents requiring the impress of a seal. It shall be impressed upon all marine documents and landing certificates, certificates of weight, gauge, or measure, and similar classes of documents for outside interests.

(2) The impress of the seal is not necessary on documents passing within the Customs Service nor shall the seal be used in the manner of a notary seal to indicate authority to administer oaths.

§ 101.8 Identification cards.

Each Customs employee shall be issued an appropriate identification card with that employee's photograph and signature, signed by the appropriate issuing officer.

PART 141—ENTRY OF MERCHANDISE

§ 141.62 [Amended]

Section 141.62(a) is amended by substituting "101.6" for "1.7".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

§ 148.22 [Amended]

Section 148.22 is amended by substituting "101.5" for "1.4".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

APPENDIX I—PARALLEL REFERENCE TABLES

(This table shows the relation of revised Part 101 to superseded 19 CFR Part 1.)

Revised Part 101, section	Superseded 19 CFR; section
101.0	New.
101.1(a)	New.
101.1(b)	1.2(a).
101.1(c)	1.2(a).
101.1(d)	1.3(a), footnote 5.
101.1(e)	New.
101.1(f)	1.11.
101.1(g)	1.11.
101.1(h)	1.11.
101.1(i)	1.11.
101.1(j)	1.11.
101.1(k)	1.11.
101.1(l)	1.2(b), footnote 2.
101.1(m)	New.
101.2(a)	1.1 (a), (b).
101.2(b)	1.1(c).
101.3(a)	Footnote 1 to 1.2(b).
101.3(b)	1.2(c), footnote 3.
101.4(a)	1.3(b).
101.4(b)	1.3 (b) and (c).
101.4(c)	1.3(d).
101.4(d)	Footnote 7 to 1.3(d).
101.5	1.4.
101.6(a)	1.7 (a), footnote 10.
101.6(b)	1.7(b).
101.6(c)	1.7(c).
101.6(d)	1.7(d).
101.6(e)	1.7(e).
101.6(f)	1.7(f).
101.6(g)	1.7(g).
101.7(a)	1.8(a).
101.7(b)	1.8(a).
101.7(b)(1)	1.8(b).
101.7(b)(2)	1.8 (b) and (c).
101.8	1.9.

(This table shows the relation of the old sections of Part 1 to the new sections in revised Part 101.)

Old section:	New section
1.1(a)	101.2(a).
1.1(b)	101.2(a).
1.1(c)	101.2(b).
1.1(d)	None.
1.1(e)	None.
1.2(a)	101.1(b), (c).
1.2(b)	101.1(d).
Footnote 1	101.3(a).
Footnote 2	101.1(l).
1.2(c)	101.3(b).
Footnote 3	101.3(b).
1.3(a)	101.1(d).
Footnote 5	101.1(d).
1.3(b)	101.4(a), (b).
Footnote 6	None.
1.3(c)	101.4(b).
1.3(d)	101.4(c).
Footnote 7	101.4(d).
1.4	101.5.
1.4(a)	None.
1.5	None.
1.6	None.
1.7(a)	101.6(a).
Footnote 10	101.6(a).
1.7(b)	101.6(b).
1.7(c)	101.6(c).
1.7(d)	101.6(d).
1.7(e)	101.6(e).
1.7(f)	101.6(f).
1.7(g)	101.6(g).
1.8(a)	101,7(a), (b).
1.8(b)	101.7(b)(1), (2).
1.8(c)	101.7(b)(2).
1.9	101.8.
1.10	None.
1.11	101.1(f)–(k).

[FR Doc.77-29176 Filed 10-4-77;8:45 am]

[4810-22]

[T.D. 77-242]

PART 22—DRAWBACK
PART 111—CUSTOMHOUSE BROKERS
Delegations of Authority

AGENCY: United States Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the Customs Regulations by authorizing the regional commissioners of Customs to perform certain functions relating to drawback entries and reprimands of customhouse brokers now performed either by the Commissioner of Customs or other Customs officials at Headquarters of the U.S. Customs Service. The necessity of referring the relevant matters to either the Commissioner or Headquarters has unnecessarily delayed those matters. The changes are intended to facilitate the affected procedures.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

BACKGROUND

1. "Drawback" denotes a situation in which a duty or tax, lawfully collected, is refunded or remitted, wholly or partially, because of a particular use made of the merchandise on which the duty or tax was collected. One of the more common types of drawback is that allowed upon the exportation of articles manufactured or produced in the United States with the use of imported merchandise (section 313(a), Tariff Act of 1930 (19 U.S.C. 1313(a))). Part 22 of the Customs Regulations (19 CFR Part 22) contains the provisions regarding drawback claims.

In support of a claim for drawback of duties, a landing certificate, which is a document used to show that merchandise has been exported from the United States and landed in a foreign country, is required in certain stated circumstances as provided by section 22.17 of the Customs Regulations (19 CFR 22.17). Under paragraph (e) of that section (19 CFR 22.17(e)), when a landing certificate is required and cannot be produced, an application for its waiver may be made to Headquarters, U.S. Customs Service, accompanied by such evidence of exportation and landing abroad as may be available. The application will be granted if Headquarters is satisfied by the evidence submitted that the merchandise has been exported.

Section 22.29(d) of the Customs Regulations (19 CFR 22.29 (d)) provides that, to complete a drawback entry, a bill of lading issued by the proper representative of the exporting carrier and covering the merchandise described in the entry must be filed within 2 years after the merchandise is exported. However, paragraph (g) of that section (19 CFR 22.29(g)) provides that if the person making the drawback entry cannot produce the required bill of lading, he may submit a statement explaining why he cannot produce the bill of lading along with whatever evidence of exportation and of his right to make the drawback entry as may be obtainable. If Headquarters is satisfied from the evidence submitted that the failure to produce the bill of lading is justified, that the merchandise has been exported, and that the person making the drawback entry has the right to do so, the statement and accompanying evidence are accepted in place of the bill of lading.

A review of the procedures under §§ 22.17(e) and 22.29(g) of the Customs Regulations has resulted in the determination that it would be beneficial to the public and to Customs to authorize the regional commissioners of Customs to grant the waiver under § 22.17(e), or to accept the substituted documents under § 22.29(g). In the majority of cases, this will speed up the processing of drawback entries. If the regional commissioner is not satisfied by the evidence submitted that the pertinent facts have been established, the matter will be transmitted to Headquarters, U.S. Customs Service for final determination. It has also been determined that, for the sake of clarity and consistency, the language and format of § 22.29(g) should be amended to parallel those of § 22.17(e).

2. Section 111.78 of the Customs Regulations (19 CFR 111.78) provides that if a licensed customhouse broker fails to observe and fulfill his duties and responsibilities, but the failure is not serious enough to warrant initiation of proceedings to suspend or revoke his license, the Commissioner of Customs, or the district director of Customs with the approval of the Commissioner, may serve the broker with a written reprimand. The reprimand and the facts on which it is based may be considered in connection with any future disciplinary proceeding that may be initiated against the broker.

The Commissioner of Customs has determined that authorizing the regional commissioner of Customs to serve reprimands, or approve reprimands served by the district director, will facilitate the reprimand proceedings.

Inasmuch as these amendments are matters of agency organization, procedure, or practice, notice and public procedure thereon are unnecessary and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

DRAFTING INFORMATION

The principal author of this document was Richard M. Belanger, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the Customs Service participated in developing the document, both on matters of substance and style.

Parts 22 and 111 of the Customs Regulations (19 CFR Parts 22, 111) are amended as set forth below:

Section 22.17(e) is amended to read as follows:

§ 22.17 Landing certificates.

* * * * *

(e) When a landing certificate is required and cannot be produced, an application for its waiver may be made to the regional commissioner through the district director within the time required for filing the certificate, accompanied by such evidence of exportation and landing abroad as may be available. The application shall be granted if the regional commissioner is satisfied by the evidence submitted that the merchandise has been exported. If the regional commissioner is not so satisfied, he shall transmit the application and its accompanying evidence to Headquarters, U.S. Customs Service for final determination.

* * * * *

Section 22.29(g) is amended to read as follows:

§ 22.29 Entry and completion thereof.

* * * * *

(g) When a required bill of lading cannot be produced, the person making the drawback entry may, within the time required for the filing of the bill of lading, request the regional commissioner, through the district director, to accept a statement setting forth the cause of failure to produce the bill of lading and such evidence of exportation and of his right to make the drawback entry as may be available. The request shall be granted if the regional commissioner is satisfied by the evidence submitted that the failure to produce the bill of lading is justified, that the merchandise has been explored, and that the person making the drawback entry has the right to do so. If the regional commissioner is not so satisfied, he shall transmit the request and its accompanying evidence to Headquarters, U.S. Customs Service for final determination.

* * * * *

(R.S. 251, as amended, secs. 313, 624, 46 Stat. 693, as amended, 759 (19 U.S.C. 66, 1313, 1624).)

§ 111.78 [Amended]

Section 111.78 is amended by substituting "regional commissioner" for "Commissioner" wherever it appears in that section.

(R.S. 251, as amended, secs. 624, 641, 46 Stat. 759, as amended (19 U.S.C. 66, 1624, 1641)).

ROBERT E. CHASEN,
Commissioner of Customs.

Approved: September 22, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-29178 Filed 10-4-77;8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7511]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Industrial Development Bonds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to whether substantially all of the proceeds of an issue of industrial development bonds are used for designated purposes. Changes to the applicable tax law were made by the Revenue and Expenditure Control Act of 1968. These regulations provide necessary guidance to the public for compliance with the law.

DATE: In general, the regulations are effective with respect to obligations issued after April 30, 1968.

FOR FURTHER INFORMATION CONTACT:

John P. MacMaster, 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) (202-566-3516, not a toll-free call).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 20, 1975, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 103(c) of the Internal Revenue Code of 1954 (40 FR 36371). The amendments were proposed to revise the regulations under then section 103(c), as added by section 107(a) of the Revenue and Expenditure Control Act of 1968 (82 Stat. 266). Under section 1901(a)(17) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1765), section 103(c) was redesignated as section 103(b). A public hearing was held on November 21, 1975. After consideration of all comments regarding the portion of the proposed amendments revising § 1.103-8(a)(1)(i) of the Income Tax Regulations, that portion is adopted by this Treasury decision with certain changes. The other portions of the proposed amendment which revise § 1.103-8(g) of the Income Tax Regulations remain outstanding.

Additionally, certain revisions made by this Treasury decision indicate that certain rules prescribed in § 1.103-8 of the Income Tax Regulations also apply for §§ 1.103-9 and 1.103-10. These rules are either of a clarifying nature or favorable to taxpayers. For this reason and because there is a need for immediate guidance for taxpayers, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring further notice of proposed rulemaking, opportunity for public participation, and delay in effective date are found to be inapplicable.

IN GENERAL

Interest on an industrial development bond, subject to certain exceptions, does not qualify for the exclusion from gross income under section 103(a)(1) for interest on State or local governmental obligations. Section 103(b)(4) allows an exclusion for the interest on industrial development bonds substantially all of the proceeds of which are used to provide specified exempt facilities, e.g., residential real property for family units.

This document adopts the proposed amendment (40 FR 36371) to § 1.103-8(a)(1)(i) subject to the revisions discussed below. Section 1.103-8(a)(1)(i) provides rules used in determining whether substantially all of the proceeds of an issue of obligations are used to provide an exempt facility. The amendment as proposed would revise § 1.103-8(a)(1)(i) to provide that "substantially all" of the proceeds of an issue are used to provide an exempt facility if 90 percent or more of the proceeds are so used. Further, the proposed amendment stated that certain expenditures which were deducted pursuant to section 266 of the Code would not be considered as expenditures to provide an exempt facility.

The proposed rule regarding the meaning of the phrase "substantially all" is adopted. However, this document strikes that portion of the proposed amendment concerning expenditures which are deducted pursuant to section 266 of the Code. As amended § 1.103-8(a)(1)(i) states that amounts paid or incurred to provide an exempt facility include amounts which are properly chargeable to the facility's capital account including those amounts which in fact are deducted but otherwise could have been properly charged to capital account.

Many comments questioned whether the term "substantially all" has identical meaning in sections 103(b)(5) and (6) of the Code. Therefore, this document also makes the rules in § 1.103-8(a)(1)(i) apply to §§ 1.103-9(a)(1) and 1.103-10(b)(1)(ii).

DRAFTING INFORMATION

The principal author of this regulation was John P. MacMaster of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the proposed amendment to § 1.103-8(g) remains outstanding and 26 CFR Part 1 is amended as follows:

PARAGRAPH 1. Section 1.103-8 is amended by adding the following at the end of paragraph (a)(1)(i):

§ 1.103-8 Interest on bonds to finance certain exempt facilities.

(a) *In general.*—(1) *General rule.* (i) * * * Substantially all of the proceeds of an issue of governmental obligations are used to provide an exempt facility if 90 percent or more of such proceeds are so used. For purposes of this "substantially all" test, two rules apply. First, proceeds are reduced by amounts properly allocable on a pro rata basis between providing the exempt facility and other uses of the proceeds. Second, amounts used to provide an exempt facility include amounts paid or incurred which are chargeable to the facility's capital account or would be so chargeable either with a proper election by a taxpayer (for example, under section 266) or but for a proper election by a taxpayer to deduct such amounts.

* * * * *

PAR. 2. Section 1.103-9 is amended by adding the following at the end of paragraph (a)(1):

§ 1.103-9 Interest on bonds to finance industrial parks.

(a) *General rule.* (1) * * * Whether substantially all of the proceeds of an issue of governmental obligations are used to finance an industrial park is determined consistently with the rules for exempt facilities in § 1.103-8(a)(1)(i).

* * * * *

PAR. 3. Section 1.103-10(b)(1)(ii) is amended by revising the second sentence and adding immediately thereafter a new sentence. These sentences read as follows:

§ 1.103-10 Exemption for certain small issues of industrial development bonds.

* * * * *

(b) *Small issue exemption.* * * *

(1) *$1 million or less.* * * *

(ii) * * * Proceeds which are loaned to a borrower for use as working capital or to finance inventory are not used in the manner described in the preceding sentence. Whether substantially all of the proceeds of an issue of governmental obligations are used in such manner is determined consistently with the rules for exempt facilities in § 1.103-8(a)(1)(i). * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: September 30, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-29280 Filed 9-30-77;5:09 pm]

[4410-01]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Delegations of Authority

AGENCY: Department of Justice, Federal Bureau of Investigation.

ACTION: Final rule.

SUMMARY: This directive delegates the authority to deny requests under the Freedom of Information Act and the Privacy Act of 1974 to the occupant of the position of Chief, Freedom of Information/Privacy Acts Branch (FOI/PA), Records Management Division, Federal Bureau of Investigation. This delegation is also made to the Special Agent In Charge of each field office of the Federal Bureau of Investigation for records under the custody and control of that individual.

EFFECTIVE DATE: Upon signature (March 17, 1977).

FOR FURTHER INFORMATION CONTACT:

James M. Powers, Chief, Freedom of Information/Privacy Acts Branch, Records Management Division, Federal Bureau of Investigation, J. Edgar Hoover Building, Washington, D.C. 20535, (202-324-5520).

Part 16 is amended by adding the following Appendix to Subpart A:

APPENDIX—DELEGATION OF AUTHORITY

1. By virtue of the authority vested in me by Section 16.5(b) of Title 28 of the Code of Federal Regulations, the authority to deny requests under the Freedom of Information Act is delegated to the occupant of the position of Chief, Freedom of Information/Privacy Acts Branch, Records Management Division, Federal Bureau of Investigation. This same authority is delegated to the occupant of the position of Special Agent In Charge of each of the field offices of the Federal Bureau of Investigation for records in their custody and control.

2. This directive is effective March 17, 1977.

Dated: September 19, 1977.

CLARENCE M. KELLEY,
Director, Federal Bureau of Investigation.

Part 16 is amended by adding the following Appendix to Subpart D:

APPENDIX—DELEGATION OF AUTHORITY

1. By virtue of the authority vested in me by Section 16.45 of Title 28 of the Code of Federal Regulations, the authority to deny requests under the Privacy Act of 1974 is delegated to the occupant of the position of Chief, Freedom of Information/Privacy Acts Branch, Records Management Division, Federal Bureau of Investigation. This same authority is delegated to the occupant of the position of Special Agent In Charge of each of the field offices of the Federal Bureau of Investigation for records in their custody and control.

2. This directive is effective March 17, 1977.

Dated: September 19, 1977.

CLARENCE M. KELLEY,
Director, Federal Bureau of Investigation.

[FR Doc.77-29007 Filed 10-4-77;8:45 am]

[3710-92]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1105-2-32]

PART 257—APPROVAL OF PHASE I GENERAL DESIGN MEMORANDA

AGENCY: Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This regulation changes the approval authority for selected planning reports prepared by Corps of Engineers field offices after Congress has authorized a water resources project for construction. According to established guidelines within the Corps of Engineers, the next step after Congress authorizes a project for construction and after Congress appropriates funds for advance engineering and design, is the preparation of a Phase I General Design Memorandum. This report is the product of a study which reevaluates the authorized project under any changed conditions or changed Federal evaluation criteria since the Corps completed its survey (feasibility) report. If Congress funds a project soon after it is authorized, this Phase I stage of advance engineering and design may be very brief. The Chief of Engineers has determined that unless certain conditions exist, the division engineers (heads of Corps regional offices) may approve the Phase I reports and file any associated Environmental Impact Statements with the Council on Environmental Quality (CEQ). In the past, the division engineer would forward these documents to the Chief of Engineers for approval and filing with CEQ. The change will expedite approval actions in those cases where there are no unresolved issues and for which full review at the Washington level had

been accomplished prior to Congress authorizing the project for construction.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert D. Wolff, (DAEN-CWP-A), Planning Division, Directorate of Civil Works, Office, Chief of Engineers, Washington, D.C. 20314 (202-693-7187).

SUPPLEMENTARY INFORMATION: This regulation modifies those portions of 33 CFR 209.410 which designate the Corps of Engineers official responsible for filing with the Council on Environmental Quality (CEQ) Environmental Impact Statements for selected Phase I General Design Memoranda. The Office of the Chief of Engineers will be amending 33 CFR 209.410 to reflect this change. Since this regulation only relates to changes in procedure, notice of proposed rulemaking and the procedures thereto are considered unnecessary.

NOTE.—The U.S. Army Corps 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: September 15, 1977.

JAMES E. ELLIS,
Colonel, Corps of Engineers,
Executive Director, Engineer Staff.

The following new Part 257, Approval of Phase I General Design Memoranda, is added to 33 CFR Chapter II:

Sec.
257.1 Purpose.
257.2 Applicability.
257.3 References.
257.4 Delegation of Authority.
257.5 Conditions for Approval of a Phase I GDM.
257.6 Information to OCE.
257.7 Intensive Management.
257.8 Effective Date.

AUTHORITY: The provision of this Part 257 issued under R.S. 161; 5 U.S.C. 301.

§ 257.1 Purpose.

This regulation delegates authority to division engineers to approve Phase I General Design Memoranda (GDMs) and file Environmental Impact Statements (EIS) with the Council on Environmental Quality (CEQ) unless certain conditions exist.

§ 257.2 Applicability.

This regulation is applicable to all field operating agencies and all OCE elements having civil works responsibilities.

§ 257.3 References.

(a) Engineer Regulation No. 1105-2-10, Intensive Management.

(b) Engineer Regulation No. 1105-2-507, Environmental Impact Statements (33 CFR 209.410).

(c) Engineer Regulation No. 1110-2-1150, Post-Authorization Studies.

§ 257.4 Delegation of authority.

Division engineers, with the exception of Pacific Ocean and New England, are delegated the authority to approve Phase I GDMs and file associated EISs with CEQ unless any of the following conditions exist:

(a) The Phase I GDM has been prepared pursuant to specific Congressional authorization which requires the Secretary of the Army to transmit the Phase I report to Congress.

(b) The plan recommended by the district engineer includes significant post-authorization changes for which Congressional authorization is required.

(c) Coordination of the Phase I GDM and EIS with States, regional offices of Federal agencies, or the public has revealed issues which cannot be resolved by the district or division engineer.

(d) The Report of the Board of Engineers, the Report of the Chief of Engineers or the transmittal letter of the Secretary of the Army raised issues which required resolution in the Phase I stage of advance engineering and design, and the resolution of these issues has not subsequently been approved by the Chief of Engineers.

(e) A preauthorization report for the project was not reviewed at the Washington level nor transmitted to Congress by the Secretary of the Army.

(f) The Phase I GDM has been combined with the Phase II GDM.

§ 257.5 Conditions for Approval of a Phase I GDM.

The division engineer shall meet all of the following conditions prior to approving a Phase I GDM:

(a) Checkpoint conference shall be held in accordance with ER 1105-2-10.

(b) If an EIS, or a supplement to a previous EIS, has been prepared, requirements of Part 209-410 of this chapter for coordination and filing with CEQ shall be met. The division engineer's approval shall not precede the end of the 30-day waiting period following FEDERAL REGISTER publication of the notice of availability of the EIS.

(c) If the Phase I GDM includes post-authorization changes for which an information summary must be submitted to Office of Management and Budget (OMB), the division engineer's approval shall not precede notification from OCE that OMB has no objection. Notification will be made by DAEN-CWP.

(d) The recommended plan of improvement shall be feasible based on applicable economic, engineering, environmental, and social evaluation criteria.

(e) Engineering investigations and resolution of design problems shall be determined by the division engineer to be compatible with the stage of project development.

§ 257.6 Information to OCE.

After final approval, the division engineer shall transmit 2 copies of the Phase I report; the EIS, if there is one; and the approving indorsement to HQDA (DAEN-CWP) WASH DC 20314, and 5 copies of the Phase I report and approving indorsement to DAEN-CWE-BB for information. Exempt report under paragraph 7-2aa, AR 335-15.

§ 257.7 Intensive Management.

The purposes of the Intensive Management Program in the Phase I stage of advance engineering and design are to assure quality in the accomplishment of the Phase I study, to assist the district engineer in decisions required to complete the Phase I GDM, and to expedite the final Phase I GDM review and approval process. The division engineer is responsible for organizing an intensive management program for each Phase I study and for assuring appropriate OCE and BERH participation, in accordance with ER 1105-2-10.

§ 257.8 Effective Date.

This regulation is effective 5 Oct 1977 as published in the FEDERAL REGISTER, and codified as 33 CFR Part 257.

[FR Doc.77-27987 Filed 10-4-77;8:45 am]

[6050-01]

Title 45—Public Welfare

CHAPTER XII—ACTION

PART 1224—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Final Adoption

AGENCY: Action.

ACTION: Final adoption.

SUMMARY: ACTION published a notice in the FEDERAL REGISTER, Vol. 40, pages 39434 through 39438 on August 27, 1975 which proposed to amend Title 45 of the Code of Federal Regulations by adding a new Part 1224 to implement the provisions of the Privacy Act of 1974 (Pub. L. 93-579) (hereinafter referred to as the Act"). No comments were received, but amendments were published pursuant to recommendations of an OMB task force. These were published for comment in 41 FR 19671 on May 13, 1976. No other comments were received during the notice period.

Part 1224—Implementation of the Privacy Act of 1974, is herein published as adopted with the above mentioned amendments incorporated.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

John F. Nolan, Director, Administrative Services Division, ACTION, Washington, D.C. 20525.

Title 45, Code of Federal Regulations, is amended by establishing a new Part 1224 as follows:

Sec.
1224.1-1 Purpose.
1224.1-2 Policy.
1224.1-3 Definitions.
1224.1-4 Disclosure of records.
1224.1-5 Annual notices.
1224.1-5a New uses of information.
1224.1-6 Reports regarding changes in systems.
1224.1-7 Use of social security account number in records system [Reserved].
1224.1-8 Rules of conduct.
1224.1-9 Records systems-management and control.

Sec.
1224.1-10 Security of records systems-tems.
manual and automated sys-
1242..1-11 Accounting for disclosure of records.
1224.1-12 Contents of records systems.
1224.1-13 Access to records.
1224.1-14 Specific exemptions.
1224.1-15 Identification of requestors.
1224.1-16 Amendment of records and appeals with respect thereto.
1224.1-17 Denial of access and appeals with respect thereto.
1224.1-18 Fees.

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

§ 1224.1-1 Purpose.

The purpose of this part is to set forth the basic policies of ACTION governing the maintenance of systems of records containing personal information as defined in the Privacy Act (5 USC 552a). Records included in this part are those described in aforesaid Act and maintained by ACTION and/or any component thereof.

§ 1224.1-2 Policy.

It is the policy of ACTION to protect, preserve and defend the right of privacy of any individual as to whom the agency maintains personal information in any system records and to provide appropriate and complete access to such records including adequate opportunity to correct any errors in said records. It is further the policy of the agency to maintain its records in such a fashion that the information contained therein is and remains material and relevant to the purposes for which it is received in order to maintain its records with fairness to the individuals who are the subject of such records.

§ 1224.1-3 Definitions.

(a) "Record" means any document or other information about an individual maintained by the agency whether collected or grouped and including but not limited to information regarding education, financial transactions, medical history, criminal or employment history, or any other personal information which contains the name or other personal identification number, symbol, etc. assigned to such individual.

(b) "System of Records" means a group of any records under the control of the agency from which information is retrieved by use of the name of an individual or by some identifying number, symbol, or other identifying particular of whatsoever kind or nature.

(c) "Routine Use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

(d) The term "agency" means ACTION and/or any component thereof.

(e) The term "individual" means any citizen of the United States or an alien lawfully admitted to permanent residence.

(f) The term "maintain" includes the maintenance, collection, use or dissemination of any record.

§ 1224.1-4 Disclosure of records.

The agency will not disclose any personal information from systems of records it maintains to any individual other than the individual to whom the record pertains, or to another agency, without the express written consent of the individual to whom the record pertains, or his agent or attorney, except in the following instances:

(a) To officers or employees of ACTION having a need for such record in the official performance of their duties.

(b) With respect to records which should follow an employee in transfer situations, to the personnel office of a different agency as a result of a transfer or a potential transfer of the individual to whom the record pertains.

(c) When required under the provisions of the Freedom of Information Act (5 U.S.C. 552).

(d) For routine uses as appropriately published in the annual notice of the FEDERAL REGISTER.

(e) To the Bureau of the Census for uses pursuant to Title 13.

(f) To an individual or agency having a proper need for such record for statistical research provided that such record is transmitted in a form which is not individually identifiable and that an appropriate written statement is obtained from the person to whom the record is transmitted stating the purpose for the request and a certification under oath that the records will be used only for statistical purposes.

(g) To the National Archives of the United States as a record of historical value under rules and regulations of the Archives as may be established by the Administrator of General Services or his designee.

(h) To an agency or instrumentality of any governmental jurisdiction within the control of the United States for civil or criminal law enforcement purposes provided however that the head of any such agency instrumentality has made a written request for such records specifying the particular portion desired and the law enforcement activity for which the record is sought. Such a record may also be disclosed by the agency to the law enforcement agency on its own initiative in situations in which criminal conduct is suspected provided that such disclosure has been established as a routine use or in situations in which the misconduct is directly related to the purpose for which the record is maintained.

(i) In emergency situations upon a showing of compelling circumstances affecting the health or safety of any individual provided that after such disclosure notification of such disclosure must be promptly sent to the last known address of the individual to whom the record pertains.

(j) To either House of Congress or to a subcommittee or committee (joint or of either house) to the extent the subject matter falls within their jurisdiction.

(k) To the comptroller general or any of his authorized representatives in the course of the performance of his duties of that of the General Accounting Office.

(l) Pursuant to an order of a court of competent jurisdiction provided that if any such record is disclosed under such compulsory legal process and subsequently made public by the court which issued it, the agency must make a reasonable effort to notify the individual to whom the record pertains of such disclosure.

§ 1224.1-5 Annual notices.

The agency shall publish annually a notice of all systems of records maintained by it as defined herein in the format prescribed by the General Services Administration in the FEDERAL REGISTER, *Provided however*, That such publication shall not be made for those systems of records maintained by other agencies though in the temporary custody of this agency.

§ 1224.1-5a New uses of information.

At least 30 days prior to publication of information under the preceding section, the agency shall publish in the FEDERAL REGISTER a notice of its intention to establish any new routine use of any system of records maintained by it with an opportunity for public comments on such use. Such notice shall contain the following:

(a) The name of the system of records for which the routine use is to established.

(b) The authority for the system.

(c) The purpose for which the record is to be maintained.

(d) The proposed routine use(s).

(e) The purpose of the routine use(s).

(f) The categories of recipients of such use. In the event of any request for an addition to the routine uses of the systems which the agency maintains, such request may be sent to the following officer: Director, A&F/AS, ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525.

§ 1224.1-6 Reports regarding changes in systems.

The agency shall provide to Congress, the Office of Management and Budget, and the Privacy Protection Commission advance notice of any proposal to establish or alter any system of records as defined herein. This report will be submitted in accord with guidelines to be provided by the Office of Management and Budget.

§ 1224.1-7 Use of social security account number in records systems. [Reserved]

§ 1224.1-8 Rules of conduct.

(a) The Head of the agency shall assure that all persons involved in the design, development operation or maintenance of any systems of records as defined herein are informed of all requirements necessary to protect the privacy of individuals who are the subject of such records. All employees shall be informed of all implications of the

Act in this area including the criminal penalties provided under 5 U.S.C. 552a and the fact that agency may be subject to civil suit for failure to comply with the provisions of the Privacy Act and these regulations.

(b) The Head of the agency shall also ensure that all personnel having access to records receive adequate training in the protection of the security of personal records and that adequate and proper storage is provided for all such records with sufficient security to assure the privacy of such records.

§ 1224.1–9 Records systems—Management and control.

(a) The Director of Administrative Services (A&F) shall have overall control and supervision of the security of all records keeping systems and shall be responsible for monitoring the security standards set forth in these regulations.

(b) A designated official (System Manager) shall be named who shall have management responsibility for each record system maintained by the agency and who shall be responsible for providing protection and accountability for such records at all times and for insuring that such records are secured in appropriate containers whenever not in use or in the direct control of authorized personnel.

§ 1224.1–10 Security of records systems—Manual and automated systems.

The Head of the agency has the responsibility of maintaining adequate technical, physical, and security safeguards to prevent unauthorized disclosure or destruction of manual and automatic record systems. These security safeguards shall apply to all systems in which identifiable personal data are processed or maintained including all reports and outputs from such systems which contain identifiable personal information. Such safeguards must be sufficient to prevent negligent, accidental, or unintentional disclosure, modification or destruction of any personal records or data and must furthermore minimize the extent practicable the risk that skilled technicians or knowledgeable persons could improperly obtain access to modify or destroy such records or data and shall further insure against such casual entry by unskilled persons without official reasons for access to such records or data.

(a) *Manual systems.* (1) Records contained in records systems as defined herein may be used, held or stored only where facilities are adequate to prevent unauthorized access by persons within or without the agency.

(2) All records systems when not under the personal control of the employees authorized to use same must be stored in an appropriate metal filing cabinet. Where appropriate, such cabinet shall have three position dial-type combination lock, and/or be equipped with a steel lock bar secured by a GSA approved changeable combination padlock or in some such other securely locked cabinet as may be approved by GSA for the storage of such records. Certain systems are not of such confidential nature that their disclosure would harm an individual who is the subject of such record. Records in this category shall be maintained in steel cabinets without the necessity of combination locks.

(3) Access to and use of systems of records shall be permitted only to persons whose official duties require such access within the agency, for routine uses as defined in subpart B herein as to any given system, or for such other uses as may be provided herein.

(4) Other than for access within the agency to persons needing such records in the performance of their official duties or routine users as defined in subpart B herein or such other uses as provided herein, access to records within systems of records shall be permitted only to the individual to whom the record pertains or upon his or her written request to a designated personal representative.

(5) Access to areas where records systems are stored will be limited to those persons whose official duties require work in such areas and proper accountings of removal of any records in storage areas in the form directed by the Director, A&F/AS, shall be maintained at all times.

(6) The agency shall assure that all persons whose official duties who require access to and use of records contained in records systems are adequately trained to protect the security and privacy of such records.

(7) The disposal and destruction of records within records systems shall be in accord with rules promulgated by the General Services Administration.

(b) *Automated systems.* (1) Identifiable personal information may be processed, stored or maintained by automatic data systems only where facilities or conditions are adequate to prevent unauthorized access to such system in any form. Whenever such data whether contained in punch cards, magnetic tapes or discs are not under the personal control of an authorized person such information must be stored in a metal filing cabinet having a built-in three position combination lock, a metal filing cabinet equipped with a steel lock bar secured with a GSA approved combination padlock, or in adequate containers or in a secured room or in such other facility having greater safeguards than those provided for herein.

(2) Access to and use of identifiable personal data associated with automated data systems shall be limited to those persons whose official duties require such access. Proper control of personal data in any form associated with automated data systems shall be maintained at all times including maintenance of accountability records showing disposition of input and output documents.

(3) All persons whose official duties require access to processing and maintenance of identifiable personal data and automated systems shall be adequately trained in the security and privacy of personal data.

(4) The disposal and disposition of identifiable personal data and automated systems shall be carried on by shredding, burning or in the case of tapes or discs, degaussing, in accord with any regulations now or hereafter proposed by the GSA or other appropriate authority.

§ 1224.1–11 Accounting for disclosure of records.

Each office maintaining a system of records shall account for all records within such system by keeping a written log in the form prescribed by the Director, A&F/AS, containing the following information:

(a) The date, nature, and purpose of each disclosure of a record to any person or to another agency. Disclosures made to employee of the agency in the normal course of their official duties, or pursuant to the provisions of the Freedom of Information Act need not be accounted for.

(b) Such accounting shall contain the name and address of the person or agency to whom the disclosure was made.

(c) The accounting shall be maintained in accord with a system approved by the Director, A&F/AS, as sufficient for the purpose but in any event sufficient to permit the construction of a listing for all disclosures at appropriate periodic intervals.

(d) The accounting shall reference any justification or basis upon which any release was made including any written documentation required when records are released for statistical or law enforcement purposes under the provisions of subsection (b) of the Privacy Act of 1974 (5 U.S.C. 552a).

(e) For the purpose of this part, the system of accounting for disclosures is not a system of records under the definitions hereof and no accounting need be maintained for the disclosure of accounting of disclosures.

§ 1224.1–12 Contents of records systems.

The agency shall maintain in any records contained in any records system hereunder only such information about an individual as is accurate, relevant, and necessary to accomplish the purpose for which the agency acquired the information as authorized by statute or Executive Order.

(a) In situations in which the information may result in adverse determinations about such individuals' rights, benefits and privileges under any Federal program, all information placed in records systems shall, to the greatest extent practicable, be collected from the individual to whom the record pertains.

(b) Each form or other document which an individual is expected to complete in order to provide information for any records system shall have ap-

pended thereto, or in the body of the document:

(1) An indication of the authority authorizing the solicitation of the information and whether the provision of the information is mandatory or voluntary.

(2) The purpose or purposes for which the information is intended to be used.

(3) Routine uses which may be made of the information and published pursuant to § 1224.1–6 of this regulation.

(4) The effect on the individual if any of not providing all or part of the required or requested information.

(c) Records maintained in any system of record used by the agency to make any determination about any individual shall be maintained with such accuracy, relevancy, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the making of any determination about such individual, provided however, that the agency shall not be required to update or keep current retired records.

(d) Before disseminating any record about any individual to any person other than an agency, unless the dissemination is made pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552) the agency shall make reasonable efforts to assure that such records are, or were at the time they were collected, accurate, complete, timely and relevant for agency purposes.

(e) Under no circumstances shall the agency maintain any record about any individual with respect to or describing how such individual exercises rights guaranteed by the first amendment of the Constitution of the United States unless expressly authorized by statute or by the individual about whom the record is maintained, or unless pertinent to and within the scope of an authorized law enforcement activity.

(f) In the event any record is disclosed as a result of the order of a court of appropriate jurisdiction, the agency shall make reasonable efforts to notify the individual whose record was so disclosed after the process becomes a matter of public record.

§ 1224.1–13 Access to records.

(a) Upon request of any individual about whom a record is maintained addressed to the Director of Administrative Services, 806 Connecticut Avenue NW., Washington, D.C. 20525, in person during regular business hours, or by mail, access to his record or to any information contained therein shall be provided.

(b) If the request is made in person, such individual may, upon his request, be accompanied by a person of his choosing to review the record and shall be provided an opportunity to have a copy made of all or any portion of any record about such individual.

(c) A record may be disclosed to a representative chosen by the individual as to whom a record is maintained upon proper written consent of such individual.

(d) Request made in person will be promptly complied with if the records sought are in the immediate custody of ACTION. Mailed requests or personal requests for documents in storage or otherwise not immediately available, will be acknowledged within ten working days, and the information requested will be promptly provided thereafter.

(e) With regard to any request for disclosure of record the following procedure shall apply:

(1) Medical or psychological records shall be disclosed to an individual unless in the judgment of the agency, access to such records might have an adverse effect upon such individual. When such determination has been made, the agency may require that the information be disclosed only to a physician chosen by the requesting individual. Such physician shall have full authority to disclose all or any portion of such record to the requesting individual in the exercise of his professional judgment.

(2) Test material and copies of certificates or other lists of eligibles or any other listing, the disclosure of which would violate the privacy of any other individual, or be otherwise proscribed by the provision of the Privacy Act of 1974, shall be removed from the record before disclosure to any individual to whom the record pertains.

§ 1224.1–14 Specific exemptions.

Records or portions of records specified below shall be exempt from disclosure provided however that no such exemption shall apply to the provisions of § 1224.1–16(d)(3) hereof (informing prior recipient of corrected or disputed records), § 1224.1–12(a) (collecting information directly from the individual to whom it pertains); § 1224.1–12(b) (informing individuals asked to supply information of the purposes for which it is collected and whether it is mandatory); § 1224.1–12(c) (maintaining records with accuracy, completeness, etc. as reasonably necessary for agency purposes); § 1224.1–12(f) (notifying the subjects of records disclosed under compulsory court process); § 1224.1–16(g) (civil remedies). With the above exceptions the following material shall be exempt from disclosure to the extent indicated:

(a) Material considered classified and exempt from disclosure under the provisions of section 552(b)(1) of the Freedom of Information Act (5 U.S.C. 552).

(b) Investigatory material compiled for the purposes of law enforcement provided, however, that if such information is to be used for the basis for denial of any right, privilege or benefit to which such individual would be entitled by Federal law or otherwise, such material shall be provided to the such individual except to the extent necessary to protect the identity of a source who furnished information to the government under an express promise that his or her identity would be held in confidence, or prior to the effective date of the Privacy Act of 1974, under an implied promise of such confidentiality of the identity of such source.

(c) Required by statute to be maintained and used solely as statistical records.

(d) Investigatory material compiled solely for the purpose of determining suitability, eligibility or qualification for service as an employee or volunteer or for the obtaining of a Federal contract or for access to classified information; provided, however, that such material shall be disclosed to the extent possible without revealing the identity of a source who furnished information to the government under an express promise of the confidentiality of his identity or, prior to the effective date of the Privacy Act of 1974, under an implied promise of such confidentiality of identity.

(e) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, disclosure of which would compromise the objectivity or fairness of the testing or examination process.

(f) An individual shall not have a right of access to any information compiled by the agency in reasonable anticipation of a civil action or proceeding.

The above specific exemptions from disclosure are made for the purpose of protecting the confidentiality of classified information, sources who furnish information for law enforcement purposes or selection purposes for volunteer service or employment, and to protect the integrity of any system of tests or examinations for Federal service or advancement therein.

§ 1224.1–15 Identification of requestors.

The agency shall require reasonable identification of all individuals who request access to records to assure that records are disclosed to the proper person.

(a) In the event an individual requests disclosure in person, such individual shall be required to show an identification card such as a drivers license etc., containing a photo and a sample signature of such individual. Such individual may also be required to sign a statement under oath as to his or her identity acknowledging that he or she is aware of the penalties for improper disclosure under the provisions of the Privacy Act of 1974.

(b) In the event that disclosure is requested by mail, the agency may request such information as may be necessary to reasonably assure that the individual making such request is properly identified. In certain cases, the agency may require that a mail request be notarized with an indication that the notary received an acknowledgment of identity from the individual making such request.

(c) In the event an individual is unable to provide suitable documentation or identification, the agency may require a signed notarized statement asserting the identity of the individual and stipulating that the individual understands that knowingly or willfully seeking or

obtaining access to records about another person under false pretenses is punishable by a fine of up to $5,000.

(d) In the event a requestor wishes to be accompanied by another person while reviewing his or her records, the agency may require a written statement authorizing discussion of his or her records in the presence of the accompanying representative or other persons.

§ 1224.1–16 Amendment of records and appeals with respect thereto.

A request for inspection of any record shall be made to the Director, A&F/Administrative Services, 806 Connecticut Avenue NW., Washington, D.C. 20525. Such request may be made by mail or in person provided however that requests made in person may be required to be made upon a form to be provided by the Director of Administrative Services. The Director of Administrative Services shall keep a current list of systems of records maintained by the agency and published in accordance with the provisions of these regulations. Requests as to record systems maintained in Regional Offices may be addressed to the appropriate Regional Office, Attention the Regional Records Officer, in person or by mail. A requesting individual may request that the agency compile all records pertaining to such individual at any named Regional Office or at the Central Office in Washington, D.C., for such individual's inspection and/or copying. In the event an individual makes such request for a compilation of all records pertaining to him in various locations, appropriate time for such compilation shall be provided as may be necessary to promptly comply with such requests.

Any such requests should contain, at a minimum, identifying information needed to locate any given record and a brief description of the item or items of informaiton required in the event the individual wishes to see less than all records maintained about him.

(a) In the event an individual after examination of his record desires to request an amendment of such record, he may do so by addressing such request to the Director of Administrative Services. The Director of Administrative Services shall provide assistance in preparing any such amendment upon request and a written acknowledgement of receipt of such request within 10 working days from the receipt thereof from the individual who requested the amendment. Such acknowledgment may, if necessary, request any additional information needed to make a determination with respect to such request. If the agency makes a determination to comply with such request within such 10-day period, no written acknowledgment is necessary provided however that a certification of such change shall be provided to such individual within such period.

(b) Promptly after acknowledgment of the receipt of a request for an amendment the agency shall take one of the following actions:

(1) Make any corrections of any portion of the record which the individual believes is not accurate, relevant, timely or complete.

(2) Inform the individual of its refusal to amend the record in accord with the request together with the reason for such refusal and the procedures established for requesting review of such refusal by the head of the agency or his designee. Such notice shall include the name and business address of such official.

(3) Refer the request to the agency that has control of and maintains the record in those instances where the record requested remains the property of the controlling agency and not of ACTION.

(c) In reviewing a request to amend the record the agency shall assess the accuracy, relevance, timeliness and completeness of the record with due and appropriate regard for fairness to the individual about whom the record is maintained. In making such determination, the agency shall consult criteria for determining record quality published in pertinent chapters of the Federal Personnel Manual and to the extent possible shall accord therewith.

(d) In the event the agency agrees with the individual's request to amend such record, it shall:

(1) Advise the individual in writing,

(2) Correct the record accordingly, and

(3) Advise all previous recipients of a record which was corrected of the correction and its substance.

(e) In the event the agency, after an initial review of the request to amend a record, disagrees with all or a portion of it, the agency shall:

(1) Advise the individual of its refusal and the reasons therefore,

(2) Inform the individual that he or she may request further review in accord with the provisions of these regulations, and

(3) The name and address to whom the request should be directed.

(f) In the event an individual requestor disagrees with the initial agency determination, he or she may appeal such determination to the Deputy Director of the Agency or his designee. Such request for review must be made within 30 days after receipt by the requestor of the initial refusal to amend.

(g) If after review the Deputy Director or his designee refuses to amend the record as requested he shall advise the individual requester of such refusal and the reasons for same; of his or her right to file a concise statement of the reasons for disagreeing with the decision of the agency in the record; of the procedures for filing a statement of disagreement and of the fact that such statement so filed will be made available to anyone to whom the record is subsequently disclosed together with a brief statement of the agency summarizing its reasons for refusal, if the agency decides to place such brief statement in the record. The agency shall have the authority to limit the length of any statement to be filed, such limit to depend upon the record involved. The agency shall also inform such individual that prior recipients of the disputed record will be provided a copy of both statements of dispute to the extent that the accounting of disclosures has been maintained and of the individual's right to seek judicial review of the agency's refusal to amend the record.

(h) If after review the official determines that the record should be amended in accordance with the individual's request the agency shall proceed as provided above in the event a request is granted upon initial demand.

(i) Final agency determination of an individual's request for a review shall be concluded within 30 working days from the initial request excluding the period of time between receipt by such individual of the initial denial and his or her filing of a request for review provided however that the Deputy Director or his designee may determine that fair and equitable review cannot be made within that time. If such circumstances occurs, the individual shall be notified of the additional time required in writing and of the approximate date on which determination of the review is expected to be completed.

§ 1224.1–17 Denial of access and appeals with respect hereto.

In the event that the agency finds it necessary to deny any individual access to a record about such individual pursuant to provisions of the Privacy Act or of these regulations, a response to the original request shall be made in writing within ten working days from the date of such initial request. The denial shall specify the reasons for such refusal or denial and advise the individual of the reasons therefore, and of his or her right to an appeal within the agency and/or judicial review under the provisions of the Privacy Act.

(a) In the event an individual desires to appeal any denial of access, he may do so in writing by addressing such appeal to the attention of the Deputy Director, ACTION, c/o the Director, AF/Administrative Services, 806 Connecticut Avenue NW., Washington, D.C. 20525. Although there is no time limit for such appeals, ACTION shall be under no obligation to maintain copies of original requests or responses thereto beyond 180 days from the date of the original request.

(b) The Deputy Director, or his designee, shall review a request from a denial of access and shall make a determination with respect to such appeal within 20 days after receipt thereof. Notice of such determination shall be provided to the individual making the request in writing. If such appeal is denied in whole or in part, such notice shall include notification of the right of the person making such requests to have judicial review of the denial as provided in the Privacy Act (5 U.S.C. 552a).

§ 1224.1–18 Fees.

No fees shall be charged for search time or for any other time expended by the agency to produce a record. Copies of records may be charged for at the rate of 10 cents per page provided that one copy of any record shall be provided free of charge.

This notice is issued in Washington, D.C., on September 28, 1977.

SAM BROWN,
Director, ACTION.

[FR Doc.77-29233 Filed 10-4-77;8:45 am]

[6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

[Gen. Order 16, Amdt. 21; Docket No. 77-14]

PART 502—RULES OF PRACTICE AND PROCEDURE

Subpart B—Appearances and Practices Before the Commission

FORMER EMPLOYEES

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is amending its Rules of Practice and Procedure governing the appearance and practice before the Commission of former employees to prohibit any former Commission member, officer or employee from practicing, appearing, or representing anyone before the Commission within one year of the termination of their service with the Commission unless it is shown that the particular matter under consideration by the Commission was not under the official responsibility of such former member, officer or employee at any time within a period of one year prior to the termination of such responsibility. These changes are being made to conform the Commission's rule with Federal statute.

DATES: To become effective October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

SUPPLEMENTARY INFORMATION: By Notice published in the FEDERAL REGISTER (42 FR 26664, 26665 May 25, 1977) the Commission proposed revisions in the rules governing the appearance and practice before the Commission of former Commission employees (46 CFR 502.32 (b)). Interested parties were given an opportunity to submit comments on the proposed rules.

No comments or objections were received. Accordingly, the proposed regulations are hereby adopted without change as set forth below.

These amendments have been made to conform the Commission's regulations with 18 U.S.C. 207(b). Because former employees must conduct themselves in a manner consistent with 18 U.S.C. 207(b), these regulations will be made effective as of October 5, 1977. Therefore, 46 CFR 502.32(b) is amended as follows:

§ 502.32 Former employees.

* * * * *

(b) *Matters pending; waiver.* (1) No former member, officer, or employee of the Commission shall practice, appear, or represent anyone before the Commission, within one year after the termination of his or her service with the Commission, in connection with any particular Commission matter involving a specific party or parties which was pending before the Commission at any time during the period of his or her service with the Commission, unless prior written consent of the Commission is applied for and obtained. This consent will not be granted unless it appears that the particular matter was not under the applicant's official responsibility as a member, officer, or employee of the Federal Maritime Commission at any time within a period of one year prior to the termination of such responsibility.

(2) Such applicant shall be required to file an affidavit to the effect that the particular Commission matter was not under the applicant's official responsibility as a member, officer or employee of the Federal Maritime Commission at any time within a period of one year prior to the termination of such responsibility; that the applicant is not associated with, and will not in such matter be associated with, any former member, officer, or employee of the Commission who is either permanently or temporarily precluded from practicing, appearing or representing anyone before the Commission in connection with the particular matter; and that the applicant's employment is not prohibited by any law of the United States or by the regulations of the Commission. The statements contained in such affidavit shall not be sufficient if disproved by an examination of the files and records of the case.

(3) Applications for consent should be directed to the Commission, should state the former connection of the applicant with the Commission, and should identify the matter in which the applicant desires to appear. The applicant shall be promptly advised as to his privilege to appear in the particular matter, and the application, affidavit and consent, or refusal to consent, shall be filed by the Commission in its records relative thereto. Separate consents to appear must be obtained to appear in separate cases. (18 U.S.C. 207(b); E.O. 11222 of May 8, 1965 (30 FR 6169; section 43 of the Shipping Act, 1916 (46 U.S.C. 841a); and 5 U.S.C. 553).

* * * * *

Effective date: These regulations are effective October 5, 1977.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-29270 Filed 10-4-77;8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1241; Amdt. 3]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co. Authorized To Operate Over Tracks Formerly Operated by South Omaha Terminal Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 3 to Service Order 1241).

SUMMARY: Amendment No. 3 to Service Order No. 1241 authorizes the Chicago and North Western to operate over tracks of South Omaha Terminal Railway in order to continue service to shippers.

DATES: Effective 12:01 a.m., September 30, 1977. Expires 11:59 p.m., March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: This order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 29th day of September 1977.

Upon further consideration of Service Order No. 1241 (41 FR 17394, 43723; and 42 FR 17447), and good cause appearing therefor:

It is ordered, That: Service Order No. 1241 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1241 Service Order No. 1241.

(a) Chicago & North Western Transportation Co. authorized to operate over tracks formerly operated by South Omaha Terminal Railway Co. * * *

* * * * *

(e) Expiration date: The provisions of this order shall expire at 11:59 p.m., March 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., September 30, 1977.

(49 U.S.C. 1(12), (15), (16) and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all 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 amendment 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, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29286 Filed 10-4-77;8:45 am]

[7035-01]

[S.O. 1277]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1277).

SUMMARY: Service Order No. 1277 authorizes the Burlington Northern to substitute two smaller 40-ft. plain boxcars for 50-ft. boxcars ordered for loading lumber and plywood. The Burlington Northern has an adequate supply of 40-ft. narrow-door plain boxcars while at the same time it is encountering shortages of 50-ft. plain boxcars.

DATES: Effective 12:01 a.m., September 30, 1977. Expires 11:59 p.m., November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 29th day of September 1977.

There is an acute shortage of plain boxcars in excess of 40-ft. 6-in. on the lines of the Burlington Northern, Inc. (BN), for transportation of shipments of lumber and plywood subject to tariff provisions that require the use of plain boxcars having lengths in excess of 40-ft. 6-in. The BN has a surplus of 40-ft. 6-in. narrow-door plain boxcars that could be substituted for larger cars if minimum quantity tariff provisions permitted. The economic loss suffered by shippers dependent on the BN for their car supplies can be alleviated by the substitution of smaller cars for the larger cars ordered to transport the shipments offered at the ratio of two smaller cars for each larger car ordered.

In the opinion of the Commission, present regulations and practices with respect to the use and supply of boxcars are ineffective to overcome these shortages of boxcars and an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1277 Distribution of freight cars.

(a) *Application.* (1) This order shall apply only to cars originating and terminating at stations on the Burlington Northern system and routed only via the lines comprising that system as defined in subsection (2), except that shipments may originate or terminate in terminal switching service on connecting lines which do not participate in the line-haul.

(2) Burlington Northern System: Burlington Northern, Inc.; the Colorado & Southern Railway Co.; Fort Worth & Denver Railway Co.

(3) The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(b) Subject to the concurrence of the shipper, the Burlington Northern, Inc. (BN), may substitute two narrow-door plain boxcars listed in the Official Railway Equipment Register, ICC-R.E.R. No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" with inside length 40-ft. 6-in. or less, and with doors less than 8-ft. wide, for each plain boxcar of greater length, but not exceeding 52-ft. 6-in. in length, ordered by the shipper for loading lumber and plywood. (See Exceptions (c), (d), and (e).)

(c) *Exception.* This order shall not apply to shipments subject to tariff provisions requiring the use of twenty-five or more cars per shipment.

(d) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(e) *Exception.* Cars subject to this order may not be diverted or reconsigned for movement via lines other than the BN.

(f) *Rates and minimum weights applicable.* The rates to be applied and the minimum weights applicable to shipments for which cars smaller than those ordered have been furnished and loaded as authorized by section (b) of this order shall be the rates and minimum weights applicable to the larger cars ordered.

(g) *Billing to be endorsed.* The carrier substituting smaller cars for larger cars as authorized by section (b) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Car of (------) in length, or of (------) cu. ft. or of (------) lbs. or greater capacity ordered. Two smaller cars furnished authority ICC Service Order No. 1277

(h) *Concurrence of shipper required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(i) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C. 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(j) *Rules and regulations suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(k) *Effective date.* This order shall become effective at 12:01 a.m., September 30, 1977.

(l) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(12), (15), (16) 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, Robert S. Turkington, and John R. Michael. Joel E. Burns not participating.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29285 Filed 10-4-77; 8:45 am]

[7035-01]

[Service Order No. 1278]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1278).

SUMMARY: There is a shortage of 180,000 lbs. capacity hopper cars for shipments of phosphate rock from Garrison, Mont., to Kimberly, British Columbia. The Burlington Northern, Inc., the originating carrier, has secured a supply of smaller cars (140,000 lbs. capacity) which are suitable, except for capacity for transporting this traffic. Service Order No. 1278 authorizes the Burlington Northern to substitute these smaller care for the large cars normally required because of tariff minimum weights of 180,000 lbs. per car. The rates applicable to the larger cars ordered are to be applied to the smaller cars loaded provided the cars are loaded to capacity.

DATES: Effective 12:01 a.m., September 30, 1977. Expires 11:59 p.m., November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202–275–7840, telex 89–2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 30th day of September 1977.

There is a regular movement of phosphate rock in bulk from Garrison (Phosphate Spur), Mont., to Kimberly, British Columbia, Canada, routed via the Burlington Northern, Inc. (BN), thence CP Rail. These shipments are subject to tariff minimum weights of 180,000 lbs. per car. Because of heavy demands by various shippers, there is an acute shortage on the BN of open hopper cars capable of transporting shipments of these weights resulting in costly delays to the shipper and consignee because of interruptions in the regular flow of this traffic. The BN has secured an adequate supply of cars of 70-tons and greater capacity but less than 90-tons capacity and is willing to transport this traffic in fully loaded cars of at least 70-ton capacity at the rates normally subject to the higher minimum weights specified in the applicable tariffs. Use of these smaller cars in place of 90-ton cars will alleviate the economic loss to shippers caused by the inability of the BN to supply sufficient high capacity cars and will provide the BN with additional hopper cars to meet the requirements of its shippers.

In the opinion of the Commission, present regulations and practices with respect to the use and supply of hopper cars are ineffective to overcome these shortages of hopper cars and an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1278 Distribution of freight cars.

(a) Subject to the concurrence of the shipper, the Burlington Northern, Inc. (BN), may substitute open hopper cars listed in the Official Railway Equipment Register, ICC-RER No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation Class "H" and capacity of 140,000 lbs. or greater but less than 180,000 lbs. for open hoppers, Class "H" capacity 180,000 lbs. or greater ordered for transporting shipments of phosphate rock from Garrison (Phosphate Spur), Mont., to Kimberly, British Columbia, Canada, and routed BN-CP Rail subject to the conditions prescribed in sections (b), (c), (d), and (e) of this order.

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(c) *Rates and minimum weights applicable.* The rates to be applied shall be those applicable to the size car ordered provided cars are loaded to the lesser of full visible or marked capacity.

(d) *Billing to be endorsed.* The carrier substituting smaller cars for larger cars as authorized by section (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Car of (_____) lb. capacity ordered. Smaller cars furnished authority ICC Service Order No. 1278.

(e) *Concurrence of shipper required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(f) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C. 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(g) *Rules and regulations suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order and insofar as they apply within the United States of America.

(h) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(i) *Effective date.* This order shall become effective at 12:01 a.m., September 30, 1977.

(j) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(12), (15), (16), 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, Robert S. Turkington, and John R. Michael.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-29284 Filed 10-4-77;8:45 am]

[7035-01]

[Amdt. No. 3 to Service Order No. 1254]

PART 1033—CAR SERVICE

Vermont Northern Railroad Co. Authorized To Operate Over Tracks Owned by State of Vermont and Formerly Operated by St. Johnsbury & Lamoille County Railroad

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 3 to Service Order No. 1254).

SUMMARY: The State of Vermont owns the former St. Johnsbury & Lamoille County Railroad between Swanton, Vt., and St. Johnsbury, Vt., and has leased the line to the Vermont Northern Railroad for operation on behalf of the State. Service Order No. 1254 authorizes the Vermont Northern to operate this line pending disposition of its application for a Certificate of Convenience and Necessity in order to provide uninterrupted rail service to shippers in northern Vermont. Amendment No. 3 extends Service Order No. 1254 for an additional three months.

DATES: Effective 11:59 p.m., September 30, 1977. Expires 11:59 p.m., December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202–275–7840, telex 89–2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of September 1977.

Upon further consideration of Service Order No. 1254 (41 FR 48122; 42 FR 3309 and 30841), and good cause appearing therefor;

It is ordered, That: Service Order No. 1254 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

§ 1033.1254 Service Order No. 1254.

(a) Vermont Northern Railroad Co. authorized to operate over tracks owned by State of Vermont and formerly operated by St. Johnsbury & Lamoille County Railroad. * * *

* * * * *

(f) Expiration date: The provisions of this order shall expire at 11:59 p.m., December 31, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., September 30, 1977.

(49 U.S.C. 1, 12, 15, and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all 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 amendment 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, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29295 Filed 10-4-77;8:45 am]

[7035-01]

[Amdt. No. 1 to Service Order No. 1269]

PART 1033—CAR SERVICE

Missouri Pacific Railroad Co. Authorized To Operate Over Tracks of the Atchison, Topeka & Santa Fe Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 1 to Service Order No. 1269).

SUMMARY: The Missouri Pacific's line between Winfield, Kans., and Arkansas City, Kans., has been damaged by flooding and is inoperable. Service Order No. 1269 authorizes the Missouri Pacific to operate over parallel tracks of the Atchison, Topeka and Santa Fe between those points in order to provide continued railroad service to shippers served by the undamaged portions of this line. Amendment No. 1 extends this order for an additional six months.

DATES: Effective 11:59 p.m., September 30, 1977. Expires 11:59 p.m., March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of September 1977.

Upon further consideration of Service Order No. 1269 (42 FR 34883) and good cause appearing therefor:

It is ordered, That: Service Order No. 1269 be, and it is hereby, amended by substituting the following paragraph (c) for paragraph (c) thereof:

§ 1033.1269 Service Order No. 1269.

(a) Missouri Pacific Railroad Co. authorized to operate over tracks of the Atchison, Topeka & Santa Fe Railway Co. * * *

* * * * *

(c) Expiration date: The provisions of this order shall expire at 11:59 p.m., March 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., September 30, 1977.

(49 U.S.C. 1, 12, 15, and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all 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 amendment 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, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29296 Filed 10-4-77;8:45 am]

[3510-12]

Title 50—Wildlife and Fisheries

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

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Importation of Yellowfin Tuna and Tuna Products

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Final rule.

SUMMARY: This final regulation is issued under the authority of the Marine Mammal Protection Act of 1972 and extends until January 1, 1978, the effective date of embargo provisions on yellowfin tuna and tuna products originating from vessels engaged in the yellowfin tuna purse seine fishery in the eastern tropical Pacific Ocean.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal and Endangered Species Division, National Fisheries Service, Washington, D.C. 20235, Telephone 202-634-7461.

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service (NMFS) published regulations in the FEDERAL REGISTER on March 1, 1977 (42 FR 12010-12014) governing the taking of marine mammals incidental to commercial fishing operations.

These regulations include documentation provisions concerning the importation of yellowfin tuna from nations known to be involved in the purse seine fishery in the eastern tropical Pacific Ocean (hereafter the ETP fishery). Originally effective June 1, 1977, these importation provisions make importation of yellowfin tuna and tuna products from nations known to be involved in the ETP fishery contingent upon certain findings by the Director of NMFS. The Director of NMFS must find either (a) that the fishing operations of the nation concerned "* * * are conducted in conformance with U.S. regulations and standards * * *, or (b) that, "although not in conformity with these regulations, such fishing is accomplished in a manner which does not result in an incidental mortality and serious injury in excess of that which results from U.S. fishing operations under these regulations." (See 50 CFR 216.24(e)(5)) Either finding will result in an exception from the embargo provisions of the U.S. regulations for the nation concerned.

The Director of NMFS published a notice in the FEDERAL REGISTER on May 16, 1977 (42 FR 24742) which extended the effective date of the import restrictions until August 1, 1977. Subsequently, on August 4, 1977 (42 FR 39394), the effective date was further extended until October 1, 1977.

In view of recent developments which have brought new difficulties to light and confirmed continuing problems, the Director of NMFS has determined that a further extension until December 31, 1977 is necessary. This extension will allow foreign nations a reasonable period of time to conform to U.S. regulations and standards, facilitate the implementation of an international agreement which will reduce porpoise mortality, and avoid an unwarranted disruption or cessation in the flow of tuna and tuna products.

A recent trip by an NMFS representative to several of the nations involved in the ETP fishery sharpened the focus on many of the problems associated with conformance. A fundamental problem was an incomplete understanding by many nations of the intent and requirements of the import provisions. However, all nations which either were visited or have responded are receptive and have taken steps to conform.

Four nations, Canada, Mexico, Ecuador and Netherlands Antilles, are in substantial conformance with U.S. regulations and standards. Panama, Costa Rica, and Nicaragua have indicated an intent to comply, and have undertaken good faith efforts to achieve conformance. The remaining nations, Bermuda, Peru, Senegal, Spain, and Venezuela have been contacted, but, as yet, their position with respect to conformance is unclear.

The ongoing efforts of the Inter-American Tropical Tuna Commission (IATTC) were a major factor considered by the Director of NMFS. The IATTC meeting on June 27-29, 1977 produced a resolution that would establish an international tuna-porpoise research and observer program for IATTC member nations, with provision for inclusion of non-

member nations, operating in the ETP fishery. This resolution represents the first significant step taken by the IATTC to solve the problem of incidental porpoise mortality. The resolution has been approved by all member nations. It is expected that implementation of the resolution will be discussed and clarified at the annual meeting to be held in Mexico City, Mexico on October 17–20, 1977. Implementation of this resolution will be a factor in making findings for various nations. In addition, the meeting will provide a forum in which to clarify doubts, resolve problems, and assess efforts with respect to conformance by both member and interested non-member nations. The present effective date of the embargo provisions, October 1, 1977, does not allow the Director nor the nations concerned sufficient time to perfect their respective roles.

In making the determination for an extension, the Director of NMFS also considered the recommendation of the Department of State and the comments filed in response to the extension appearing in the FEDERAL REGISTER on August 4, 1977 (supra) by Cooperativa de Pescadores del Pacifico R.L. ("Coopeatun") of Costa Rica and Productos Alimenticios del Mar, S.A. ("Palmar") of Mexico, all of which concurred in the need for an extension.

The Director of NMFS will publish in the FEDERAL REGISTER before December 31, 1977 a list of nations for which he has made findings.

§ 216.24 [Amended]

Accordingly, § 216.24 paragraphs (e)(2)(ii), (e)(4), and (e)(5)(i) of 50 CFR Part 216 is amended to read as follows:

(1) Section 216.24 (e)(2)(ii) is amended by deleting the date "September 30, 1977" and inserting the date "December 31, 1977";

(2) Section 216.24(e)(4) is amended by deleting the date "October 1, 1977" in the first line and inserting the date "January 1, 1978", and by deleting the date "September 30, 1977" in the seventh line and inserting the date "December 31, 1977";

(3) Section 216.24(e)(5)(i) is amended by deleting the date "September 30, 1977" in the first line and inserting the date "December 31, 1977."

Dated: September 30, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-29283 Filed 10-4-77;8:45 am]

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION
PART 213—EXCEPTED SERVICE

Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C fourteen policy making Executive Level V positions of Staff Officer who are to be used in various executive positions during the organization phase of the establishment of the Department of Energy and who will be assigned to more specific and definitively titled positions when the initial organizational phase of the establishment of the Department is completed.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION ON POSITION AUTHORITY CONTACT:

John W. McKee, Civil Service Commission, (202–632–4625).

FOR FURTHER INFORMATION ON POSITION CONTENT CONTACT:

Lloyd W. Grable, Director, Transition Personnel Office, Department of Energy, (202–376–4210).

Accordingly, 5 CFR 213.3331(a)(5) is added as set out below:

§ 213.3331 **Department of Energy.**

(a) *Office of the Secretary.* * * *

(5) Fourteen Staff Officers.

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

[FR Doc.77-29453 Filed 10-4-77;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.

[1610–01]

COST ACCOUNTING STANDARDS BOARD

[4 CFR Part 416]

ACCOUNTING FOR INSURANCE COSTS

Cost Accounting Standards

AGENCY: Cost Accounting Standards Board.

ACTION: Proposed rule.

SUMMARY: This proposed rule would provide criteria for the measurement of insurance costs, the assignment of such costs to cost accounting periods and the allocation of insurance costs to cost objectives. The application of these criteria should increase the probability that insurance costs are allocated to cost objectives in a uniform and consistent manner.

DATE: Written comments must be received on or before December 12, 1977.

ADDRESSES: Written comments should be sent to the Cost Accounting Standards Board, 441 G Street NW., Room 4836, Washington, D.C. 20548.

FOR FURTHER INFORMATION CONTACT:

Robert Straith, Associate Director, Cost Accounting Standards Board, 441 G Street NW., Room 4836, Washington, D.C. 20548 (202–275–6136).

SUPPLEMENTARY INFORMATION: The proposed Standard, if adopted, would be one of a series of Cost Accounting Standards which the Board is promulgating "to achieve uniformity and consistency in the cost accounting principles followed by defense contractors and subcontractors under Federal contracts." (See sec. 719(g) of the Defense Production Act of 1950, as amended.) It is anticipated that any contractor receiving an award of a contract subject to the rules, regulations, and Standards of the Cost Accounting Standards Board on or after the effective date of this Standard will be required to follow it in accordance with the provisions of § 416.80.

The Board solicits comments on the proposed Cost Accounting Standard which will assist the Board in its consideration of the proposal.

NOTE.—All written submissions made pursuant to this Notice will be made available for public inspection at the Board's Office during regular business hours.

Accordingly, it is proposed to publish 4 CFR Part 416 as follows:

PART 416—ACCOUNTING FOR INSURANCE COSTS

Sec.

416.10 General applicability.
416.20 Purpose.
416.30 Definitions.
416.40 Fundamental requirement.
416.50 Techniques for application.
416.60 Illustrations.
416.70 Exemptions.
416.80 Effective date.

AUTHORITY: Sec. 719 of the Defense Production Act of 1950, as amended, Pub. L. 91-379, 50 U.S.C. App. 2168.

§ 416.10 General applicability.

General applicability of this Cost Accounting Standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the Cost Accounting Standards in negotiated defense prime contracts and subcontracts (4 CFR 331.30).

§ 416.20 Purpose.

The purpose of this Standard is to provide criteria for the measurement of insurance costs, the assignment of such costs to cost accounting periods, and the allocation of insurance costs to cost objectives. The application of these criteria should increase the probability that insurance costs are allocated to cost objectives in a uniform and consistent manner.

§ 416.30 Definitions.

(a) The following are definitions of terms prominent in this Standard:

Insurance administration expenses. The contractor's costs of administering an insurance program, e.g., the costs of operating an insurance department, processing claims, actuarial fees, and service fees paid to insurance companies or trustees.

Projected average loss. The theoretical long-term average loss per period for periods of comparable exposure to risk of loss.

Self-insurance. The assumption or retention of the risk of loss by the contractor, whether voluntarily or involuntarily. Self-insurance includes the deductible portion of purchased insurance.

Self-insurance charge. An accrued cost which represents the projected average loss under a plan of self-insurance accounting.

(b) The following modifications of definitions set forth in Part 400 of this chapter are applicable to this Standard: None.

§ 416.40 Fundamental requirement.

(a) The amount of insurance cost to be assigned to a cost accounting period is the projected average loss for that period plus insurance administration expenses in that period.

(b) The allocation of insurance costs to cost objectives shall be based on the beneficial or casual relationship between the insurance costs and the benefiting or causing cost objectives.

§ 416.50 Techniques for application.

(a) *Measurement of insurance costs.* (1) For exposure to risk of loss which is covered by the purchase of insurance or by payments to a trusted fund: (i) The premium cost applicable to a given policy period shall be assigned pro rata among the cost accounting periods covered by the policy period, except as provided in paragraphs (a)(1) (ii) through (vi) of this section. A refund, dividend, or additional assessment shall become an adjustment to the pro rata premium costs for the earliest cost accounting period in which the refund or dividend is actually or constructively received or in which the additional assessment is payable.

(ii) Where insurance is purchased specifically for, and directly allocated to, a single final cost objective, the premium need not be prorated among cost accounting periods.

(iii) Any part of a premium or payment to an insuror or trustee, or any part of a dividend or premium refund retained by an insuror or trustee which would be includable as a deposit in published financial statements shall be accounted for as a deposit for the purpose of determining insurance costs.

(iv) Payments to an insurer or to a trustee, or premium refunds or dividends retained by an insurer, for inclusion in a reserve or fund established and maintained on behalf of the insured or the policyholder or trustor, shall be accounted for as deposits unless the following conditions are met:

(A) The objectives of the reserve or fund are clearly stated in writing;

(B) Measurement of the amount required for the reserve or fund is actuarially determined and is consistent with the objectives of the reserve or fund;

(C) Payments and additions to the reserve or fund are made in a systematic and consistent manner; and,

(D) Payments to accomplish the stated objectives of the reserve or fund are made from the reserve or fund or the method of funding accomplishes the same result.

(v) If an objective of an insurance program is to prefund insurance coverage on retired lives, then, in addition to the requirements imposed by paragraph (a)(1)(iv) of this section:

(A) Payments must be made to an insurer or trustee to establish and maintain a fund or reserve for that purpose;

(B) The policyholder or trustor must have no right of recapture of the reserve or fund so long as any active or retired participant in the program remains alive; and,

(C) The amount added to the reserve or fund in any cost accounting period must not be greater than an amount which would be required to fairly allocate the cost of the insurance coverage provided over the working lives of the active employees in the plan.

(vi) The contractor may adopt and consistently follow a practice of determining insurance costs based on the estimated premium and assessments net of estimated refunds and dividends. If this practice is adopted, then any difference between an estimated and actual refund, dividend, or assessment shall become an adjustment to the pro rata net premium costs for the earliest cost accounting period in which the refund or dividend is actually or constructively received or in which the additional assessment is payable.

(2) For exposure to risk of loss which is not covered by the purchase of insurance or by payments to a trusteed fund, the contractor shall follow a program of self-insurance accounting according to the following criteria:

(i) Except as provided in paragraph (a)(2)(iii) of this section, the contractor shall make a self-insurance charge for each period which shall represent the projected average loss for that period. Where insurance can be purchased against the self-insured risk, the self-insurance charge plus insurance administration expenses may be equal to, but shall not exceed the cost of comparable purchased insurance plus the associated insurance administration expenses. Where insurance cannot be purchased against the self-insured risk, the amount of the self-insurance charge for each period shall be based on past experience and anticipated conditions.

(ii) In any period where a self-insurance charge is made, actual losses in that period related to the self-insured risk shall not become a part of insurance costs. However, actual loss experience shall be evaluated regularly, and self-insurance charges for subsequent periods shall reflect such experience in accordance with accepted actuarial principles.

(iii) Where it is probable that the actual amount of losses which will occur in a cost accounting period will not differ significantly from the projected average loss for that period, the actual amount of losses in that period may be considered to represent the projected average loss for that period in lieu of a self-insurance charge. Under self-insurance programs on retired lives, only actual losses shall be considered to represent the projected average loss unless a reserve or fund is established in accordance with § 416.50(a)(1)(v).

(iv) The contractor may elect to follow a consistent practice of recognizing minor self-insured losses as part of other expense categories rather than as "insurance costs."

(v) The self-insurance charge shall be determined in a manner which will give appropriate recognition to any indemnification agreement which exists between the contracting parties.

(3) In measuring the projected average loss under paragraph (a)(2) of this section:

(i) The amount of an incurred loss shall be measured by (A) the net book value of property destroyed, (B) amounts paid or accrued to repair damage, and (C) amounts paid or accrued to compensate claimants, including subrogation. Where the amount of the loss is uncertain, the estimate of the loss shall be the amount includable in published financial statements.

(ii) If a loss has been incurred and the amount of the liability to a claimant is fixed or reasonably certain, but actual payment of the liability will not take place for more than one year after the loss is incurred, the amount of the loss to be recognized currently shall not exceed the present value of the future payments, determined by using a discount rate equal to that prescribed for settling such claims by the State having jurisdiction over the claim. If no such rate is prescribed by the State, then the rate shall be equal to the interest rate as determined by the Secretary of the Treasury pursuant to Pub. L. 92-41, 85 Stat. 97, in effect at the time the loss is recognized. Alternatively, where settlement will consist of a series of payments over an indefinite time period, as in worker's compensation, the contractor may follow a consistent policy of recognizing only the actual amounts paid at the time of payment.

(4) Insurance administration expenses which are material in relation to other insurance costs shall be separately identified and combined with the projected average loss to determine the total insurance cost for the cost accounting period.

(b) *Allocation of insurance costs.* (1) In allocating insurance costs from a home office to segments, in accordance with 4 CFR 403.40(b)(4), the following criteria shall be utilized:

(i) Premiums and assessments paid by, refunds and dividends received by, or a self-insurance charge made by a home office on behalf of a segment shall be allocated directly to that segment. Premiums, assessments, refunds, dividends, and self-insurance charges which can be identified with two or more segments shall be allocated among such segments on a basis which reasonably reflects (A) the factors used to determine the premium, assessment, refund, dividend, or self-insurance charge and (B) the beneficial or causal relationship which exists between the insurance coverage and the segments. The allocation shall give reasonable weight to both exposure to risk of loss and loss experience by segment.

(ii) Where actual losses are recognized as a part of insurance costs in accordance with § 416.50(a)(2)(iii), or where actual loss experience is determined for the purpose of developing self-insurance charges by segment, a loss which is incurred in given segment shall be identified with that segment. However, if the contractor's home office acts, in effect, as a re-insurer of its segments against catastrophic losses, a portion of such catastrophic losses may be allocated to, or identified with, the home office.

(2) Insurance costs incurred by a segment or allocated to a segment from a home office shall be allocated to intermediate and final cost objectives on a basis which reasonably reflects the factors used to determine the premium, assessment, refund, dividend, or self-insurance charge.

(c) *Records.* The contractor shall maintain such records as may be necessary in the normal course of business to substantiate the amounts of premiums, refunds, dividends, losses, and self-insurance charges, paid or accrued, and the measurement and allocation of insurance costs. Memorandum records may be used to reflect any material differences between insurance costs as determined in accordance with this Standard and as includable in published financial statements.

§ 416.60 Illustrations.

(a) Contractor A pays a company-wide property and casualty insurance premium for the policy term July 1, 1976, to July 1, 1979, and charges the entire amount to expense in its cost accounting period which ended December 31, 1976. This is a violation of § 416.50(a)(1)(i) in that only one-sixth of the policy term fell within the cost accounting period which ended December 31, 1976, and therefore only one-sixth of the premium should have been charged to expense in that cost accounting period.

(b)(1) Contractor B has a retrospectively rated worker's compensation insurance program. The policy term corresponds with the contractor's cost accounting period. Premium refunds are normally received and applied in the following cost accounting period. The contractor's practice is to charge the entire gross premium to insurance expense in the cost accounting period in which it is paid and to credit the refund against insurance expense in the cost accounting period in which it is received. This practice conforms with § 416.50(a)(1)(i).

(2) Under the provisions of § 416.50(a)(1)(vi), the contractor could have followed a practice of estimating such refunds in advance and charging the estimated net premium to insurance expense. If the contractor were to follow this latter practice, he would recognize the difference between the estimated and the actual refund as an adjustment to insurance expense at the time of receipt.

(c) Contractor C establishes a self-insured program of life insurance for ac-

tive and retired employees. The contractor pay death benefits directly to the beneficiaries of deceased employees and charges such payments to insurance costs at the time of payment. This practice complies with § 416.50(a)(2)(iii) which requires that only the actual losses be recognized unless a properly funded reserve is established.

(d) Instead of paying death benefits directly, Contractor D purchases annual group term life insurance on active and retired employees and charges the premiums to insurance costs (with proper recognition for refunds and dividends). Contractor D's retired employees wish to be protected against possible discontinuance of the program. Contractor D therefore establishes a trusteed fund. As each employee retires, Contractor D deposits in the fund an amount which is equal to the premium on a paid-up policy for that employee, and he advises the trustee that the fund is to be used to continue to pay premiums on retired lives in the event the program is discontinued. The contractor also continues to purchase group term insurance on both active and retired employees and charges both the premiums and the deposits to insurance costs. This practice does not comply with § 416.50(a)(1)(iii). The contractor is insured against risk of loss on retired lives by the current purchase of group term insurance. Therefore, the payments to the reserve represent deposits rather than expenses.

NOTE.—In This instance the contractor could comply with the Standard by paying from the fund that portion of the group term premium which represented the retired lives or by reducing the deposits to the fund by an equivalent amount in accordance with § 416.50(a()1)(iv)(D).

(e) Contractor E wishes to provide assurance of his life insurance program continuance to both active and retired employees. He establishes a trusteed fund in accordance with § 416.50(a)(1)(iv) and (v) and thereafter pays into the fund each year for each active employee an actuarilly-determined amount which will accumulate to the equivalent of the premium on a paid-up life insurance policy at retirement. He charges the annual payments to insurance costs. Benefits are paid directly from the fund (or the fund is used to pay the annual premiums on group term life insurance for all employees). This practice complies with the Standard.

(f) Contractor F has a fire insurance policy which provides that the first $50,000 of any fire loss will be borne by the contractor. Because the risk of loss is dispersed among many physical units of property and the average potential loss per unit is relatively low, the actual losses in any period may be expected not to differ significantly from the projected average loss. Therefore, the contractor proposes to let the actual losses represent the projected average loss for this exposure, and the Contracting Officer approves this plan in accordance with existing procurement regulations. Property with a net book value of $80,000 is destroyed in a fire. The contractor charges $50,0000 of the loss to insurance expense in the year of the loss. The practice complies with the requirement of § 416.50(a)(2). However, had the contractor's plan been to make a self-insurance charge, then any difference between the self-insurance charge and actual losses in that cost accounting period would not have been allocable as an insurance cost.

(g) Contractor G is preparing to enter into a Government contract to produce explosive devices. The contractor is unable to purchase adequate insurance protection and must act as a self-insurer, and the contractor has sufficient financial resources to do so. The risk is concentrated rather than dispersed, and there is a significant possibility of a major loss, against which the Government will not undertake to idemnify the contractor. The contractor must therefore make a self-insurance charge. The contractor may use data obtained from other contractors or any other reasonable method of estimating the projected average loss in order to determine the self-insurance charge.

NOTE.—Had adequate insurance been available but the contractor nevertheless chose to self-insure, and the Contracting Officer approved this plan, then in accordance with § 416.50(a)(2)(i) the amount of the self-insurance charge plus insurance administration expenses could not exceed the cost of the available insurance plus associated insurance administration expenses.

(h) Contractor H has segments located in two dierent states. Contractor H purchases group insurance for its employees through its home office under a single, company-wide plan and pays a common premium rate for all employees. Periodically Contractor H receives a significant experience rating premium refund from its insurer. Contractor H allocates the refund between segments based on a common percentage of the initial premium, despite the fact that loss experience at one segment has consistently been significantly more favorable than at the other segment and this difference is reflected in the insurer's refund determination. This practice violates § 416.50(b)(1)(i) which provides that the allocation shall give reasonable weight to both exposure to risk of loss and loss experience by segment.

(i) Contractor I purchases liability insurance for all of its motor vehicles in a single, company-wide policy which contains a $50,000 deductible provision. However, the company's management policy provides that if a loss incurred in a segment, only the first $5,000 of the loss will be charged to the segment; the balance of the loss will be absorbed at the home-office level and reallocated among all segments. Contractor I does not make a self-insurance charge for the exposure to loss which is represented by the deductible provision.

(1) Contractor I's practice of allocating the loss in excess of $5,000 to the home office is a violation of § 416.50(b)(1)(ii) unless any loss in excess of $5,000 can realistically be considered "catastrophic" in relation to the assets of the segment in which it occurs.

(2) The allocation to segments of the cost of losses absorbed by the home office must give reasonable weight to both exposure to risk of loss and actual loss experience by segment, in accordance with § 416.50(b)(1)(i).

§ 416.70 Exemptions.

None for this Standard.

§ 416.80 Effective date.

(a) The effective date of this standard is reserved.

(b) This Standard shall be followed by each contractor on or after the start of his next cost accounting period beginning after the receipt of a contract to which this Cost Accounting Standard is applicable.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.77-29130 Filed 10-4-77;8:45 am]

[3128-01]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

SPECIAL SET-ASIDE PROCEDURES FOR MIDDLE DISTILLATES

Proposed Rulemaking and Public Hearing

AGENCY: Federal Energy Administration.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: FEA proposes to amend the Mandatory Petroleum Allocation Regulations to reinstate, by the adoption of a Special Rule No. 5, a set-aside procedure for middle distillates to be administered by the State Energy Offices and FEA's Regional Offices for the period November 1977 through March 1978. The proposal would permit wholesale purchaser-consumers and end-users who have made unsuccessful efforts to obtain supplies for an emergency or hardship to acquire that volume required to meet their certified current requirements.

DATES: Comments by October 21, 1977; Requests to speak by October 14, 1977; Hearing date: October 21, 1977.

ADDRESSES: Comments and requests to speak to: Executive Communications, Room 3317, Federal Energy Administration, Box PT, 12th and Fennsylvania Avenue NW., Washington, D.C. 20461; Hearing location: Room 2015, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Ed Vilade (Media Relations), 12th and Pennsylvania Ave. NW., Room 3104, Washington, D.C. 20461 (202-566-9833).
Gerald P. Emmer, (Regulatory Programs), 2000 M Street, NW., Room 2304, Washington, D.C. 20461, (202-254-7200).

Michael Paige, (Office of the General Counsel), 12th and Pennsylvania Ave., NW., Room 5134, Washington, D.C. 20461, (202-566-9565).

SUPPLEMENTARY INFORMATION:

I. Background.
II. State Set-Aside Proposal.
III. Comment Procedures.

I. Background

Deregulation of Middle Distillates

On June 15, 1976 FEA issued and submitted to the Congress two separate amendments which provided for the exemption of middle distillates from allocation and price controls. These amendments became effective July 1, 1976.

In response to concerns expressed by some members of Congress, FEA informed the Congress that a set-aside procedure administered by FEA's Regional Offices would be established before the end of July 1976 to operate to insure that no marketer would lose its supply source without adequate time to arrange a new supplier during the transitional period following removal of controls.

State Set-Aside Procedure Adopted

On July 9, 1976, FEA issued a notice of proposed rulemaking and public hearing (41 FR 28797, July 13, 1976) concerning establishment of a special set-aside procedure for middle distillates to be in effect from August 1976 through March 1977.

Because this new set-aside program could not be implemented before August 1, 1976, FEA adopted an interim rule (Special Rule No. 2 to Subpart A) on July 1, 1976 which continued the operation of the then existing State set-aside program in a modified form for one month following the exemption.

On August 5, 1976 (41 FR 33881, August 11, 1976), FEA adopted Special Rule No. 3 which provided that, notwithstanding the exemption of middle distillates from controls, a special set-aside procedure for middle distillates would be in effect for the months of August 1976 through March 1977. Under these procedures State Offices were enabled to make assignments to marketers which could demonstrate an inability to obtain adequate supplies of middle distillates after reasonable efforts in this regard and directly to conusumers who could meet the same hardship criteria that were in effect for the State set-aside program.

Hearings on Further Action With Regard to Middle Distillates

On May 26, 1977, FEA issued a Further Notice of Proposed Rulemaking and Public Hearing to provide an opportunity for receipt of comments and testimony on the manner in which the FEA middle distillate price monitoring system had operated during the past heating season and on what action, if any, should be taken by FEA with respect to middle distillates during the 1977-1978 winter. In the period July 11, through 15, 1977, FEA held regional hearings in the following cities: Boston, New York, Chicago, Seattle and Atlanta. FEA held a national public hearing in Washington, D.C. from August 2, 1977 through August 4, 1977. On the third day of the national hearing presentations were made by representatives of consumers groups, which FEA funded to promote the acquisition of the technical assistance necessary for the proper preparation of their views.

II. State Set-Aside Proposal

FEA's review of the public comments received on the State set-aside procedures revealed strong support for this program among the States, consumer groups and trade associations, which viewed the set-aside as an effective device to address emergency situations such as occurred in the 1976-77 winter. State governments argued that since State Energy Offices are in existence, such offices are most aware of local conditions and can move most quickly to get supplies to those who are experiencing an emergency or hardship situation. Refiners stated that the set-aside program only provided another level of bureaucracy and inhibited the transfer of heating oil from one area to another. Moreover, refiners stated that the set-aside procedures had been used sparsely during the 1976-77 winter. FEA has carefully analyzed and evaluated these comments and has decided that the set-aside procedures represent an important means of insuring adequate supplies of middle distillates to consumers to meet emergency and hardship situations.

FEA's initial determination is that adoption of a State set-aside for the 1977-78 winter is necessary to attain, and is consistent with, the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"). In particular, FEA believes that such a regulation would further the objectives set forth in section 4(b)(1) of the EPAA by promoting public health, safety and welfare (including maintenance of residential heating for individual homes, apartments and similar occupied dwelling units) and the equitable distribution of refined petroleum products among all regions and areas of the United States, and sectors of the petroleum industry, and among all users. In reimposing the State set-aside for middle distillates, FEA would be taking action under section 12(f) of the EPAA, which permits the President to prescribe such a regulation upon a determination by him that such regulation is necessary to attain, and is consistent with, the objectives specified in section 4(b)(1) of the EPAA.

FEA proposes to reinstate a set-aside program by adopting a new Special Rule No. 5 for Subpart A of Part 211. The special procedures proposed hereby provide that, notwithstanding the exemption of middle distillates from controls, a special set-aside program for middle distillates would be in effect from November 1, 1977 to March 31, 1978 so as to permit assignments to marketers and consumers by State Energy Offices or by the appropriate FEA Regional Office if a State Energy Office declines administration of the procedures. Within 10 days after the effective date of this Special Rule, each supplier would designate for each State within which the supplier operates as a prime supplier a representative who would act on behalf of the prime supplier with regard to these special procedures. The set-aside would constitute four (4) percent of a prime supplier's estimated portion of its total supply of middle distillates for the particular month which will be sold into the distribution system of the State (for consumption therein). The set-aside volume for a particular month cannot be accumulated or deferred and may be released totally or partially at any time during the month by order of the State Energy Office. These volumes would be available for assignments to wholesale purchaser-consumers and end-users who have made unsuccessful efforts to obtain supplies for an emergency or hardship. Such assignments would be limited to that volume required to meet certified current requirements and conditioned upon demonstration of the same hardship criteria that were in effect for the State set-aside program. Assignments could also be made to wholesale purchaser-resellers who are unable to obtain a sufficient volume of product to meet the emergency and hardship needs of those wholesale purchaser-consumers and end-users with whom the wholesale purchaser-reseller had a supplier/purchaser relationship on November 1, 1977. Application for these volumes would be made to the appropriate State Energy Office which would approve or disapprove the application. If the State Energy Office approved the application, it would assign a prime supplier to furnish the applicant an amount from the set-aside. The State Energy Office would issue both the applicant and the representative of the prime supplier a document authorizing such assignment. This document would entitle the applicant to receive the assigned volume from any convenient local distributor of the prime supplier from which the set-aside assignment had been made. Such document would expire ten days after issuance unless it had been presented to the prime supplier or a designated local distributor of the prime supplier.

Proposed Modification of the Categories of Eligible Recipients

The proposed operation of the State set-aside under the Special Rule differs in only one aspect from the operation of Special Rule No. 3 during the last heating season. FEA adopted Special Rule No. 3 to insure that during the transitional period following removal of controls on middle distillates no marketer would lose its supply source without adequate time to secure a new supplier. To prevent supply disruptions, Special Rule No. 3 further provided a procedure through which a wholesale purchaser-reseller could obtain a volume of middle distillates equal to its base period use of mid-

dle distillates as determined under Subparts A and G of Part 211. Since the transition to an unregulated market is substantially complete, the proposed Special Rule No. 5 would not provide wholesale purchaser-resellers with a similar guarantee of a volume of middle distillates equal to their base period use, but would limit the eligible recipients to wholesale purchaser-consumers and end-users who are experiencing hardship or emergency conditions and to wholesale purchase-resellers which require middle distillates to meet the emergency needs of such wholesale purchaser-consumers and end-users.

REQUEST FOR SPECIFIC COMMENTS

Since the States play an integral role in the operation of the set-aside procedure, FEA is soliciting their comments as to how the operation of the set-aside might be improved. Comments are particularly sought with respect to the following specific modifications suggested by certain States at the hearings held this past summer.

First, many States experienced problems in the enforcement of their orders. To alleviate this difficulty, some States have proposed that prime suppliers be required to physically store set-aside volumes in each States and to segregate the set-aside volume from other available supplies. Other States have suggested that the regulations specify the response time within which companies must fill orders. FEA believes at this time that requiring seperate physical storage in each State for set-aside volumes could entail substantial expense and that it would be impractical to require segregated short-term storage of set-aside volumes. Furthermore, requirements such as these would not necessarily facilitate the distribution of the product. For example, if the product were released from set-aside obligations, suppliers might have logistical problems in transporting and delivering supplies from diverse locations. As to a specified response time for suppliers, FEA recognizes that the appropriate response times will differ depending upon local conditions and that a provision for a delivery deadline in the regulations would be difficult to enforce. However, FEA wishes to make clear that suppliers are required to comply as soon as practicable with the terms of authorizing documents presented to them.

Second, transfers of middle distillates from a prime supplier of one brand to a user of a different brand proved difficult in many States. FEA invites further comments on such occurrences so that the actual areas of concern might be more clearly delineated, and so that the Agency may determine what action, if any, FEA should propose to address this problem.

Many States expressed the opinion that the set-aside program would function more efficiently with provisions for federal enforcement of State set-aside orders and mandatory penalties for noncompliance. However, FEA's tentative conclusion at this time is that State enforcement is more appropriate due to the necessity for expedited relief in many instances and the State Offices' familiarity with the documentation underlying and justification for the relief in set-aside orders.

Several States depend heavily on a particular type of middle distillate, and they suggested revising Form FEA 1000 so that the volumes of each type of middle distillate being sold in the State would be disclosed, which would enable the State to accurately calculate the allocable supply for each fuel type. FEA believes that this point has merit and is considering requiring the reporting by prime suppliers of separate volumes for each type of middle distillate.

Finally, most States considered the four percent set-aside figure sufficient under normal winter conditions, but several States thought the rule should allow a State's governor the right to petition FEA to increase the percentage during extreme emergencies. If such an emergency does arise this winter, FEA intends to take whatever further action is necessary to ensure supplies to consumers, which action could include such a procedure for an increase in the set-aside percentage.

III. COMMENT PROCEDURES

Interested persons are invited to participate in this matter by submitting data, views or arguments with respect to the proposals set forth in this notice to Executive Communications, Room 3317, Federal Energy Administration, Box PT, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Proposal for Reinstituting Distillate Set-Aside." Fifteen copies should be submitted. All comments received by October 21, 1977, before 4:30 p.m., e.s.t., will be considered by FEA before final action is taken in this matter.

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

The public hearing in this proceeding will be held at 9:30 a.m., e.s.t., on October 21, 1977 and will be continued, if necessary, to October 25, 1977, in Room 2105, 2000 M Street, NW., Washington, D.C. 20461, in order to receive comments from interested persons on the matters set forth herein.

Any person who has an interest in this matter, or who is a representative of a group or class of persons that has an interest in this matter, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.s.t., on October 14, 1977. Such a request may be hand delivered to Room 3317, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through October 21, 1977. Each person selected to be heard will be so notified by FEA before 4:30 p.m., e.s.t., October 18, 1977 and must submit 100 copies of his or her statement to Allocation and Pricing Regulations Development Office, FEA, Room 2214, 2000 M Street, NW., Washington, D.C. 20461, before 4:30 p.m., e.s.t., October 19, 1977.

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

An FEA official will be designated to preside at the hearing, which will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the hearing, to Executive Communications, FEA, before 4:30 p.m., e.s.t., October 19, 1977. Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant and whether the time limitations permit it to be presented for answer.

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

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Ad-

ministrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

In accordance with Executive Order 11821 and OMB Circular A-107, FEA is considering the inflationary impact of this proposal.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, and Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel.

The Appendix to Subpart A of Part 211 is amended by adding Special Rule No. 5 to read as follows:

SPECIAL RULE NO. 5

SPECIAL SET-ASIDE PROCEDURES FOR MIDDLE DISTILLATES

1. *Scope.* This Special Rule provides for a set-aside program for middle distillates for the months of November 1977 through March 1978, as provided below, notwithstanding the exemption of middle distillates from the Mandatory Petroleum Allocation and Price Regulations effective July 1, 1976.

2. *Provision for middle distillate set-aside.* notwithstanding the provisions of paragraphs (b) and (c) of § 210.35 and of paragraphs (b) (5) and (6) of § 211.1, a set-aside is hereby established for the months November 1977 through March 1978 for designated middle distillates for assignment by State Offices in accordance with the provisions of this Special Rule.

For purposes of this Special Rule the term middle distillates includes the following, as defined in § 212.31 of this chapter: No. 1 heating oil, No. 1-D diesel fuel, No. 2 heating oil, No. 2-D diesel fuel and kerosene.

3. *Set-aside volume.* A prime supplier shall inform each appropriate State Office monthly of the estimated volume of middle distillates to be sold into a State for consumption within that State. The set-aside volume available in a State for a particular month shall be the sum of the amounts calculated by multiplying four (4%) percent by each prime supplier's estimated portion of its total supply for that month which will be sold into that State's distribution system for consumption within the State. The set-aside for a particular month cannot be accumulated or deferred; it shall be made available from stocks of prime suppliers whether directly or through their wholesale purchaser-resellers.

4. *State representative.* Each supplier shall designate a representative for each State in which the supplier is a prime supplier to act for and on behalf of the prime supplier with respect to set-aside petitions and assignments from the set-aside to be supplied by that prime supplier. Each prime supplier for a State shall designate its representative for that State and shall notify in writing the apropriate State and FEA Regional Offices of such designation within 10 days after the effective date of this Special Rule. The State Office shall to the maximum extent possible consult with a prime supplier's representative prior to issuing any authorizing document affecting set-aside volumes to be provided by the prime supplier.

5. *Eligible recipients of set-aside volumes.* The set-aside provided for by this Special Rule shall be utilized by the State Offices in issuing authorizations to applicants for designated middle distillates to be supplied by a prime supplier to meet hardship and emergency requirements of wholesale purchaser-consumers and end-users. To facilitate relief of the hardship and emergency requirements of wholesale purchaser-consumers and end-users, the State Office may also direct that a wholesale purchaser-reseller be supplied from the set-aside to enable the wholesale purchaser-reseller to supply the emergency and hardship needs of wholesale purchaser-consumers and end-users with whom the wholesale-purchaser had a supplier/purchaser relationship on November 1, 1977.

6. *Term of assignments.* Assignments to eligible end-users and wholesale purchaser-consumers under section 5 of this Special Rule by a State Office shall be made to meet the emergency or hardship conditions being experienced during that period. Assignments to wholesale purchaser-resellers shall be only for the period necessary to preclude hardship and provide emergency requirements to that wholesale purchaser-reseller's wholesale purchaser-consumers and end-users. No assignments under this Special Rule shall relate to any period subsequent to March 31, 1978.

7. *Application for assignment.* All applications for assignment under this Special Rule shall be made to the appropriate State Office, which Office has jurisdiction over the State in which the applicant conducts its business operations, in accordance with the procedures set forth in §§ 205.211-218 of Subpart Q of Part 205 of this chapter with respect to the State set-aside, except as otherwise provided in this Special Rule and except that all applications by wholesale purchaser-resellers must be in writing.

8. *Transfer of functions to FEA Regional Office.* Any State may elect irrevocably at any time to transfer administration of the middle distillate set-aside established by this Special Rule from its State Office to the FEA Regional Office which has jurisdiction over said State, and will inform the FEA Regional Office in writing of such election. In the event of such an election by a particular State, all applications by applicants conducting business within that State shall be made to the appropriate FEA Regional Office. With respect to applications made to an FEA Regional Office under this section all references to a State Office in this Special Rule and Subpart Q of Part 205 of this chapter shall be deemed to refer to the appropriate FEA Regional Office.

9. *Approval of application.* If a State Office approves an application for assignment, it shall assign a prime supplier an amount to furnish from the set-aside to the applicant to meet the expressed emergency or hardship condition. To determine an appropriate prime supplier, the State Office may coordinate with the State representatives of prime suppliers.

10. *Authorizing document.* The State Office shall issue to an applicant granted an assignment a document authorizing such assignment. A copy of the authorizing document (or a summary) shall also be provided by the State Office to the designated State representative of the prime supplier assigned to the applicant. An authorizing document not presented to either the prime supplier or a designated local distributor of the prime supplier within ten (10) days of issuance shall expire after that ten-day period.

11. *Supplier's Responsibilities.* When presented with an authorizing document, suppliers shall provide the assigned amount of middle distillates to an applicant. The authorizing document shall entitle the applicant to receive product from any convenient local distributor of the prime supplier from which the set-aside assignment has been made. Wholesale purchaser-resellers of prime suppliers shall, as non-prime suppliers, honor such authorizing documents upon presentation and shall not delay deliveries required by the authorizing documents while confirming such deliveries with the prime supplier. Any non-prime supplier which provides middle distillates pursuant to an a uthorizing document shall in turn receive from its prime supplier an equivalent volume of the product. The requirements of paragraph (b) of § 210.62 of this chapter continue to apply to suppliers to whom an authorizing document is presented pursuant to this Special Rule to prohibit any form of discrimination (including price discrimination) which has the effect of circumventing, frustrating or impairing the objectives, purposes, and intent of this Special Rule.

12. *Prime suppliers.* All prime suppliers shall designate middle distillates from their set-aside volume each month, as directed by the State Offices, not to exceed the total set-aside volume for such middle distillates for that month for the State concerned.

13. *Release of set-aside.* At any time during the month, a State Office may order the release of part or all of a prime supplier's set-aside volume through the prime supplier's normal distribution system in the State.

14. *Orders issued by State offices.* Authorizing documents and other orders issued pursuant to this Special Rule shall be in writing and effective immediately upon presentation to the prime supplier's designated State representative. Authorizing documents shall represent a call on the prime supplier's set-aside volumes for the month of issuance irrespective of the fact that delivery cannot be made until the following month. Any order issued by a State Office pursuant to this Special Rule may be appealed to the FEA Regional Office that has jurisdiction over the State involved, in accordance with the procedures set forth in Subpart H of Part 205 of this chapter. Any appeal from such an order shall be filed within ten (10) days of service of the order from which the appeal is taken. If a State Office fails to take action on an application within ten (10) days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this section.

[FR Doc. 77-29287 Filed 10-3-77;8:45 am]

[3128-01]

[10 CFR Part 212]

COMPUTATION OF LANDED COSTS: TIMING

AGENCY: Federal Energy Administration (FEA).

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: FEA is proposing to amend the definition of landed cost in § 212.82 to provide that with respect to arm's-length transactions, the landed cost shall be considered to be incurred when it is recognized as having been incurred by application of the refiner's customary accounting procedures. The amendment would make timing of landed costs in arms-length transactions consistent with the timing of landed costs in inter-affili-

ate transactions pursuant to § 212.84(h). Such consistency in FEA's data base facilitates administration of the transfer pricing program under § 212.84, pursuant to which FEA analyzes data from arm's length sales in order to determine the proper cost of crude oil purchased in particular months in inter-affiliate transactions.

DATES: Comments by October 25, 1977, 4:30 p.m.; requests to speak by October 11, 1977, 4:30 p.m.; hearing date October 27, 1977, 9:30 a.m.

ADDRESSES: Comments and requests to speak to: Executive Communications, Room 3317, Federal Energy Administration, Box OH, Washington, D.C. 20461; hearing location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2214B, Washington, D.C. 20461 (202-254-5201).

Ken Workman (Office of Regulatory Programs), 2000 M Street NW., Room B110, Washington, D.C. 20461 (202-634-7610).

Allan P. Weeks (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5119, Washington, D.C. 20461 (202-566-7541).

SUPPLEMENTARY INFORMATION:

I. Background

Section 212.84(h) provides, in pertinent part, that with respect to inter-affiliate transactions, "the landed cost shall be considered to be incurred when that cost is recognized as having been incurred by application of the refiner's customary accounting procedures generally accepted and consistently and historically applied." FEA regulations are silent with respect to the timing of landed costs in arm's-length transactions, although regulations issued by the Cost of Living Council (whose authority was transferred to FEA) required that landed costs be incurred at the time of physical landing, and "landing" is recognized by the current refiner rules at § 212.83. However, since FEA extracts the date of loading from data concerning arm's-length transactions, in order to calculate the proper cost of crude oil in inter-affiliate sales under § 212.84 (the transfer pricing program), FEA has determined that procedures applicable to timing of the landed cost of crude oil can and should be consistent with regard to both arms-length and inter-affiliate transactions. Accordingly, FEA proposes to amend the definition of "landed cost" in § 212.82 to conform with that in § 212.84(h). Firms will benefit from such consistently, in that it will facilitate a single, more easily auditable accounting system.

II. Proposed Amendment

Under FEA's proposal, the definition of "landed cost" in § 212.82 would be amended in paragraph (5), defining the landed cost of crude oil purchased in arm's-length transactions, by the addition of the following language: "For purposes of this paragraph (5), the landed cost shall be considered to be incurred when that cost is recognized as having been incurred by application of the refiner's customary accounting procedures generally accepted and consistently and historically applied."

Moreover, consistent with the reasoning in FEA Ruling 1977-4 (42 FR 12161, March 3, 1977), FEA will not initiate disallowances or other enforcement procedures against any firm for incurring costs on the basis set forth in this amendment prior to its effective date. Under that ruling FEA exempted firms from compliance action for having incurred costs in inter-affiliate transactions for the period preceding adoption of § 212.84(h), in accordance with the procedures specified therein, i.e., pursuant to their customary accounting procedures generally accepted and consistently and historically applied.

This amendment, and FEA's application of its provisions to periods preceding adoption thereof, are premised on the requirement that a firm's customary accounting procedures have been consistently and historically applied. Moreover, such accounting procedures must be considered to be generally accepted for purposes of reports to stockholders.

III. Comment Procedure

1. Written comments

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposal set forth in this notice. Comments should be identified on the outside envelope and on documents submitted with the designation "Landed Costs: Timing," Box OH. Fifteen copies should be submitted. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

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

2. Public hearing

(a) *Request procedure.* The times and places for the hearings are indicated in the dates section of this preamble. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the next business day following the date of the hearing.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, may make a written request for an opportunity to make oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.d.s.t., October 13, 1977, and must submit 100 copies of his or her statement to Regulations Management, Room 2214, 2000 M Street NW., Washington, D.C. 20461, before 4:30 p.m., e.d.s.t., October 26, 1977.

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

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

Any interested person may submit questions to be asked of any person making a statement at the hearings, to Executive Communications, Room 3317, FEA, Box OH, before 4:30 p.m., e.d.s.t., October 11, 1977. Any person who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

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

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by the FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue N.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for the FEA to cancel a hearing, FEA will make every effort to publish advance notice in the Federal Register of such can-

cellation. Moreover, FEA will notify all persons scheduled to testify at the hearings. However, it is not possible for FEA to give actual notice of cancellations or changes to persons not identified to FEA as participants. Accordingly, persons desiring to attend a hearing are advised to contact FEA on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

FEA has determined that since this proposal is procedural only, the requirement in section 7(c)(2) of the Federal Energy Administration Act that proposals affecting the environment be reviewed by the Administration of the Environmental Protection Agency, does not apply.

FEA 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.

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

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

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

Section 212.82 is amended in paragraph (5) of the definition of "landed cost" to read as follows:

§ 212.82 Definitions.

* * * * *

"Landed cost" means: * * *

(5) For purposes of crude oil purchased in an arm's-length transaction or purchased in a transaction to which § 212.84(g) is applicable, the purchase price (or the cost if § 212.84(g) is applicable) plus the cost of transporation, if any, computed pursuant to § 212.85, from the point of delivery to the firm to the U.S. port of entry (or the actual cost of transportation to the U.S. border in the case of crude oil not transported by sea, plus the cost of domestic transportation to the refinery, plus import fees and duties incurred. For purposes of this paragraph (5), the landed cost shall be considered to be incurred when the cost is recognized as having been incurred by application of the refiner's customary accounting procedures generally accepted and consistently and historically applied.

* * * * *

[FR Doc.77-29289 Filed 10-3-77;8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Part 234]

[EDR-301A; Docket 27891; Dated: September 29, 1977]

FLIGHT SCHEDULES OF CERTIFICATED AIR CARRIERS: REALISTIC SCHEDULING REQUIRED

Supplemental Advance Notice Concerning Proposed Mandatory On-Time Arrival Standards

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental advance notice of proposed rulemaking.

SUMMARY: This supplemental advance notice invites the submission of detailed comments from members of the general public, air carriers, travel agents, consumer organizations, and interested governmental agencies setting forth, to the extent possible, precise economic data in support of their views favoring or opposing the imposition of mandatory on-time arrival standards. This proceeding was instituted in response to a petition by the Aviation Consumer Action Project.

DATES: Comments by November 21, 1977. Reply comments by December 12, 1977. Request to be placed on service list by October 17, 1977.

ADDRESSES: Comments should be sent to Docket 27891, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Simon J. Ellenberg, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5442).

SUPPLEMENTARY INFORMATION: Sections 234.3-234.4 of the Board's Economic Regulations provide that at least 75 percent of each carrier's scheduled flights, on a calendar quarter basis, must be operated within the elapsed time indicated between origin and destination (plus 15 minutes) published in the carrier's schedule. Section 234.8 establishes a system of reports of on-time arrivals, showing the percentage in each month of each carrier's nonstop flights in each of the largest 200 city-pair markets which arrive within 15 minutes of the scheduled arrival time. The reports are then published each month by the Board.

The Aviation Consumer Action Project (ACAP) filed a petition for rulemaking to amend sections 234.3-234.4 by substituting an on-time arrival standard for the present elapsed-time standard that the Board applies in judging a carrier's adherence to its published schedules. In response to ACAP's petitions, the Board issued Advance Notice of Proposed Rulemaking, EDR-301, dated July 23, 1976, asking for public comment as to whether the proposed mandatory on-time arrival standard should be adopted, or could be effectively supplemented. The Board stated that unless there was a persuasive showing of need, it was not inclined to overturn established Board policy against such a standard. Comments generally in support of the ACAP proposal were filed by Electro Magnetic Filter, ACAP, the Board's Office of the Consumer Advocate (OCA), and six members of the general public. Comments generally opposed to the proposal were submitted by Hughes Airwest, Eastern Air Lines, General Mills, Braniff Airways, American Airlines, Northwest Airlines, United Airlines, the Air Transport Association of America, and four members of the general public.

Those comments in support of the proposal state that there is presently no government regulation which requires the carriers to meet their published scheduled arrival times, making enforcement almost impossible. The proponents argue that the elapsed-time rule now in Part 234 is misleading to the public and irrelevant to the public's need. ACAP and its supports do not believe that mandatory on-time arrival standards would in any way impair air safety, since safety-related factors would be considered permissible delay. Nor, since the definition of permissible delay under ACAP's proposal would be the same as is used now for the elapsed-time rule, would there be a problem of enforcement.

Opponents of the proposal argue that no further government regulation is necessary, since carrier on-time performance in most reported city-pair markets already meets or surpasses the standard suggested by ACAP. The carriers contend that economic incentive from competition is sufficient to insure adequate overall arrival performance, including accurate schedules and punctual performance. They believe that carrier on-time performance is best judged by the public itself on the basis of the Board's published on-time arrival reports. Some opponents also argue that the administrative burdens on the Board and the carriers, as well as the increased cost, would outweigh any public benefit that might be gained, and that pressure on the carriers to avoid Board enforcement action might affect flight safety in some cases. Finally, opponents state that it is virtually impossible to define "permissible delay" in a way which permits enforcement, yet allows the necessary tolerance for uncontrollable delays or for management discretion. They argue that these delays also have a greater cumulative effect on on-time performance than on elapsed-time performance. As an example, if the first arrival of a multi-

segment flight is delayed by adverse weather, then each succeeding arrival is also delayed, even though the scheduled time for each segment could remain the same as published.

At a meeting open to the public on July 5, 1977, the Board reviewed the facts and arguments that had been presented in the comments filed in response to the Advance Notice. It also reviewed a novel proposal by the Board's Bureau of Enforcement, made for the first time shortly before the meeting, which would amend Part 234 to require that whenever a carrier fails to perform on-time (within 15 minutes as published in its schedules) 75 percent of all trips on any scheduled flight, in any three calendar months, all references (whether written or oral) to, or publication of, the schedule of that flight, must be asterisked with the notation "Subject to frequent delays." There would be no exception to this notation requirement, and it would apply systemwide. The Bureau of Enforcement argued that whether or not the cause of a delay is the fault of the carrier, the traveler who uses that flight has a right to know that it is frequently delayed.

Also during the meeting, the Board noted that the data submitted by both the proponents and opponents of the proposed rule had been too sparse and ambiguous to enable the Board to reach an informed judgment as to the action which it should take. For example, several carriers had cited specific costs which would be added to their operations if the proposed standard were adopted, and OCA had cited certain results of its Consumer Complaints Survey for 1975 as an indication of the seriousness of the problem which flight delays have become for the public. Yet, neither of these assertions were sufficiently detailed or analyzed in the comments so as to be particularly persuasive.

Although, upon consideration of the petition and comments thus far received, the Board is not persuaded to overturn its long-established policy against imposing the kind of on-time standard proposed by ACAP, we have decided not to terminate this proceeding, until we have given interested persons a further opportunity to present data and analysis in support of their views. While we will carefully review all comments we particularly invite detailed responses to the following questions:

1. What would be the economic costs to the carriers, individually and industrywide and eventually to the air traveler, if the proposed amendments by ACAP were adopted?

2. What is the significance of available statistics on the number and proportion of traveler complaints in regard to flight delay? How many of these complaints involve foreign air transportation, which is not covered by Part 234 and would therefore not be alleviated by the proposed rule?

3. Do individual members of the public view flight delay as such a serious problem as to warrant regulations prohibiting noncompliance with on-time standards?

4. Is there a better means of informing the public of the carriers' on-time performance than merely publishing on-time arrival reports? Would the alternative suggested by the Bureau of Enforcement better serve the public need than either mandatory standards or the present published reports?

5. What would be the relative costs to the carriers of the various proposals for making a meaningful on-time standard?

REQUEST FOR COMMENTS

Interested persons may participate in this proceeding by submitting 20 copies of written data, views, or arguments addressed to: Docket 27891, Docket Section, Civil Aeronatics Board, Washington, D.C. 20428. All comments received by November 21, 1977, and reply comments received by December 12, 1977, will be considered by the Board before taking further action.

Those persons planning to participate who wish to be served with the comments of others, and who are willing to serve their own comments and reply comments on others, may, on or before October 17, 1977, request the Docket Section to place them on the Service List. The Service List will be prepared by the Docket Section and mailed to those named on it. Persons filing responsive comments should serve any person whose comment is dealt with in their responsive comment, whether or not either party is on the Service List.

Individual members of the general public who wish to express their interest as consumers may do so by submitting comments in letter form, in the manner and by the dates indicated above, without the necessity of filing additional copies.

(Sections 204, 404, and 411 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, and 769; 49 U.S.C. 1324, 1374, and 1381.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29327 Filed 10-4-77;8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1013]

PUBLICATIONS AND PUBLICITY

Proposed Application; Consumer Product Safety Act

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: This notice proposes procedures for carrying out the Consumer Product Safety Commission's responsibility under section 6(b) of the Consumer Product Safety Act. The rules are needed to establish procedures for manufacturers and other sellers to comment on Commission publicity and publications about consumer products or to request retraction of inaccuracies in published information. The rules are intended to publicly express the Commission's interpretation of section 6(b).

DATES: Comments must be received no later than November 21, 1977.

ADDRESS: Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Jeanette Willse, General Law Division, Office of the General Counsel Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207 (202-634-7770).

SUPPLEMENTARY INFORMATION: In this notice, the Consumer Product Safety Commission (CPSC) proposes procedures to carry out section 6(b) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2055(b). Section 6(b) of the CPSA requires the Commission to notify a manufacturer or private labeler in advance of publicly disclosing product safety information from which its identity will be readily ascertainable by the public. The manufacturer or private labeler is to be given a reasonable opportunity to comment on the information. The Commission is to take reasonable steps to insure that such information is accurate and that its disclosure is fair in the circumstances and reasonably relates to effectuating the purposes of the Consumer Product Safety Act. This section also requires the Commission to publicly retract published information if it later finds that the information was inaccurate or misleading and reflects adversely on the safety of any consumer product, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products. Because the requirements and exceptions of section 6(b) are complex, its langauge is included here for reference.

(b) (1) Except as provided by paragraph (2) of this subsection, not less than 30 days prior to its public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith (unless the Commission finds out that the public health and safety requires a lesser period of notice), the Commission shall, to the extent practicable, notify, and provide a summary of the information to, each manufacturer or private labeler of any consumer product to which such information pertains, if the manner in which such consumer product is to be designated or described in such information will permit the public to ascertain readily the identity of such manufacturer or private labeler, and shall provide such manufacturer or private labeler with a reasonable opportunity to submit comments to the Commission in regard to such information. The Commission shall take reasonable steps to assure, prior to its public disclosure thereof, that information from which the identity of such manufacturer or private labeler may be readily ascertained is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of the Act. If the Commission finds that, in the administration of this Act, it has made public disclosure of inaccurate or misleading infor-

mation which reflects adversely upon the safety of any consumer product, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products, it shall, in a manner similar to that in which such disclosure was made, publish a retraction of such inaccurate or misleading information.

(2) Paragraph (1) (except for the last sentence thereof) shall not apply to the public disclosure of (A) information about any consumer product with respect to which product the Commission has filed an action under section 12 (relating to imminently hazardous products), or which the Commission has reasonable cause to believe is in violation of section 19 (relating to prohibited acts), or (B) information in the course of or concerning any administrative or judicial proceeding under this Act.

Section 1013.2 of these procedures states that they are applicable to CPSC publications and publicity, including all materials, announcements, or speeches created or adopted by a CPSC officer or employee for dissemination to the general public or distribution to news media. This expresses the Commission's interpretation that section 6(b) of the CPSA is applicable when the CPSC actively and publicly discloses information, but not when the CPSC makes a record available in response to a Freedom of Information Act request (FOIA, 5 U.S.C. 552). The legislative history and the language of section 6(b) show that it was designed to insure against unwarranted damage to the reputation of a product, or of one who sells it, from CPSC publication of misleading or inaccurate information (*See*, H.R. Rep. No. 1153, 92d Cong., 2d Sess. 32 (1972); 118 Cong. Rec. 31389 (1972) (remarks of Rep. Crane)). Hence the Commission interprets section 6(b) to cover the widespread dissemination of information which could harm the reputation of a product or seller, i.e., dissemination of information in publications and publicity which carry the official aproval of the CPSC. This interpretation accords with the intent expressed in the Conference Report accompanying the Consumer Product Safety Commission Improvements Act of 1976; H.R. Rep. 1022, 94th Cong. 2d Sess. 27 (1976). That report states that section 6(b) is not intended to "supercede or conflict with the requirements of the Freedom of Information Act" and that section 6(b) applies to public disclosure initiated by the CPSC and not to disclosure initiated by a specific request from a member of the public under the FOIA. The discussion that follows presents further reasoning of the Commission on this interpretation.

Section 6(b)(1) requires that advance notice and a comment period be given to a manufacturer or private labeler whenever its identity can be readily ascertained from product-related information to be publicly disclosed by CPSC. The Commission is required to take reasonable steps, prior to public disclosure, to assure that the information is accurate, and that its disclosure will be fair in the circumstances and reasonably related to effectuating the purposes of the Consumer Product Safety Act. Many records requested from CPSC under the FOIA are letters, accident reports, petitions for rulemaking, and complaints sent to it by consumers and others concerning the safety of products. The CPSC receives thousands of such communications each year, and, while it attempts to give some attention to all, ascertaining their accuracy and deciding whether their disclosure, pursuant to an FOI request, would be fair and effectuate the purposes of the CPSA would consume a significant amount of Commission time and resources. Since accuracy cannot usually be determined simply from the face of such a record, the CPSC would have to take time to investigate each record requested in some depth. If information could not be disclosed until after a 30-day notice and comment procedure and a separate investigation of each record requested were carried out, then necessarily, a large proportion of CPSC records and its activities regarding them would remain secret for extended periods of time. That this secrecy would thwart the purposes of the FOIA is obvious, since the basic policy of the FOIA requires liberal and prompt disclosure of information, "EPA v. Mink", 410 U.S. 73, 7980 (1973); H.R. Rep. No. 876, 93d Cong. 2d Sess. 1, *reprinted in* (1974) U.S. Code Cong. & Ad. News 6267. Extended delays would also directly conflict with the specific requirement in the FOIA that agencies respond to requests within 10 working days by telling the requester whether or not records will be made available, and if not, giving reasons; and the requirement that agencies promptly release non-exempt records 5 U.S.C. 552(a)(6) and (a)(3)). Applying section 6(b)(1) to FOIA requests would mean that the decision whether a record would be made available would have to await the conclusion of 6(b)(1) notice and comment and, in many cases, CPSC investigation. The 10-day period for response could become a period of months, and prompt disclosure would be impossible.

These policy and procedural conflicts between section 6(b)(1) and the FOIA can be exemplified by the results of applying section 6(b)(1) in the context of petitions for rulemaking under the CPSA. Under section 10 of the CPSA (15 U.S.C. 2059), any interested person may petition the Commission to issue a consumer product safety rule. Such a petition will contain factual information to support the allegation that there is a product hazard justifying regulation. (See Procedures for Petitioning under Section 10 of the Consumer Product Safety Act, 41 FR 43126, September 29, 1976.) Under section 10, the Commission has 120 days in which to decide whether to grant or deny such a petition. If, before disclosing a petition upon an FOIA request, the Commission must verify its accuracy under section 6(b)(1), then, logically, the decision to disclose the petition or not would have to come at the end of the period (i.e., up to 120 days) during which the Commission considers the petition's merits. If the petition were eventually granted because the information had been substantiated, it could be released. If it were not substantiated, and were denied, it would have to be corrected or withheld according to section 6(b)(1). The result of applying section 6(b)(1) to an FOIA request for a copy of a petition which had just been filed, would be that the requester would not be informed within 10 days whether the petition could be released, but rather would have to wait for up to four months for an answer; meanwhile the public would not have access to the petition. The Commission does not believe that Congress can have intended it to withhold a petition for rulemaking from the public.

Another reason why section 6(b)(1) cannot be applied to FOIA requests is that the FOIA contains no exemption which would permit withholding records from disclosure on the basis of section 6(b)(1). In order to withhold a record from a requester, the record must fall within an exemption to the FOIA (5 U.S.C. 552(b)(1)–(b)(9). The only FOIA exemption that provides for withholding on the basis of another statute is exemption 3, 5 U.S.C. 552(b)(3), as amended by the Government in the Sunshine Act, section 5(b) of Pub. L. 94–409, September 13, 1976, which provides that records may be withheld if they are

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

Section 6(b)(1) contains no direction or discretion for the CPSC to withhold information either temporarily or permanently from an FOIA requester. Thus, it fails to meet the first requirement of exemption 3, that of being a statute which "specifically" (syn. "explicitly") exempts records from disclosure. See *People of the State of California* v. *Weinberger*, 505 F.2d 767 at 768 (9th Cir. 1974) in which the Court said, "It appears to us that when Congress used the word "specifically," it was requiring no more than that the exemption be found in the words of the statute rather than the implication of it." Section 6(b) does not mention "withholding;" nor does it provide any particular criteria or describe particular types of matters to be withheld.

One commentor has suggested that the requirements that the Commission take reasonable steps to assure accuracy of information to be disclosed which identifies a manufacturer or private labeler and to assure that disclosure is fair in the circumstances, and related to effectuating the purposes of the Act, may be "particular criteria" within the meaning the exemption 3 of the FOIA. "Note, The Effect of the 1976 Amendment to Exemption Three of the Freedom of Information Act," 76 Col. L. Rev. 1027 at n. 100 (1976). The Commission does not consider "accuracy," "fairness," and "reasonably related to effectuating the pur-

poses of the Act" to be any more particular criteria than the "public interest" criterion for withholding contained in Statutes that Congress has stated are not to be considered within the ambit of exemption 3. (H.R. Rep. No. 1441, 84th Cong., 2d Sees. 14 (1976) (Conference Report)). Without either particular criteria or authority for the CPSC to withhold information for the months it will take to complete notice and comment procedures and CPSC investigation, or particular criteria for permanent withholding, section 6(b)(1) cannot qualify as an exemption 3 statute.

It may be argued that the policies and procedures of the FOIA can be altered to accommodate section 6(b)(1) procedures, but the Commission does not believe that this can be done without sacrificing the essentials of the Freedom of Information Act which are liberal and prompt disclosure. The Commission's interpretation that section 6(b)(1) applies only to publications and publicity it disseminates or distributes does not conflict with the purposes and policies of the FOIA. The CPSC controls the eventual content of such materials and can provide for 6(b)(1) notice and comment during their preparation. In fact, the Commission believes that the section 6(b)(1) requirements that CPSC take reasonable steps to assure accuracy of information it discloses which identifies a manufacturer or private labeler, and that disclosure is fair in the circumstances and reasonably related to effectuating the purposes of the Act, only make sense in the context of public disclosure of information through publications or publicity that the CPSC itself initiates. The Congress has recently expressed an interpretation of section 6(b) which agrees with the Commission's interpretation. The Conference Report pertaining to a 1976 amendment of section 29 of the CPSA (section 29 concerns cooperation with States and other Federal agencies) stated:

> The requirement that the Commission comply with section 6(b) prior to another Federal agency's public disclousre of information obtained under the Act (CPSA) is not intended by the conferees to supercede or conflict with the requirements of the Freedom of Inforamiton Act (5 U.S.C. 552 (a)(3) and (a)(6)). The former relates to public disclosure initiated by the Federal agency while the latter relates to disclosure initiated by a specific request from a member of the public under the Freedom of Information Act. H.R. Rep. 1022, 94th Cong. 2d Sess. 27 (1976).

The procedures proposed are based upon this interpretation.

These procedures contain subparts which deal separately with notice and comment (Subpart B) and retractions (Subpart C) under section 6(b) of the CPSA. The separate treatment reflects the differing applicability of the two procedures. Section 6(b)(1) notice and comment procedures are applicable only when it is determined that product-related information to be published will enable the identity of a manufacturer or private labeler to be readily ascertained. Also, section 6(b)(2) of the CPSA states certain exceptions to the applicability of notice and comment procedures. The section 6(b)(1) retraction provisions, however, are applicable whether or not the product safety information to be retracted identified a manufacturer or private labeler. The retraction provisions are not subject to the exceptions listed in section 6(b)(2).

Interested persons may participate in this proposed rulemaking by submitting written comments (preferably in five copies) to the Office of the Secretary, 1111 18th Street NW., Washington, D.C. 20207 until November 21, 1977. Late comments will be considered to the extent practicable. All comments in response to this proposal wil be available for public inspection during normal business hours at the foregoing address.

Accordingly, under section 6(b) of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1212; 15 U.S.C. 2055(b)), the Commission proposes to add the following Part 1013 to Title 16, Chapter II, Subchapter A:

PART 1013—PUBLICATIONS AND PUBLICITY

APPLICATION OF SECTION 6(b) OF THE CONSUMER PRODUCT SAFETY ACT

Subpart A—General

Sec.

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Subpart B—Procedures for Notice and Comment

1013.6 Applicability.
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1013.10 Applicability.
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Subpart D—Appeal to the Commission

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1013.14 Notice of appeal.
1013.15 Record for review.
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1013.17 Right to appeal in cases of less than 30-day notice under Subpart C.

AUTHORITY: Sec. 6(b), Pub. L. 92-573; 86 Stat. 1212 (15 U.S.C. 2055(b)(1)).

Subpart A—General

§ 1013.1 Purpose and scope.

This part establishes procedures implementing section 6(b) of the Consumer Product Safety Act, as follows:

(a) Subpart B describes notice and comment procedures giving manufacturers and private labelers of consumer products an opportunity to comment on product-related information in proposed Consumer Product Safety Commission publications and publicity from which their identity will be readily ascertainable by the public. The procedures provide for correction of errors or misstatements in publications or publicity before public disclosure.

(b) Subpart C describes procedures whereby manufacturers, private labelers, distributors, and retailers of consumer products may request a finding that the Consumer Product Safety Commission has made public disclosure of inaccurate or misleading information which reflects adversely upon their practices or upon the safety of their consumer product. The procedures provide for retraction or correction of the information upon such a finding.

§ 1013.2 Applicability.

This part applies to Consumer Product Safety Commission publications and publicity pertaining to consumer products including all materials, announcements, or speeches created or adopted by a Consumer Product Safety Commission officer or employee for dissemination to the general public or distribution to news media.

§ 1013.3 Definitions.

As used in this part:

(a) The term "Commission" means the five Commissioners of the Consumer Product Safety Commission;

(b) The term "CPSC" means the entire organization which bears the title, the "Consumer Product Safety Commission";

(c) The term "publications" means printed and photographic material, and public service announcements for television or radio broadcast, created or adopted by CPSC for dissemination to the public, and speeches by CPSC officers and employees;

(d) The term "publicity" means press releases or interviews furnished by CPSC personnel to news media for widespread public attention;

(e) The term "administrative proceeding" means an agency process as defined by paragraphs (5), (7), and (9) of 5 U.S.C. 551 (the Administrative Procedure Act);

(f) The term "Executive Director" means the Executive Director of the CPSC.

§ 1013.4 Policy.

In accord with the terms of section 6(b) of the Conusumer Product Safety Act:

(a) It is the policy of the Commission to avoid identifying manufacturers, private labelers, or product brands in publications or publicity unless identification is necessary in order to effectuate the purposes of the Consumer Product Safety Act. When such identification is determined to be necessary, the procedures of Subpart B will be used to assure that matters to be publicly disclosed are stated accurately and fairly in the circumstances.

(b) The CPSC will retract or correct any statement made in its publications or publicity which it later finds to have been erroneous or misleading and to have reflected adversely on the safety of any consumer product or on the practices of

a manufacturer, private labeler, distributor, or retailer of consumer products. This policy will be followed whether such an error is discovered by CPSC staff or is brought to its attention through the procedures of Subpart C of this part.

§ 1013.5 Delegation of authority.

The Executive Director may delegate any of his or her duties under this Part 1013 with the exception of the duty to determine whether the public health and safety require less than 30-day notice prior to disclosure of information. See § 1013.7.

Subpart B—Procedures for Notice and Comment

§ 1013.6 Applicability.

(a) The procedures of Subpart B of this part apply when the identity of a manufacturer or private labeler will be readily ascertainable by the public from the content of a proposed CPSC publication or publicity, except as provided in § 1013.6(b).

(b) The procedures of Subpart B of this part do not apply to public disclosure of—

(1) Information about any consumer product with respect to which product the Commission has filed an action under section 12 of the Consumer Product Safety Act (relating to imminently hazardous products), or

(2) Information about any consumer product which the Commission has reasonable cause to believe is in violation of section 19 of the Consumer Product Safety Act (relating to prohibited acts), or

(3) Information in the course of or concerning any administrative or judicial proceeding under the Consumer Product Safety Act, or

(4) Information disclosed to duly authorized committees of Congress, or

(5) Information in a Corrective Action Plan agreed to by a manufacturer or private labeler and the Commission under 16 CFR Part 1116—Policy and Procedures Regarding Substantial Product Hazards (a manufacturer or private labeler who has agreed to such a Plan has already had notice and comment opportunities as to the information within it), or

(6) Information submitted to the Commisison by a manufacturer or private labeler pursuant to section 15(b) of the Consumer Product Safety Act and regulations thereunder (dealing with the requirement that manufacturers, distributors and retailers inform the Commission of noncomplying or defective products). Obtaining comments from the person who submitted the information would be redundant.

(c) A decision of the Executive Director as to the applicability of Subpart B of this part is not appealable to the Commission.

§ 1013.7 Notice.

(a) In addition to using other existing internal CPSC review procedures for accuracy, fairness, and legal sufficiency, officers of the Commission shall, prior to public disclosure, review all publications and publicity for which they are responsible, to assure conformance to the policies of this part. If an officer determines that it will be necessary for a publication or publicity to identify a manufacturer, private labeler, or product brand, or if the officer believes the identity of the manufacturer or private labeler will be readily ascertainable by the general public or he or she shall forward it to the Executive Director for application of the procedures of this Subpart.

(b) When the Executive Director determines that the identity of a manufacturer or private labeler will be readily ascertainable by the public from information pertaining to consumer products in a proposed publication or publicity, he or she shall, to the extent practicable, notify each such manufacturer or private labeler and provide a copy or summary of the information for comment. The notification shall be in writing except that it may be oral if the Executive Director determines time does not permit written notification. Any such oral notification shall be confirmed in writing.

(c) The notice shall give a date by which comments must be received by CPSC. This date shall be no less than 30 calendar days after the date of receipt of the notice unless the Executive Director determines, with the approval of the Commission, that in the interest of public health and safety, a lesser period is required. If a lesser period is required, the notice shall explain the reasons for it.

§ 1013.8 Comments.

(a) Any person receiving a notice of proposed disclosure of information pursuant to § 1013.7 may submit comments within the period specified in the notice. Comments taking issue with the accuracy of the information must be accompanied by supporting facts.

(b) Comments should be sent to the Executive Director, Consumer Product Safety Commission, Washington, D.C. 20207.

§ 1013.9 Response to comments.

(a) If no comments are received by the date set in the notice, the Executive Director may immediately thereafter release the publication or publicity for dissemination.

(b) If comments are timely received, the Executive Director shall make written findings of fact and determinations in response to the comments. The Executive Director shall make changes to the publication or publicity as necessary in view of the findings and determinations. The Executive Director may require the comments received to be disclosed along with the publication or publicity if he or she decides that such action is in the public interest.

(c) The Executive Director shall provide a notice of his or her decision, and a copy of the findings and determinations and changes made under this section, to all persons who received the notice. The notice of decision may be given orally to the concerned manufacturer or private labeler; but if it is given orally, it shall be confirmed in writing. As part of the notice of decision, the Executive Director shall inform the manufacturer or private labeler of any right it has to appeal to the Commission pursuant to Subpart D of this part. If the Executive Director does not receive a notice of appeal of the decision within the period prescribed under Subpart D of this part, he or she may release the publication or publicity for dissemination to the public.

Subpart C—Procedures for Requesting Retraction or Correction

§ 1013.10 Applicability.

(a) The procedures of this Subpart C apply to any CPSC publication or publicity that is claimed to reflect adversely upon the safety of any consumer product or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products except as provided in § 1013.9(b).

(b) The Executive Director will not entertain a request for retraction or correction under this subpart from any person who received a notice of proposed disclosure under § 1013.6, unless that person shows, or the Commission discovers, that new information or changed circumstances affect the accuracy or fairness of the information that was disclosed.

§ 1013.11 Requests for retraction or correction.

(a) A manufacturer, private labeler, distributor, or retailer adversely affected by a publication or publicity to which this Subpart applies may request a finding that information in the publication or publicity was inaccurate or misleading and request a retraction or correction of such information.

(b) Requests must be in writing, addressed to the Executive Director, Consumer Product Safety Commission, Washington, D.C. 20207, and must be accompanied by supporting facts.

§ 1013.12 Response to requests.

(a) The Executive Director shall consider requests for retraction or correction of information in CPSC publications and publicity and shall make findings of fact and determinations in response and provide them to the requester. If it is determined that information in a publication or publicity was inaccurate or misleading, the Executive Director shall publish a retraction or correction of the information in a manner similar to that in which it was disclosed. Publication of the retraction or correction shall be designed to reach at least as many members of the public as the original publication or publicity, and, to the extent possible, to reach the same members who received the original publication or publicity.

(b) When a request is received for retraction or correction of a publication or publicity disclosed in the course of or concerning a CPSC administrative or judicial proceeding, and the proceeding

is still in progress, the Executive Director may defer making a final decision on the request until the proceeding has concluded. This may be done only to the extent that the issues raised by the request are the issues which are to be resolved in the proceeding. If the answer is to be deferred, the Executive Director shall make a written determination to that effect and provide it to the requester.

(c) The final decision of the Executive Director under this Subpart C may be appealed pursuant to Subpart D of these rules. The final decision of the Executive Director shall inform the requester of the requirements of Subpart D of this part.

Subpart D—Appeal to the Commission

§ 1012.13 Right to appeal—Generally.

Except as described in § 1013.15, a company or its representative who has commented on a proposed publication or publicity under Subpart B of this part, or has requested retraction or correction of information under Subpart C of this part, may appeal for review of the Executive Director's final decision by the Commission.

§ 1013.14 Notice of appeal.

(a) A company or its representative shall have three days from the receipt of the Executive Director's final decision under Subpart B, § 1013.9(c), or Subpart C, § 1013.13 of this part, in which to appeal to the Commission. Notice of the appeal must be received by the Executive Director within the prescribed three days. In counting the three days, the day of receipt of the decision, Saturday, Sunday, and Federal holidays will not be included.

(b) Appeal shall be perfected by notice to the Executive Director. The notice shall be sufficient if it identifies the decision of the Executive Director and states that appeal is made. The notice may be oral or in writing by telegram or letter. An oral notice must be confirmed in writing.

§ 1013.15 Record for review.

(a) Upon receiving a notice of appeal, the Executive Director shall forward the record to the Commission for its review. The record shall consist of all relevant correspondence between the appellant and the Executive Director, and all other information relied upon by the Executive Director in making his or her decision.

(b) Review of the Executive Director's decision will be on the record described in paragraph (a) of this section.

§ 1013.16 Action upon a Commission decision.

(a) The Executive Director shall promptly notify the appellant of the Commission's decision on the appeal. Notice of the Commission's decision may be given orally, but must be confirmed in writing.

(b) The Executive Director shall carry out the action indicated in the Commission's decision.

(c) If the appeal was taken from a decision under Subpart B of this part, and if on appeal the Commission has approved in whole or part, the Executive Director's decision to release a publication or publicity for dissemination, then the approved release may be made.

§ 1013.17 Right to appeal in cases of less than 30-day notice under Subpart C.

Whenever the Commission approves a decision by the Executive Director that the public health and safety require less than a 30-day notice and comment period under Subpart B (see, § 1013.6(c)), the Commission shall also decide whether or not the interests of public health and safety permit time to be taken for an appeal of the Executive Director's final decision responding to the comments. If the Commission decides that an appeal will not be allowed, then the Executive Director's final decision will be the final decision of the Commission. If the Commission decides that an appeal will be allowed, the Commission will, at the same time, determine the procedure to be followed for appeal; in such cases §§ 1013.13 through 1013.15 will not apply.

Interested persons are invited to submit, on or before November 21, 1977 written comments regarding this proposal. Comments and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Comments received by the Commission may be inspected in the Office of the Secretary, at 1111 18th Street NW., Washington, D.C., during working hours, Monday through Friday.

Dated: September 29, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-29217 Filed 10-4-77;8:45 am]

[6355-01]

[16 CFR Part 1500]

LABELING REQUIREMENTS FOR CYANOACRYLATE-BASED GLUE

Proposed Exemption From Full Compliance With Labeling Requirements of Federal Hazardous Substances Act for Cyanoacrylate-Based Glue in Tube Sizes of 2 Grams or Less

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The purpose of this document is to propose an exemption from full label compliance under the Federal Hazardous Substances Act (FHSA), for cyanoacrylate-based glue in package sizes of 2 grams or less. This exemption is being proposed since the Commission has preliminarily found that, because of the size of the package involved, full compliance with the labeling requirements applicable under the FHSA is impracticable and is not necessary for the adequate protection of the public health and safety.

DATES: Comments on this proposed exemption should be submitted on or before November 4, 1977. If the Commission issues a final regulation concerning the exemption, the Commission proposes that the exemption be effective on the date the final regulation is published in the FEDERAL REGISTER.

ADDRESSES: Written comments, preferably in five copies, should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Copies of all available material on this subject, including any comments that are received on this proposal, may be examined in the Office of the Secretary, Third Floor, 1111 18th Street, NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Mark Gulak, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone: 301-492-6754.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 2(f)(1)(A) of the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261(f)(1)(A)) provides that the term "hazardous substances" includes any substance or mixture of substances which is an irritant, if such substance or mixture of substances may cause substantial personal injury or substantial illness during, or as a proximate result of, any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

Section 2(p) of the FHSA (15 U.S.C. 1261(p)) provides that a hazardous substance which is intended, or packaged in a form suitable, for use in the household or by children is misbranded if it does not bear a label stating certain specified information.

16 CFR 1500.121 describes in detail placement, conspicuousness, and contrast requirements for labeling under the FHSA. Section 1500.121(d) provides that, except for the signal word, statement of hazard, and instructions to read carefully cautionary information that may be placed elsewhere on the label, the remainder of the required information may be placed elsewhere than on the main panel of the immediate container. This section provides that the type size used must bear a reasonable relationship to the printing on the package panel involved, and must be no smaller than 10 point type, unless the available label space requires reductions, in which event this type size must be reduced to no smaller than 6 point type, unless because of small label space an exemption is granted under section 3(c) of the Act and 16 CFR 1500.82 and 16 CFR 1500.83.

The provisions for exemption provided by section 3(c) of the Act and 16 CFR 1500.82 and 16 CFR 1500.83 are applicable to this proposal. If the Consumer Product Safety Commission finds that,

because of the size of a package for a hazardous substance or because of the minor hazard presented to the public by this substance, or for other good and sufficient reasons, full compliance with the labeling requirements stated above is either impracticable or unnecessary for the adequate protection of the public health and safety, the FHSA provides for the issuance of regulations pursuant to 16 CFR 1500.83 exempting the substance from these labeling requirements to the extent that the labeling is consistent with the adequate protection of the public health and safety. By the provisions of 16 CFR 1500.83(a), any person who believes that a particular hazardous substance intended or packaged in a form suitable for use in the household or by children should be exempted from full label compliance, otherwise applicable under the Act, may submit to the Commission a request for an exemption pursuant to section 3(c) of the Act. Facts must be presented in support of the view that full compliance is impracticable or is not necessary for the protection of the public health.

The Commission must determine, on the basis of the facts submitted, and all other available information, whether the requested exemption is consistent with the adequate protection of the public health and safety. If the Commission so determines, it must detail the exemption granted and the reasons for granting it by an order published in the FEDERAL REGISTER.

In May 1974, the Consumer Product Safety Commission issued a notice announcing staff information based on testing of cyanoacrylate glues. This information indicated that cyanoacrylate-based glue is a "hazardous substance" within the meaning of that term under the Act because it is an "eye irritant." (39 FR 16511, May 9, 1974) Therefore, any such glue was deemed "misbranded" under section 2(p) of the Act unless it was properly labeled in accordance with 16 CFR 1500.121 as described above.

PETITION

On November 11, 1975, the Consumer Product Safety Commission received a petition from Wilhold Glues Inc. of Santa Fe Springs, California, requesting an exemption from full label compliance under the Federal Hazardous Substances Act for its cyanoacrylate-based glue in the 2 gram size tube. The petition stated that the size of the package made it impracticable to show all of the required labeling in the minimum 6 point type (as required by 16 CFR 1500.121).

Having considered this petition, and information obtained by the Commission staff pertinent to the requested exemption, the Consumer Product Safety Commission concludes that an exemption should be proposed as set forth below. It is proposed that this exemption include all glues with a cyanoacrylate base sold in sizes of 2 grams or less.

The Commission's decision to propose this exemption is based principally on the preliminary findings that full label compliance is both impracticable, due to the size of the package, and unnecessary for the adequate protection of the public health.

The Commission believes that any risk of injury of eye irritation to the public associated with cyanoacrylate glues could adequately be mitigated by the placement on the main label panel of the signal word, statement of hazard, and instructions to read additional warnings elsewhere on the immediate container, as well as the requirement that additional warnings be placed elsewhere on the immediate container and on any outer package, accompanying leaflet, and display card. Under the proposed exemption, additional labeling required by the Act need not appear on the main label panel provided such warnings appear elsewhere on the label in legible type and appear on the outer package, accompanying leaflet and display card in accordance with the placement, conspicuousness, and contrast requirements of 16 CFR 1500.121.

CONCLUSION AND PROPOSAL

The Commission proposes that this exemption be granted under section 3 (c) of the Federal Hazardous Substances Act and 16 CFR 1500.82, and 16 CFR 1500.83: *Provided*, That: (1) The immediate container bears both the proper signal word and a statement of the principal hazard or hazards associated with this product fully in accordance with 16 CFR 1500.121. This means that the signal word, in this instance either "WARNING" or "CAUTION," must appear on the main label panel of the product and must appear in accordance with the placement, conspicuousness and contrast requirements specified at 16 CFR 1500.121. A statement of the principal hazard or hazards associated with the product must also appear on the main label panel of the product in accordance with the placement, conspicuousness and contrast requirements specified at 16 CFR 1500.121; (2) the immediate container must also bear instructions to read additional warnings elsewhere on the label and on any outer package, accompanying leaflet, and display card. Thus, any precautionary measures required by section 2(p)(1) of the Act, describing the action to be followed or avoided, instructions for first-aid treatment, and the statement "keep out of the reach of children," or its practical equivalent, need not appear on the main label panel, and need not comply with the minimum type size requirements when appearing elsewhere on the immediate container label. However, instructions to read these additional warnings must be placed on the main label panel along with the required signal word and statement of hazard or hazards, in accordance with the requirements of 16 CFR 1500.121; and (3) the remainder of the cautionary labeling required by the the Act, must appear elsewhere on the immediate container and must appear on any outer package, accompanying leaflet, and display card in accordance with the requirements of 16 CFR 1500.121. These additional warnings must conform with the requirements provided in 16 CFR 1500.121, except that the type size required for this labeling on the immediate container label may be less than six point type, provided it is legible. If there is no outer package, accompanying leaflet, or display card, then the remainder of the required cautionary lebaling must be displayed by means of a tag or other suitable material that is securely affixed to the article so that the labeling will remain attached throughout the conditions of merchandising and distribution to the ultimate consumer. The size, placement, and conspicuousness of these statements must conform with paragraphs (a), (c), and (d) of § 1500.121.

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (sections 2 (f), (p), 3(c), 10(a); 74 Stat. 372, 374, 375, 378, as amended 80 Stat. 1304–05, 83 Stat. 187–89 (15 U.S.C. 1261 (f), 1262(p), 1269(a), and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573, section 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission proposes to add an additional exemption to those provided at 16 CFR 1500.83(a), as follows: (The text of the introductory portion of § 1500.83(a) is included for context.)

§ 1500.83 Exemptions for small packages, minor hazards, and special circumstances.

(a) The following exemptions are granted for the labeling of hazardous substances under the provisions of § 1500.83:

* * * * *

(37) Glues with a cyanoacrylate base packaged in containers of 2 grams or less are exempt from the requirement of 16 CFR 1500.121(d) that labeling, other than the signal word and statement of hazard may appear elsewhere than on the main label panel in type size no smaller than 6 point type: *Provided*, That:

(i) The main panel of the immediate container bears both the proper signal word and a statement of the principal hazard or hazards associated with this product, as provided by 16 CFR 1500.121 (a) and (c);

(ii) The main panel of the immediate container also bears instructions to read additional warnings elsewhere on the label or on any outer package, accompanying leaflet, and display card. The instructions to read additional warnings must appear in accordance with the placement, conspicuousness, and contrast requirements specified at 16 CFR 1500.121; and

(iii) The remainder of the cautionary labeling required by the Act must appear elsewhere on the label in legible type and must appear on any outer package, accompanying leaflet, and display card, in accordance with the placement, conspicuousness, and contrast requirements specified at 16 CFR 1500.121. If there is no outer package, accompanying leaflet, or display card, then the remainder of the required cautionary labeling must be

displayed by means of a tag or other suitable material that is securely affixed to the article so that the labeling will remain attached throughout conditions of merchandising and distribution to the ultimate consumer. The size, placement, and conspicuousness of these statements must conform with paragraphs (a), (c), and (d) of § 1500.121.

Interested persons are invited to submit written data, views, or arguments regarding any aspect of the proposal on or before November 4, 1977. Comments submitted after this date will be considered to the extent practicable. Comments should be accompanied, to the extent possible, by supporting data or documentation. Requests for confidentiality of documentation will be handled in accordance with the Freedom of Information Act as amended (5 U.S.C. 552), the Commission's regulations under that Act (16 CFR Part 1015, 42 FR 10490) and the provisions of section 6(a)(2) of the Consumer Product Safety Act (15 U.S.C. 2055 (a)(2)). Comments may be supported by a memorandum or brief.

Written comments and any accompanying data or materials should be submitted, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Any comments that are received, and all other material which the Commission has that is relevant to this proceeding, may be seen in, or copies obtained from, the Office of the Secretary, Third Floor, 1111 18th Street, NW., Washington, D.C. 20207.

Dated September 29, 1977.

RICHARD E. RAPPS,
Secretary,
Consumer Product
Safety Commission.

[FR Doc.77-29216 Filed 10-4-77;8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 6]

AIR COMMERCE REGULATIONS

Proposed Amendment to Customs Regulations Pertaining to Permits To Proceed for Foreign-Registered Aircraft

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed amendment would require foreign-registered private aircraft arriving from outside the United States to obtain a permit from Customs before proceeding from the airport of entry to any other airport in the United States. These permits are now required only for foreign-registered commercial aircraft. The purpose of the proposal is to facilitate enforcement of Customs laws by providing information on the movement of foreign-registered private aircraft between airports in the United States.

DATES: Comments must be received on or before November 4, 1977.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Donald H. Reusch, Attorney, Carriers, Drawback and Bonds Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under Customs Regulations, § 6.2(d)(1) (19 CFR 6.2(d)(1)) requires a foreign-registered aircraft not treated as an imported article to obtain a permit to proceed from the airport of first arrival to one or more airports in the United States if it arrives in the United States carrying passengers for hire or merchandise (that is, for commercial aircraft), and is to proceed without passengers or merchandise; and § 6.9 (19 CFR 6.9) requires any commercial aircraft to obtain a permit to proceed from the airport of first arrival to one or more airports in the United States if the aircraft arrives in the United States carrying merchandise and is to proceed with merchandise.

Foreign-registered private aircraft, however, arriving from outside the United States may proceed after reporting at the airport of first arrival to as many United States airports as desired without any Customs control. The term "private aircraft" means those aircraft engaged in a personal or business flight to or from the United States and not carrying passengers or cargo for compensation or hire, nor departing from the United States to load passengers or cargo for compensation or hire. Examples are corporate aircraft and aircraft used by individuals exclusively for pleasure purposes.

Without requiring a permit to proceed, the Customs Service has no way of monitoring the movement of foreign-registered private aircraft in the United States including aircraft suspected of smuggling. Also, if the aircraft were sold while in the United States, duty on the aircraft may not be collected as Customs may not be aware of the sale.

To assist in the enforcement of the laws administered by the Customs Service, it is proposed to extend the permit-to-proceed requirement now applicable to foreign-registered commercial aircraft arriving from outside the United States to foreign-registered private aircraft as well.

This amendment is proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), section 624, 46 Stat. 759 (19 U.S.C. 1624), and section 1109, 72 Stat. 799, as amended (49 U.S.C. 1509).

COMMENTS

Before adopting this proposed regulation, consideration will be given to any written comments that are timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

DRAFTING INFORMATION

The principal author of this proposed regulation was Richard M. Belanger, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the United States Customs Service participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENT

PART 6—AIR COMMERCE REGULATIONS

It is proposed to amend the second sentence of § 6.2(d)(1) of the Customs Regulations (19 CFR 6.2(d)(1)) to read as follows:

§ 6.2 **Landing requirements.**

* * * * *

(d) *Permit to proceed; foreign aircraft.* (1) * * * Except as provided in § 6.9, before any aircraft which is not treated as an imported article and which is registered in a foreign country proceeds from the airport of first arrival to one or more airports in the United States, its commander shall obtain from the district director at the airport of first arrival a permit to proceed on Customs Form 7507 allowing the aircraft to proceed from airport to airport in the United States, which shall be retained on board the aircraft while in the United States.

* * *

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: August 29, 1977.

Bette B. Anderson,
Under Secretary
of the Treasury.

[FR Doc.77-29223 Filed 10-4-77;8:45 am]

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 214]

YOUTH CONSERVATION CORPS PROGRAM

Grants to States for Establishment

AGENCY: Forest Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: The Youth Conservation Corps Act of 1970 provided for a 3-year pilot program to be carried out on lands and waters under the jurisdiction of the Secretary of Agriculture or the Secretary of the Interior. Pub. L. 92-597 amended

the 1970 act to include a pilot program (beginning in FY 1974) under which grants shall be made to States, to assist them in meeting the cost of Youth Conservation Corps projects on non-Federal public lands and waters within the States. Pub. L. 93-408 made the Youth Conservation Corps program permanent. This document proposes revisions to the present regulations which are necessary to assure a closer alignment between Federal and State grant program characteristics and to update current procedures to reflect policy and grants-in-aid requirements.

DATE: Comments must be received on or before November 4, 1977.

ADDRESS: Send Comments to: Director, Human Resource Programs, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013. Comments will be available for public review in Room 2117, Auditors Building, 14th and Independence Avenues, SW., from 8:15 a.m. to 4:45 p.m. on regular working days.

FOR FURTHER INFORMATION CONTACT:

Hollis Hardy, (202-447-7783).

SUPPLEMENTARY INFORMATION: Since the enactment of Pub. L. 93-403, the Youth Conservation Corps (YCC) grants-in-aid program has grown markedly. Though interim regulations and final regulations were published in 1974 and 1975 respectively, recently proposed policies and procedures for the State grant component appear to be advisable. This revision is proposed jointly by the Department of Agriculture and the Interior. The Department of the Interior will publish the same revision under Title 43 of the Code of Federal Regulations, Subtitle A, Part 26.

NOTE.—The Department of Agriculture has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

It is proposed to revise 36 CFR Part 214 as follows:

PART 214—GRANTS TO STATES FOR ESTABLISHING YOUTH CONSERVATION CORPS PROGRAM

Sec.

214.1 Introduction.
214.2 Definitions.
214.3 Program purpose and objectives.
214.4 Legislation.
214.5 Administrative requirements.
214.6 Request for grant.
214.7 Application format and instructions.
214.8 Program reporting requirements.
214.9 Consideration and criteria for awarding grants.

AUTHORITY: Sec. 4, 86 Stat. 1320, as amended, 88 Stat. 1067.

§ 214.1 Introduction.

(a) The Youth Conservation Corps (YCC) is a program of summer employment for young men and women, aged 15 through 18, who work, earn, and learn together by doing projects which further the development and conservation of the natural resources of the United States. The Corps is open to youth of both sexes, and youth of all social, economic, and racial classifications who are permanent residents of the United States, its territories, possessions, or trust territory.

(b) The Youth Conservation Corp Act of 1970 (Pub. L. 91-378) provided for a 3-year pilot program to be carried out on lands and waters under the jurisdiction of the Secretary of Agriculture or the Secretary of the Interior. Pub. L. 92-597 amended the 1970 Act to include a pilot program (beginning in FY 1974) under which grants shall be made to States to assist them in meeting the cost of Youth Conservation Corps projects on non-Federal public lands and waters within the States. Pub. L. 93-408 made the Youth Conservation Corps program permanent.

§ 214.2 Definitions.

(a) Terms used in these Regulations are defined as follows:

(1) *Act.* The Youth Conservation Corps Act of 1970. Pub. L. 91-378, as amended.

(2) *Secretaries.* The Secretaries of Agriculture and the Interior, or their designated representatives, who jointly administer the grant program. Within the Department of Agriculture, the YCC program is administered by the Forest Service; within the Department of the Interior it is administered by the Office of Manpower Training and Youth Activities.

(3) *States.* Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa and the Commonwealth of the Northern Marianas Islands.

(4) *Grant.* Money or property provided in lieu of money, paid or furnished by the Secretaries pursuant to the Act, to a State to carry out YCC programs on non-Federal public lands and waters. The amount of any grant shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 percentum of the cost (as determined by the Secretaries) of said project.

(5) *Grantee.* Any State which is a recipient of a Federal grant for the operation of a YCC program.

(6) *Sub-Grantee.* Any public organization, municipality, or agency which successfully applied through a State for the operation of a Youth Conservation Corps project within that State.

(7) *Contractor.* Any public agency or organization or any private non-profit agency or organization which has been in existence for at least 5 years which operates a YCC project for a grantee or sub-grantee.

(8) *Program agent.* Agency, Bureau, or Department designated by the Governor to have program responsibility for all aspects of YCC operations in that State except for those projects conducted under Federal auspices. Responsibility may be redelegated by the Agency, Bureau, or Department Head. Such redelegation must be made in writing to the Secretaries.

(9) *State Grant Program.* That part of the YCC program carried out on non-Federal lands and waters by States receiving YCC grants-in-aid.

(10) *Project.* The operating unit or camp of the State YCC grant program, either of residential or nonresidential program type, as follows:

(i) *Residential project.* One in which youths reside either seven or five days per week at a camp on or adjacent to the public lands where they conduct their work-education program.

(ii) *Nonresidential project.* One in which youths reside at home and daily commute to the public lands to conduct their work-education program.

(iii) For purposes of establishing a Federal/State cost sharing ratio, a project is defined as all YCC operations within a State which are carried out on non-Federal public lands and waters.

(11) *Operating year.* January 1 through December 31.

(12) *Non-Federal public lands and waters.* Any lands or waters within the territorial limits of a State owned either in fee simple by a State or political subdivision thereof or over which a State or political subdivision thereof has, as determined by the Secretaries, sufficient long-term jurisdiction so that improvements made as the result of a grant will accure primarily to the benefit of the public as a whole. Federally-owned public lands and waters administered by a State or political subdivision thereof under agreement with a Department or Agency of the Federal Government are eligible under such definition if the Secretaries determine that the State or political subdivision thereof is entitled to or is likely to retain administrative responsibility for an extended period of time sufficient to justify classification as non-Federal public lands or waters.

§ 214.3 Program purpose and objectives.

(a) The purpose of the Act is to further the development and maintenance of the natural resources of the United States by American youth and in so doing prepare them for the ultimate responsibility of maintaining and managing these resources for the American people. The Departments of Agriculture and the Interior have stressed the following three equally important objectives of the Youth Conservation Corps as reflected in the law:

(1) Accomplish needed conservation work on public lands.

(2) Provide gainful employment for 15 through 18 year old males and females from all social, economic, and racial backgrounds.

(3) Develop an understanding and appreciation in participating youths of the Nation's environment and heritage.

(b) These objectives will be accomplished in a manner that will provide the youth with an opportunity to acquire increased self-dignity and self-discipline, better work with and relate with peers

and supervisors, and build lasting cultural bridges between youth from various social, ethnic, racial and economic background.

(c) Each YCC project will, to the maximum extent possible as determined by the Secretaries' representatives, have the following characteristics:

(1) A properly balanced and integrated environmental-work learning program in which environmental knowledge and awareness derives principally from meaningful work activities on public lands.

(2) A mixture of youth of both sexes from various social, economic, ethnic, and racial backgrounds which is representative of the youth residing within the recruiting area.

(3) A group living component wherein enrollees have an opportunity to relate to each other and staff during non-working hours in activities which promote social inter-action and group learning.

(4) An enrollment of sufficient size (not less than 10 enrollees) that will permit social interaction and group learning. The program encourages camps of a size of 20 to 50 enrollees as the most desirable size.

§ 214.4 Legislation.

State programs must meet all of the requirements of Section 4 of the Act. Section 4 of the Act which applies to the grant program reads as follows:

Sec. 4(a). The Secretary of the Interior and the Secretary of Agriculture shall jointly establish a program under which grants shall be made to States to assist them in meeting the cost of projects for the employment of young men and women to develop, preserve, and maintain non-Federal public lands and waters within the States. For purposes of this section, the term "States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(b)(1). No grant may be made under this section unless an application therefor has been submitted to and approved by, the Secretary of the Interior and the Secretary of Agriculture. Such application shall be in such form, and submitted in such manner, as the Secretaries shall jointly by Regulations prescribe and shall contain:

(A) Assurances satisfactory to the Secretaries that individuals employed under the project for which the application is submitted shall: (i) Have attained the age of fifteen but not attained the age of nineteen, (ii) be permanent residents of the United States or its territories, possessions, or Trust Territory of the Pacific Islands, (iii) be employed without regard to the personnel laws, rules, and regulations applicable to full-time employees of the applicant, (iv) be employed for a period of not more than ninety days in any calendar year, and (v) be employed without regard to their sex or social, economic, or racial classification; and

(B) Such other information as the Secretaries may jointly by Regulation prescribe.

(2) The Secretaries may approve applications which they determine (A) meet the requirements of paragraph (1), and (B) are for projects which will further the development, preservation, or maintenance of the non-Federal public lands or waters within the jurisdiction of the applicant.

(c)(1) The amount of any grant under this Section shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 percentum of the cost (as determined by the Secretaries) of such project.

(2) Payments under grants under this section may be made in advance or by way of reimbursements and at such intervals and on such conditions as the Secretaries find necessary.

(d) Thirty percentum of the sums appropriated under Section 6 for any fiscal year shall be made available for grants under this section for such fiscal year.

§ 214.5 Administrative requirements.

The following administrative requirements must be met: (a) Recruitment will be conducted in a manner designed to assure (1) a full opportunity for all America's youth to participate in the Youth Conservation Corps, and (2) specific outreach efforts to attract minority and disadvantaged youth. The grantee and sub-grantee will assure that the YCC program is open to all eligible youth from all parts of the State including urban and rural youth of both sexes and youth of all social, economic, racial and ethnic classifications. A well-balanced YCC camp enrollment should also include representation of non-public school youth, the disadvantaged, and youth having quit school before graduation. The grantee will conduct, or will permit to be conducted, a selection system which will assure that applicants will be selected on a random basis, without bias because of race, creed, color, religion or national origin. To insure coeducational projects, stratification of applicants by sex, prior to selection, is required. To insure that the program will reach the largest number of youth, the grantee will assure that not more than 10 percent of the selected enrollees have been YCC enrollees in previous years and that all returnees shall be designated as youth leaders and paid an increment of at least $1.50 per day above the normal wage.

(b) To the maximum extent practicable enrollees should be selected from an area within one day's surface travel from their residence to a YCC camp.

(c) Capital outlays for facilities should be kept at a minimum. No grant is to be made for construction of residential facilities other than to provide temporary facilities and their necessary basic infrastructure and necessary renovation or modification of existing facilities.

(d) Operation of YCC projects during non-summer periods may be authorized by the Secretaries when it can clearly be demonstrated that enrollment will not interfere with the established educational systems.

(e) The enrollee is an employee of the grantee or subgrantee. The enrollee pay plan must comply with Federal or State minimum wage laws whichever may be higher. To the maximum extent practicable, State YCC enrollees should receive the same hourly rate of pay as Federal YCC enrollees. Grantees will insure that enrollees are engaged in 40 hours of work-learning activities each week, 10 hours of which will be environmental awareness. The Federal Government will cost share enrollee salary up to the equivalent of 30 hours per week.

(f) Grantees must provide for an effective accident control, health, and safety program. As a minimum, grantees shall follow U.S. Department of Labor Bulletin No. 101, "A Guide to Child Labor Provisions of the Fair Labor Standards Act".

(g) Grantees will have a financial management system which will provide the information called for in Attachment G of Federal Management Circular (FMC) 74-7.

(h) "Request for Advance or Reimbursement" as outlined in FMC 74-7, Attachment H, item 4(a), will be used to obtain an advance to start and/or maintain the program. It can also be used to obtain a reimbursement during or at the end of a project. An advance, not to exceed one month's needs, may be made after approval of the grant application.

(i) Grantees will prepare a "Financial Status Report" required by FMC 74-7, Attachment H, item 3(a), twice for each operating year. These reports will be prepared on a cash basis using the same functional headings as those used in preparing Part II of the application for Federal Assistance. Instructions and forms will be supplied each grantee at the time of grant award. Grantees shall require similar reports from all sub-grantees and contractors to facilitate their own reporting to the grantor agencies. The two reports required of the grantee are:

(1) An "Interim Financial Status Report" prepared as of September 30 and mailed in time to reach the Secretaries by October 30 of each operating year.

(2) A "Final Financial Status Report" preared as of December 31 of each operating year. This report will be forwarded in time to reach the Secretaries by March 31 of the following operating year.

(j) Allowable costs under the grant program are defined in FMC 74-7 and FMC 74-4.

(k) Records retention and custodial requirements for records are prescribed by Attachment C to FMC 74-7.

(l) Because of the short duration of each project, budget revisions normally should be unnecessary; however, if a budget revision becomes necessary, the grantee will be governed by Attachment K of FMC 74-7.

(m) Grantees shall comply with the provisions of Attachments O and N of FMC 74-7 in regard to nonexpendable personal property and procurement standards.

(n) The Secretaries or their designees shall periodically review the conduct of the program of the State.

(o) Grantees will supervise those projects in the State being administered by sub-grantees and contractors. Subgrantees and contractors will be required to operate in accordance with the procedures outlined in these regulations and the grant agreement with the State.

Periodic inspection of sub-grantee projects will be made by the grantee under the direction of the Program Agent or his designee. Grantees or sub-grantees may contract with a qualified non-profit agency or organization for the operation of their YCC project.

(p) Grantees will meet the audit requirements of Attachment G to FMC 74-7 and will require the same of sub-grantees. Copies of audits will be made available to the Secretaries upon request.

(q) If the grantee fails to comply with the grant award stipulations, standards, or conditions, the Secretaries may jointly suspend the grant pending corrective action. Subsequent to or during any period of suspension of the grant, the Federal Government shall not be obligated to reimburse the grantee for any incurrence of obligations other than direct salaries of enrollees and then only for a period of time which both the Secretaries shall determine to be reasonable. In addition, the Secretaries may jointly terminate the grant. Termination shall be effective by a notice of termination. Upon receipt of a notice of termination, the grantee shall:

(1) Discontinue further commitments of grant funds.

(2) Cancel all sub-Grants or contracts, where possible, scheduled for payment with grant funds.

(3) Supply either of the Secretaries within 90 days after receipt of the notice of termination, a final financial statement, along with a refund check for any unused portion of funds advanced, or request for reimbursement for allowable expenditures incurred in the grant program.

§ 214.6 Request for grant.

(a) Of the amount available for Youth Conservation Corps projects, 30 percent will be allocated for State projects. All States will be given an oportunity to participate in the program. Allocated funds not needed by a State will be reallocated based on the merits of proposals submitted in accordance with paragraph (c) of this section or a preapplication in accordance with Attachment M of FMC 74-7. All proposed projects should be listed by priority. Grant funds are for State projects only. A grant to a State must be matched by the State for each project. Matching can consist of either direct expenditures or services of an in-kind nature.

(b) Pursuant to section 4(c)(1) of Pub. L. 93-408, States may receive grants up to but not to exceed 80 percent of the cost of funding any project from the Federal Government.

(c) Application for Federal Assistance (Standard Form 424) will be used by applicants in applying for grants under this program. Application forms will be supplied to Program Agents. Only a Program Agent may submit an application. A single grant application (Parts I, II, IV, V) must be submitted for the entire summer program within each State. Parts II, III, and VI are required for each project included in the grant application. A separate application must be used for non-summer projects. A non-summer project is defined as one which extends beyond October 1, or beginning prior to May 1.

(d) The Secretaries have designated individuals in each State who will jointly represent them. Grant applications (original and six copies) must be submitted to the designated representative of either Secretary. January 1 has been established as the deadline date for acceptance of applications for each operating year. Names and addresses of designated representatives will be furnished to each State. The Secretaries' representatives must jointly approve grant proposals. Approval or disapproval of proposals will be documented by a formal letter to the Program Agent. The Secretaries' representatives will also be available for technical assistance and advice.

§ 214.7 Application format and instructions.

Grant applications must be made using the Office of Management and Budget approved form (SF-424) entitled "Federal Assistance." General instructions for completing the form by part numbers follow. Specific instructions and requirements which must be followed are included in the Secretaries' State Grant Procedures Handbook.

(a) Part I—(SF-424 Cover Sheet, Sections I and II) shall be completed.

(b) Part II—(Budget Data) lines 1-8 need not be used. However, the following information is needed relative to the YCC program. Please prepare a supplemental sheet using the following functional headings:

General	Work Project Costs
Staff Pay	Travel and Transportation
Enrollee Pay	Program Direction
Food	

A description of the items to be included under each of these functional headings are:

General. Include expenditures for (1) Capital Improvement (camp facilities and improvement), (2) other (medical, first aid expense, utilities, maintenance costs, recreation, all supplies not otherwise identified, training), (3) camp opening and closing costs.

Staff pay. Includes pay and benefits net any deductions made for meals and quarters furnished.

Enrollee pay. Includes pay and benefits of enrollees.

Food. Includes cost of food and related freight charges.

Work project costs. Safety equipment and work and environmental awareness supplies and materials.

Travel and transportation. Includes transportation of enrollees and staff to and from project sites and both intrastate and interstate travel for purposes of program direction and training.

Program direction. Includes support services and program administration expenses at locations other than at projects. The total of the above categories should be entered on line 9 of Part II and the rest of Part II completed.

Indirect costs. Compute the appropriate allowance for indirect costs on line 15 and enter amount on line 10. Grantee must have an approved indirect cost rate applicable to the grant period. A copy of the approved indirect expense plan should be included in the grant application.

(c) Part III—(Program Narrative Statement) should include the following information:

(1) Location of project (address and county).

(2) Distance to nearest town; name of town.

(3) Number of youth planned for project.

(4) Type of project (7-day residential, 5-day residential, nonresidential, other).

(5) Length of session (i.e., number of weeks) and proposed beginning and ending dates.

(6) Description of living conditions (types of facilities, age, condition, tents, cabins, dormitories).

(7) Project Staff (number and position titles).

(8) Complete calculation for daily rate of enrollee pay including deduction for food and lodging (if any).

(9) Description of health and safety program.

(10) Description of enrollee and staff recruiting and selection systems including description of affirmative action measures to be taken to assure that minority and other disadvantaged persons receive equal opportunity and consideration.

(11) Description of the work-learning program including the types of work projects that will be available (an integrated environmental work-learning program is required wherever possible as determined by the Secretaries' representatives).

(12) States agreement to administer tests, conduct interviews, or otherwise assist the Federal Government in collecting data on the grant program. The data is to be used for the required report to the President and Congress in accomplishing the purposes of the Act. A statement to this effect must be written into the proposal by the applicant.

(d) Part IV—(Assurances) is preprinted within Attachment M, FMC 74-7 and is to be included as part of the application. The following assurances are not preprinted and must be included by the grantee in the grant application:

(1) EPA Required Certification if the application is for $100,000 or more (40 CFR 15):

The recipient certifies that no owner or operator of a facility which he proposes to utilize in connection with this grant, has been notified that the facility has been listed on the EPA List of Violating Facilities pursuant to the provisions of the EPA in 40 CFR, Part 15.20, and that this same certification will be obtained from subgrantees or sub-contractors benefiting from this grant.

The grantee agrees that any facility which is utilized in the performance of this grant is not listed on the EPA List of Violating Facilities pursuant to 40 CFR, part 15.20.

In the event the grantee fails to comply with clean air or water standards at such facilities, the grant may be cancelled, terminated for default or suspended for such failure, in whole or in part, and the Government may refrain from further granting with the grantee.

The grantee agrees to comply with all the requirements of Section 114 of the Air Act and Section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information as well as all other requirements specified in Section 114 and Section 308, respectively, and all regulations and guidelines issued thereunder.

The grantee agrees to promptly notify the awarding official of the receipt of any notice from the Director, Office of Federal Activities, Environmental Protection Agency, indicating that any facility utilized or to be utilized under the grant is under consideration for listing on the EPA List of Violating Facilities.

The grantee further agrees to insert, in any subgrant thereunder, unless otherwise exempted pursuant to the EPA Regulations implementing the Air or Water Acts (40 CFR 15.5) provisions which shall include this statement. The grantee shall take such action as the Government may direct as a means of enforcing such provisions.

(2) The Federal/State cost sharing ratio established by the approval of this grant application shall remain in effect for the duration of the operating year, unless modified prior to December 31 in accordance with Attachment K to Federal Management Circular 74–7.

(3) In a format prescribed by the Secretaries' representatives, the grantee agrees to provide by July 15, but not later than 14 days following project opening, detailed information on the demographic characteristics of youths enrolled in the State grant program.

(e) Part V—A camp or project profile for each project must be submitted with the application.

§ 214.8 Program reporting requirements.

(a) Monitoring and reporting of program performance will be in accordance with Attachment I of FMC 74–7. Grantees will submit performance reports with the final Financial Status Report to either of the Secretaries' representatives. This final performance report is due by March 30. An interim performance report is due not later than October 30. For non-summer projects, the final report is due 90 days after termination of the project. The performance report will include the number of youth enrolled in the project, number of weeks of camp operation, youth loss rate, value of work accomplished by resource category (for example, timber management, recreation, etc.), hours of youth work-learning experience by resource category and value of work supplies and materials by resource category.

(b) The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

§ 214.9 Consideration and criteria for awarding grants.

The decision by both of the Secretaries' representatives on grants to individual States will consider the following:

(a) The amount of grant funds appropriated and available.

(b) The quality of the proposed program in terms of meeting program characteristics and objectives.

(c) The overall cost per enrollee 8-week position.

(d) Actual prior performance of the States in administering YCC projects.

(e) The performance of the grantee in meeting the conditions of the grant and the requirements of FMC 74–4 and FMC 74–7.

M. RUPERT CUTLER,
Assistant Secretary.

SEPTEMBER 29, 1977.

[FR Doc.77-29191 Filed 10-4-77;8:45 am]

[1505–01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 250]

[FRL 797–6]

DEVELOPMENT OF REGULATIONS FOR THE TRANSPORTATION OF HAZARDOUS WASTE

Joint Public Meeting

Correction

In FR Doc. 77–28591, appearing at page 51625 in the issue for Thursday, September 29, 1977, in the third line of "ADDRESSES", the last word reading "Materials", should read "Management".

[4310–10]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[43 CFR Part 26]

YOUTH CONSERVATION CORPS PROGRAM

Grants to States for Establishment

AGENCY: Office of Manpower Training and Youth Activities, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Youth Conservation Corps Act of 1970 provided for a 3-year pilot program to be carried out on lands and waters under the jurisdiction of the Secretary of Agriculture or the Secretary of the Interior. Pub. L. 92–597 amended the 1970 act to include a pilot program (beginning in FY 1974) under which grants shall be made to States, to assist them in meeting the cost of Youth Conservation Corps projects on non-Federal public lands and waters within the States. Pub. L. 93–408 made the Youth Conservation Corps program permanent. This document proposes revisions to the present regulations which are necessary to assure a closer alignment between Federal and State grant program characteristics and to update current procedures to reflect policy and grants-in-aid requirements.

DATE: Comments must be received on or before November 4, 1977.

ADDRESS: Send comments to: Director, Office of Manpower Training and Youth Activities, 18th & C Sts., NW., Washington, D.C. 20240. Comments will be available for public review in Room 2419, at the above address from 7:45 a.m.–4:15 p.m. on regular working days.

FOR FURTHER INFORMATION CONTACT:

Vivian Bower, (202–343–3865.)

SUPPLEMENTARY INFORMATION: Since the enactment of Pub. L. 93–403, the Youth Conservation Corps (YCC) grants-in-aid program has grown markedly. Though interim regulations and final regulations were published in 1974 and 1975 respectively, recently proposed policies and procedures for the State grant component appear to be advisable.

This revision is proposed jointly by the Departments of Agriculture and Interior. The Department of Agriculture will publish the same revision under Title 36 of the Code of Federal Regulations, Chapter II, Part 214.

The primary author of this document is Vivian Bower, Office of Manpower Training and Youth Activities, 202–343–3865.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: September 28, 1977.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

It is proposed to revise 43 CFR Part 26 to read as follows:

PART 26—GRANTS TO STATES FOR ESTABLISHING YOUTH CONSERVATION CORPS PROGRAM

Sec.

26.1 Introduction.
26.2 Definitions.
26.3 Program purpose and objectives.
26.4 Legislation.
26.5 Administrative requirements.
26.6 Request for Grant.
26.7 Application format and instructions.
26.8 Program reporting requirements.
26.9 Consideration and criteria for awarding grants.

AUTHORITY: Sec. 4, 86 Stat. 1329, as amended, 88 Stat. 1067.

§ 26.1 Introduction.

(a) The Youth Conservation Corps (YCC) is a program of summer employment for young men and women, aged 15 through 18, who work, earn, and learn

together by doing projects which further the development and conservation of the natural resources of the United States. The Corps is open to youth of both sexes, and youth of all social, economic, and racial classifications who are permanent residents of the United States, its territories, possessions, or the Trust Territory.

(b) The Youth Conservation Corps Act of 1970 (Public Law 91–378) provided for a 3-year pilot program to be carried out on lands and waters under the jurisdiction of the Secretary of Agriculture or the Secretary of the Interior. Public Law 92–597 amended the 1970 act to include a pilot program (beginning in FY 1974) under which grants shall be made to States, to assist them in meeting the cost of Youth Conservation Corps projects on non-Federal public lands and waters within the States. Public Law 93–408 made the Youth Conservation Corps program permanent.

§ 26.2 Definitions.

(a) Terms used in these Regulations are defined as follows: (1) *Act.* The Youth Conservation Corps Act of 1970. Pub. L. 91–378 as amended.

(2) *Secretaries.* The Secretaries of Agriculture and the Interior, or their designated representatives, who jointly administer the grant program. Within the Department of Agriculture, the YCC program is administered by the Forest Service; within the Department of the Interior it is administered by the Office of Manpower Training and Youth Activities.

(3) *States.* Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa and the Commonwealth of the Northern Marianas Islands.

(4) *Grant.* Money or property provided in lieu of money, paid or furnished by the Secretaries pursuant to the Act, to a State to carry out YCC programs on non-Federal public lands and waters. The amount of any grant shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 per centum of the cost (as determined by the Secretaries) of said project.

(5) *Grantee.* Any State which is a recipient of a grant for the operation of YCC grant program.

(6) *Sub-Grantee.* Any public organization, municipality, or agency which successfully applied through a State for the operation of a Youth Conservation Corps project within that State.

(7) *Contractor.* Any public agency or organization or any private non-profit agency or organization which has been in existence for at least 5 years which operates a YCC project for a grantee or subgrantee.

(8) *Program Agent.* Agency, Bureau, or Department designated by the Governor to have program responsibility for all aspects of YCC operations in that State except for those projects conducted under Federal auspices. Responsibility may be redelegated by the Agency, Bureau, or Department Head. Such redelegations must be made in writing to the Secretaries.

(9) *Grant program.* That part of the YCC program carried out on non-Federal lands and waters by States receiving YCC grants-in-aid.

(10) *Project.* The operating unit or camp of the State YCC grant program, either of residential or nonresidential program type, as follows:

(i) *Residential project.* One in which youths reside either seven or five days per week at a camp on or adjacent to the public lands where they conduct their work-education program.

(ii) *Nonresidential project.* One in which youths reside at home and daily commute to the public lands to conduct their work-education program.

(iii) *Project.* For purposes of establishing a Federal/State cost sharing ratio a project is defined as all YCC operations within a State which are carried out on non-Federal public lands and waters.

(11) *Operating year.* January 1 through December 31.

(12) *Non-Federal public lands and waters.* Any lands or waters within the territorial limits of a State owned either in fee simple by a State or political subdivision thereof or over which a State or political subdivision thereof has, as determined by the Secretaries, sufficient longterm jurisdiction so that improvements made as the result of a grant will accrue primarily to the benefits of the public as a whole. Federally-owned public lands and waters administered by a State or political subdivision thereof under agreement with a Department or Agency of the Federal Government are eligible under such definition if the Secretaries determine that the State or political subdivision thereof is entitled to or is likely to retain administrative responsibility for an extended period of time sufficient to justify classification as non-Federal public lands or waters.

§ 26.3 Program purpose and objectives.

(a) The purpose of the Act is to further the development and maintenance of the natural resources of the United States by American youth and in so doing prepare them for the ultimate responsibility of maintaining and managing these resources for the American people. The Departments of Agriculture and the Interior have stressed the following three equally important objectives of the Youth Conservation Corps as reflected in the law:

(1) Accomplish needed conservation work on public lands.

(2) Provide gainful employment for 15 through 18 year-old males and females from all social, economic, and racial backgrounds.

(3) Develop an understanding and appreciation in participating youths of the Nation's natural environment and heritage.

(b) These objectives will be accomplished in a manner that will provide the youth with an opportunity to acquire increased self-dignity and self-discipline, better work with and relate with peers and supervisors and build lasting cultural bridges between youth from various social, ethnic, racial, and economic background.

(c) Each YCC project will, to the maximum extent possible as determined by the Secretaries representatives, have the following characteristics:

(1) A properly balanced and integrated environmental-work learning program in which environmental knowledge and awareness derives principally from meaningful work activities on public lands.

(2) A mixture of youth of both sexes from various social, economic, ethnic, and racial backgrounds which is representative of the youth residing within the recruiting area.

(3) A group living component wherein enrollees have an opportunity to relate to each other and staff during nonworking hours in activities which promote social interaction and group learning.

(4) An enrollment of sufficient size (not less than 10 enrollees) that will permit social interaction and group learning. The program encourages camps of a size of 20 to 50 enrollees as the most desirable size.

§ 26.4 Legislation.

State programs must meet all of the requirements of Section 4 of the Act. Section 4 of the Act which applies to the grant program reads as follows:

Sec. 4(a) The Secretary of the Interior and the Secretary of Agriculture shall jointly establish a program under which grants shall be made to States to assist them in meeting the cost of projects for the employment of young men and women to develop, preserve, and maintain non-Federal public lands and waters within the States. For purposes of this section, the term "States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(b)(1) No grant may be made under this section unless an application therefor has been submitted to and approved by, the Secretary of the Interior and the Secretary of Agriculture. Such application shall be in such form, and submitted in such manner, as the Secretaries shall jointly by Regulations prescribe and shall contain:

(A) Assurances satisfactory to the Secretaries that individuals employed under the project for which the application is submitted shall: (i) Have attained the age of fifteen but not attained the age of nineteen, (ii) be permanent residents of the United States or its territories, possesions, or Trust Territory of the Pacific Islands, (iii) be employed without regard to the personnel laws, rules, and regulations applicable to full-time employees of the applicant, (iv) be employed for a period not more than ninety days in any calendar year, and (v) be employed without regard to their sex or social, economic, or racial classification; and

(B) Such other information as the Secretaries may jointly by Regulation prescribe.

(2) The Secretaries may approve applications which they determine (A) meet the requirements of paragraph (1) and (B) are for

projects which will further the development, preservation, or maintenance of the non-Federal public lands or waters within the jurisdiction of the applicant.

(c) (1) The amount of any grant under this Section shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 per centum of the cost (as determined by the Secretaries) of such project.

(2) Payments under grants under this section may be made in advance or by way of reimbursements and at such intervals and on such conditions as the Secretaries find necessary.

(d) Thirty per centum of the sums appropriated under Section 6 for any fiscal year shall be made available for grants under this section for such fiscal year.

§ 26.5 Administrative requirements.

The following administrative requirements must be met: (a) Recruitment will be conducted in a manner designed to assure (1) a full opportunity for all America's youth to participate in the Youth Conservation Corps, and (2) specific outreach efforts to attract minority and disadvantaged youth. The grantee and sub-grantee will assure that the YCC program is open to all eligible youth from all parts of the State including urban and rural youth of both sexes and youth of all social, economic, racial, and ethnic classifications. A well-balanced YCC camp enrollment should also include representation of nonpublic school youth, the disadvantaged, and youth having quit school before graduation. The grantee will conduct, or will permit to be conducted, a selection system which will assure that applicants will be selected on a random basis, without bias because of race, creed, color, religion or National origin. To insure coeducational projects, stratification of applicants by sex, prior to selection, is required. To insure that the program will reach the largest number of youth, the grantee will assure that not more than 10 percent of the selected enrollees have been YCC enrollees in previous years and that all returnees shall be designated as youth leaders and paid an increment of at least $1.50 per day above the normal wage.

(b) To the maximum extent practicable, enrollees should be selected from an area within one day's surface travel from their residence to a YCC camp.

(c) Capital outlays for facilities should be kept at a minimum. No grant is to be made for construction of residential facilities other than to provide temporary facilities and their necessary basic infrastructure and necessary renovation or modification of existing facilities.

(d) Operation of YCC projects during non-summer periods may be authorized by the Secretaries when it can clearly be demonstrated that enrollment will not interfere with the established educational systems.

(e) The enrollee is an employee of the grantee or sub-grantee. The enrollee pay plan must comply with Federal or State minimum wage laws whichever may be higher. To the maximum extent practicable, State YCC enrollees. Grantees will insure that enrollees are engaged in 40 hours of work-learning activities each week, 10 hours of which will be in environmental awareness. The Federal Government will cost share enrollee salary up to the equivalent of 30 hours per week.

(f) Grantees must provide for an effective accident control, health, and safety program. As a minimum, grantees shall follow U.S. Department of Labor Bulletin No. 101, "A Guide to Child Labor Provisions of the Fair Labor Standards Act."

(g) Grantees will have a financial management system which will provide the information called for in Attachment G of Federal Management Circular (FMC) 74–7.

(h) "Request for Advance or Reimbursement" as outlined in FMC 74–7 will be used to obtain an advance to start and/or maintain the program. It can also be used to obtain a reimbursement during or at the end of a project. An advance, not to exceed one month's needs may be made after approval of the grant application.

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(2) A "Final Financial Status Report" prepared as of December 31 of each operating year. This report will be forwarded in time to reach the Secretaries by March 31 of the following operating year.

(j) Allowable costs under the grant program are defined in FMC 74–7 and FMC 74–4.

(k) Records retention and custodial requirements for records are prescribed by Attachment C to FMC 74–7.

(l) Because of the short duration of each project, budget revisions normally should be unnecessary; however, if a budget revision becomes necessary, the grantee will be governed by Attachment K of FMC 74–7.

(m) Grantees shall comply with the provisions of Attachments N and O of FMC 74–7 in regard to nonexpendable personal property and procurement standards.

(n) The Secretaries or their designees shall periodically review the conduct of the program by the State.

(o) Grantees will supervise those projects in the State being administered by sub-grantees and contractors. Subgrantees and contractors will be required to operate in accordance with the procedures outlined in these regulations and the grant agreement with the State. Periodic inspection of sub-grantee projects will be made by the grantee under the direction of the Program Agent or his designee. Grantees or sub-grantees may contract with a qualified non-profit agecy or organization for the operation of their YCC project.

(p) Grantees will meet the audit requirements of Attachment G to FMC 74–7 and will require the same of sub-grantees. Copies of audits will be made available to the Secretaries upon request.

(q) If the grantee fails to comply with the grant award stipulations, standards, or conditions, the Secretaries may jointly suspend the grant pending corrective action. Subsequent to or during any period of suspension of the grant, the Federal Government shall not be obligated to reimburse the grantee for any incurrence of obligations other than direct salaries of enrolees and then only for a period of time which both the Secretaries shall determine to be reasonable. In addition, the Secretaries may jointly terminate the grant. Termination shall be effected by a notice of termination. Upon receipt of a notice of termination, the grantee shall:

(1) Discontinue further commitments of grant funds.

(2) Cancel all subgrants or contracts, where possible, scheduled for payment with grant funds.

(3) Supply either of the Secretaries within 90 days after receipt of the notice of termination, a financial statement, along with a refund check for any unused portion of funds advanced, or request for reimbursement for allowable expenditures incurred in the grant program.

§ 26.6 Request for grant.

(a) Of the amount available for Youth Conservation Corps projects; 30 percent will be allocated for State projects. All States will be given an opportunity to participate in the program. Allocated funds not needed by a State will be reallocated based on the merits of proposals submitted in accordance with paragraph (c) of this section or a preapplication in accordance with Attachment M of FMC 74–7. All proposed projects should be listed by priority. Grant funds are for State projects only. A grant to a State must be matched by the State for each project. Matching can consist of either direct expenditures or services of an in-kind nature.

(b) Pursuant to section 4(c) (1) of Pub. L. 93–408, States may receive grants up to but not to exceed 80 percent of the cost of funding any project from the Federal Government.

(c) Application for Federal Assistance (Standard Form 424) will be used by applicants in applying for grants under this program. Application forms will be supplied to Program Agents. Only a Program Agent may submit an application. A single grant application (Parts I, II, IV) must be submitted for the entire summer program within each State. Parts II, III and V are required for each project included in the grant application. A separate application must be used for non-summer projects. A non-summer project is defined as one which extends beyond October 1 or being prior to May 1.

(d) The Secretaries have designated individuals in each State who will jointly represent them. Grant applications (original and two copies) must be sub-

mitted to the designated representative of either Secretary. January 1 has been established as the deadline date for acceptance of applications for each operating year. Names and address of designated representatives will be furnished to each State. The Secretaries' representatives must jointly approve grant proposals. Approval or disapproval of proposals will be documented by a formal letter to the Program Agent. The Secretaries representatives will also be available for technical assistance and advice.

§ 26.7 Application format and instructions.

Grant applications must be made using the Office of Management and Budget approved form (SF-424) entitled "Federal Assistance." General instructions for completing the form by part numbers follows. Specific instructions and requirements which must be followed are included in the Secretaries State Grant Procedures Handbook.

(a) Part I—SF-424 Cover Sheet, sections I and II) shall be completed.

(b) Part II—(Budget Data) Lines 1–8 need not be used. However, the following information is needed relative to the YCC program. Please prepare a supplemental sheet using the following functional headings:

General.
Staff pay.
Enrollee pay.
Food.
Work project costs.
Travel and transportation.
Program direction.

A description of the items to be included under each of these functional headings are:

General. Include expenditures for: (1) Capital improvement (camp facilities and improvement), (2) other (medical, first aid expense, utilities, maintenance costs, recreation, all supplies not otherwise identified, training), (3) camp opening and closing costs.

Staff pay. Includes pay and benefits net any deductions made for meals and quarters furnished.

Enrollee pay. Includes pay and benefits of enrollees.

Food. Includes cost of food and related freight charges.

Work project costs. Safety equipment and work supplies and environmental awareness supplies and materials.

Travel and transportation. Includes transportation of enrollees and staff to and from project sites and both intrastate and interstate travel for purposes of program direction and training.

Program direction. Includes support services and program administration expenses at locations other than at projects. The total of the above categories should be entered on line 9 of Part II and the rest of Part II completed.

Indirect costs. Compute the appropriate allowance for indirect costs on line 15 and enter amount on line 10. Grantee must have an approved indirect cost rate applicable to the grant period. A copy of the approved indirect expense plan should be included in the grant application.

(c) Part III—Program narrative statement should include the following information:

(1) Location of project (address and county).

(2) Distance to nearest town; name of town.

(3) Number of youth planned for project.

(4) Type of project (7-day residential, 5-day residential; nonresidential; other).

(5) Length of session (i.e., number of weeks) and proposed beginning and ending dates.

(6) Description of living conditions (types of facilities, age, condition, tents, cabins, dormitories).

(7) Project staff (number and position titles).

(8) Complete calculation for daily rate of enrollee pay including deduction for food and lodging (if any).

(9) Description of health and safety program.

(10) Description of enrollee and staff recruiting and selection systems including description of affirmative action measures to be taken to assure that minority and other disadvantaged persons receive equal opportunity and consideration.

(11) Description of the work-learning program including the types of work projects that will be available (an integrated environmental work-learning program is required wherever possible as determined by the Secretaries' representatives).

(12) States agreement to administer tests, conduct interviews, or otherwise assist the Federal Government in collecting data on the grant program. The data is to be used for the required report to the President and Congress in accomplishing the purposes of the Act. A statement to this effect must be written into the proposal by the applicant.

(d) Part IV (Assurances) is preprinted within Attachment M, FMC 74–7 and is to be included as part of the application. the following assurances are not preprinted and must be included by the grantee in the grant application:

(1) EPA required certification if the application is for $100,000 or more (40 CFR 15):

The recipient certifies that: No owner or operator of a facility which he proposes to utilize in connection with this grant has been notified that the facility has been listed on the EPA list of violating facilities pursuant to the provisions of the EPA in 40 CFR, Part 15.20, and that this same certification will be obtained from sub-grantees or subcontractors benefiting from this grant.

The grantee agrees that any facility which is utilized in the performance of this grant is not listed on the EPA list of violating facilities pursuant to 40 CFR, part 15.20. In the event the grantee fails to comply with clean air or water standards at such facilities, the grant may be canceled, terminated for default or suspended for such failure, in whole or in part, and the Government may refrain from further granting with the grantee.

The grantee agrees to comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information as well as all other requirements specified in section 114 and section 308, respectively, and all regulations and guidelines issued thereunder.

The grantee agrees to promptly notify the awarding official of the receipt of any notice from the Director, Office of Federal Activities, Environmental Protection Agency, indicating that any facility utilized or to be utilized under the grant is under consideration for listing on the EPA list of violating facilities.

The grantee further agrees to insert, in any subgrant thereunder unless otherwise exempted pursuant to the EPA regulations implementing the Air or Water Acts (40 CFR, Part 15.5) provisions which shall include this statement. The grantee shall take such action as the Government may direct as a means of enforcing such provisions.

(2) The Federal/State cost sharing ratio established by the approval of this grant application shall remain in effect for the duration of the operating year, unless modified prior to December 31 in accordance with Attachment K to Federal Management Circular (FMC) 74–7.

(3) In a format prescribed by the Secretaries' representatives, the grantee agrees to provide by July 15, but not later than fourteen days following project opening, detailed information on the demographic characteristics of youths enrolled in the State grant program.

(e) Part V—A camp or project profile for each project must be submitted with the application.

§ 26.8 Program reporting requirements.

(a) Monitoring and reporting of program performance will be in accordance with Attachment I of FMC 74–7. Grantees will submit performance reports with the final financial status report to either of the Secretaries' representatives. This final performance report is due by March 30. An interim performance report is due not later than October 30. For non-summer projects, the final report is due 90 days after termination of the project. The performance report will include the number of youth enrolled in the project, number of weeks of camp operation, youth loss rate, value of work accomplished by resource category (for example, timber management, recreation, etc.), hours of youth work-learning experience by resource category and value of work supplies and materials by resource category.

(b) The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

§ 26.9 Consideration and criteria for awarding grants.

The decision by both of the Secretaries' representatives on grants to individual States will consider the following:

(a) The amount of grant funds appropriated and available.

(b) The quality of the proposed program in terms of meeting program characteristics and objectives.

(c) The overall cost per enrollee eight-week position.

(d) Actual prior performance of the States in administering YCC projects.

(e) The performance of the grantee in meeting the conditions of the grant and the requirements of FMC 74–4 and FMC 74–7.

[FR Doc.77-29192 Filed 10-4-77;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.

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

EXTENSION OF TIMBER SALE CONTRACTS AND OTHER RELATED MATTERS

Forest Service Policy

AGENCY: Forest Service, USDA.

ACTION: Proposed policy.

SUMMARY: This is a Forest Service proposed policy on contract term extension, contract term adjustment and period of contract. The proposal includes Forest Service manual changes, revised timber sale contract provisions, and graphs to be used when the policy is implemented.

DATE: Comments must be received before November 4, 1977.

ADDRESS: Submit comments to Chief, John R. McGuire, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

All written submissions made pursuant to this notice will be available for public inspection in the Timber Management Staff, South Agriculture Building, Room 3207, Washington, D.C., during regular business hours.

FOR FURTHER INFORMATION, CONTACT:

George Leonard, Timber Management Staff, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, (202-447-4051).

SUPPLEMENTARY INFORMATION: This is a Forest Service proposed policy to revise the criteria for contract term extension and to make other less significant changes regarding contract term. The significant changes in extension policy are: (1) 75 percent of the volume must be removed rather than 50 percent; (2) Volume must be removed and presented for scaling to be counted toward the 75 percent requirement; and (3) the sale must have been operated in reasonable conformance with the plan of operations required by the National Forest Management Act of 1976.

The changes in matters other than extension criteria can be summarized briefly as: (1) Clarification of policy for granting contract term adjustment when other, distressed timber is in more urgent need of cutting; (2) criteria for extension in conjunction with an environmental modification and (3) revision of guidance to Forest officers on setting the original term of a contract.

The proposed Forest Service Manual changes are:

TITLE 2400—TIMBER MANAGEMENT

Revise 2433.12 to read:

2433.12—Contract term extension. A contract for harvesting National Forest timber clearly establishes an obligation on the part of the purchaser to complete the cutting and removal of all designated timber *, as well as other contractual obligations,* within the time limits specified in the contract. The Forest Service expects timber purchasers to meet * this * obligation.

1. *Policy.** Extensions of a contract term should be the exception rather than the rule and a timber purchaser is expected to complete all contractual obligations during the specified contract term. Failure on the part of the timber purchaser to harvest the timber within the specified time limits will result in termination of the timber sale contract unless the purchaser applies for and the Forest Service approves * a contract term extension.* If no extension * is granted, the purchaser is liable for damages as set forth in the contract.

The contract contains certain stipulations which apply if the contract period is extended. Subject to those contract provisions, an extension of time may be granted by the officer approving the sale, his successor, or his superior, *if the purchaser has diligently performed in accordance with contract provisions and the approved plan of operations, or if it is determined that the substantial overriding public interest justifies the extension.* Except as discussed later in this section, contracts will be extended only when there is proper justification and termination is imminent.

(a) *Criteria for determining diligent performance.* To qualify for an extension of a sale sold prior to July 1, 1971, a purchaser should expect to have cut at least 50 percent of the advertised volume by the date of his application for extension and to have constructed sufficient specified roads to service at least 60 percent of the timber to be cut, including all roads which are planned or needed as access routes for other National Forest timber.

Unless there are other considerations advantageous to the United States, extension applications which fail to meet this standard will not be considered.

To qualify for an extension of a sale made on or after July 1, 1971, *but prior to January 1, 1978*, all of the following conditions must be met by the purchaser:

(1) At least 50 percent of the advertised volume must have been cut and removed from the sale area;

(2) Specified roads needed by the purchaser (a) to remove the timber harvested to date and (b) those specified roads which are needed to permit planned, orderly development of future sales and which were identified in the prospectus, have been accepted under B6.35. Where possible it is desirable to announce those roads to which this latter requirement will apply prior to advertisement.

(3) All contractual requirements, such as snag felling, erosion control and slash disposal, have been accepted on the area cutover except for areas where logging is currently in progress. Purchaser's burning of current slash may be waived as a prerequisite for extension, if weather conditions or other considerations, have precluded burning.

A decision not to grant an extension when the above conditions are met will be made only when the extension would result in intolerable resource management or protection problems, or cause environmental damage, which cannot be corrected or prevented by contract modification.

*Timber sale contracts for sales made on or after January 1, 1978, shall authorize contract term extensions only if the purchaser has met the following conditions, unless the Chief finds that there is an overriding public interest which justifies the extension.

1. Specified roads needed by the Purchaser for removal of all included timber in accordance with his approved plan of operations were constructed and accepted by the Forest Service prior to the applicable road completion date.

2. At least 75 percent of the advertised volume has been cut, removed from the sale area, and presented for scaling.

3. Operations to date have been in reasonable compliance with contract terms and the approved plan of operations.

4. Contractual requirements, such as snag felling, erosion control, and slash disposal, have been accepted on the area cutover, except for areas where logging is currently in progress. Purchaser's burning of current slash or grass seeding of disturbed areas may be waived as a prerequisite for extension, if weather conditions or other factors have delayed these activities.

A decision not to grant an extension when the above criteria are met will be made only when the extension would result in intolerable resource management or protection problems, or cause environmental damage which cannot be corrected or prevented by contract modification.

(b) *Waiver of extension criteria.* Wood product markets are highly volatile with wide fluctuations in price and demand. These fluctuations are normally in re-

sponse to major changes in the Nation's economy, such as expansion or contraction of the housing market. Individual timber sale purchasers can exercise little control over such market changes, yet the changes can have significant impacts on industry-wide production and the individual purchaser's ability to sucessfully market products produced from National Forest timber.

The terms of most timber sales are long enough to provide the purchaser with flexibility to respond to normal fluctuations in market conditions. There are, however, occasional drastic reductions in market demand which can preclude successful operation of relatively short-term sales (contract period two years or less). It is not in the public interest to force uneconomic operation of such sales nor to allow such sales to be defaulted. Therefore, contracts for sales of two years or less sold after January 1, 1978, shall authorize waiver of the extension criteria set forth above when the Chief determines that a drastic decline in industry-wide production has occurred which has seriously affected markets for products expected to be produced.

In order to provide an equitable basis to reflect such situations, the timber management staff in the Washington Office will maintain data to monitor and identify when rapid and significant production declines occur. Quarterly average production rates and rolling four-quarter averages will be maintained for major forest product commodities. The Chief will notify Regional Foresters that extension criteria may be waived for short-term sales whenever the quarterly average production drops 15 percent or more below the four-quarter average or if the quarterly average drops ten percent or more below the rolling four-quarter average and remains below for two or more quarters. The above criteria notwithstanding, the Chief may authorize extensions of a timber sale contract when he determines such action is justified by a substantial overriding public interest (36 CFR 223.8)".

(c) *Extension in conjunction with modification of contract to prevent environmental or resource damage.* When a modification (2433.23) of contract to prevent environmental or resource damage cannot be executed prior to the start of an ensuing operating period, and purchaser's timber harvest operations on the timber involved in the modification are delayed, an extension of the contract term may be necessary. The following guidelines are established for determining the period of contract extension.

1. Consider all factors relating to the harvest of the timber involved in the environmental modification including the timber involved in procurement, scheduling, move-in, and use of equipment (types) other than that contemplated in the original sale. If the "final" modification is executed after the midway date of a normal logging season, disregard the remainder of that logging season in establishing the time needed to harvest the timber involved in the environmental modification.

2. The period time for harvest of the timber volume involved in the contract modification to prevent environmental or resource damage must recognize any changes in harvest methods which could reduce production rates used to establish the original contract term. Estimate the rate of production for the harvest methods specified in the modification, volumes to be cut per acre, road construction needed, and any other variables affecting the establishment of a logical contract period.

3. Estimated production rates for the volume involved in the environmental modification and other considerations included in item No. 2 above will be used to calculate the time needed to complete the harvest of the timber involved in the modification.

4. Using the period of time calculated in No. 3 above, determine if there is sufficient time remaining under the original contract term to harvest the timber involved in the environmental modification. If not, extend the contract term to fully provide for the changed conditions of the modified sale and any time lost by the purchaser while the Forest Service was preparing the modification. In estimating the time required to complete the sale it is advisable to consult the Purchaser.

(d) *Early extensions.* Even though the termination date is not imminent, "early extension" may be granted when appropriate, whether or not the above conditions have been met. An early extension may be granted only when the approving officer determines that it is in the interest of the United States to permit a purchaser to interrupt or reduce operations on National Forest timber so that he may log other timber which is more urgently in need of harvesting, for example, salvage of fire-killed or insect-threatened timber. When the purchaser cannot operate the subject National Forest timber at the rate required to complete the contract by the termination date, and at the same time operate the other timber that is more urgently in need of harvesting, additional time may be granted for operating the subject National Forest timber. An extension may be executed at the time operations are initiated on the timber more urgently needing cutting.

When the timber more urgently in need of cutting is National Forest timber, an early extension need be processed only for sales on contract form 2400–2. Such an extension should be granted only where the intent to do so has been stated in the prospectus for the timber in more urgent need of harvesting. For sales on forms 2400–5 and 2400–6, contract term adjustments may be granted (FSM 2433.-11).

When other than National Forest timber is more urgently in need of harvesting the early extension procedure must be followed regardless of contract form.

(1) *Restrictions.* Extensions to permit harvesting of other than National Forest timber should be granted only when:

(a) Substantial timber quantities or values are involved,

(b) In the case of other public timber the managing agency has requested Forest Service cooperation, or

(c) In the case of private timber, when failure to harvest it promptly will "result in significant resource loss or create a threat of an insect epidemic,"

(d) The purchaser presents an acceptable "plan of operations for completing the sale to be extended."

Good judgement is required in determining the proper lengths of early extensions to avoid either excessive or inadequate periods.

Where indicated by the facts, it is reasonable to provide some slack time in the extension period to cover unforeseen difficulties, such as slower production or greater volume than expected. Because specific situations vary widely, no hard and fast rules can be applied. "The purchaser's plan of operations should be used as a guide."

(2) *Procedure for urgent removal sales.* During the sale preparation phase of sales requiring urgent removal, a decision must be made of whether or not early extension or contract term adjustment on other sales will be granted to operators who purchase the sales. If the decision is to grant such extensions, the prospectus for such sales should clearly state that such extensions may be granted and in addition should state:

(a) The specific geographic area which will be considered for granting extensions on existing sales,

(b) That a showing of impact on existing sales is a prerequisite to granting early extension,

(c) Specific classes of sales (such as salvage sales) which will not be considered for early extension,

(d) That the number of days of contract term adjustment or early extension a purchaser may expect to be granted will be calculated on a case by case basis and will reflect the time lost in logging the salvage sales.

The specific sales to be extended and the time granted should be agreed upon as soon after bidding as possible. To expedite this process the award letter to successful bidders (except for bidders with no existing sales) would contain a paragraph similar to the following:

"As stated in the prospectus for this sale, we are willing to consider early extension or contract term adjustment on green sales to allow time for logging the timber in this sale which is in urgent need of removal. To qualify for these extensions you must submit your request for adjustments within 30 days of receipt of this letter. The request should list which sales you want extended, the number of days requested by sale, and how the existing sales would be impacted by logging this sale."

When the logger has submitted his list of sales, they will be checked against the criteria listed in the prospectus. If they meet these criteria the early extension (or contract term adjustment) will normally be granted unless there is clear

evidence that there will be no impact from the urgent removal cutting. If there are sales on the list which do not qualify, the purchaser should be advised promptly and asked to revise his list accordingly. It is highly desirable that the early extensions be granted prior to the commencement of logging on sales involving timber in urgent need of removal.

As indicated above, a showing of impact on existing sales must be made. However, impacts should not be limited to physical limitations on log storage, or physical moving of men and equipment. Transfers of capital, inventory limitations established for fiscal purposes, and similar indirect impacts should also be considered.

2451.82—Period of contract (B8.2, A19). Add the following to replace the material following the first two paragraphs in FSM:

Regional Foresters will provide guidelines to assure reasonable consistency in establishment of contract lengths. The guidelines should recognize the need for variation in sale periods to reflect differences in factors such as required road construction, climate, and special operating requirements.

Contract periods will be established with consideration of the size and type of offering. Contract periods should provide time for well planned operations by typical operators within the local area. Sale periods must provide adequate time for completion of logging and other contractual obligations after construction of specified roads by the Forest Service, should the bidder so elect. Contract lengths should be set with recognition that an adequate volume of timber under contract is essential to provide the purchaser a basis for financing his operation, planning his timber supply needs, and reasonable flexibility to respond to market fluctuations. On the other hand, a continuous flow of National Forest timber onto the market is desirable, and sale periods should not be so long as to encourage speculative buying.

Guidelines adopted by Regional Foresters should recognize that variation from established guides may be appropriate in the following circumstances:

1. Additional time should be considered for such special requirements or conditions as extensive road construction, special logging systems, the need to avoid peak recreation periods, and requirements for time-consuming work, such as yarding unutilized material. Some sales are well suited for winter or early spring logging. Consideration should be given to allowing additional seasons for these sales in order to make operable area available when other areas may be closed. Additional operating seasons may also be necessary for high elevation sales with abnormally short operating seasons. Sales where construction of access road is not by purchaser should be withheld from sale until access is ensured rather than establishing a longer period of contract.

2. Shorter sale periods should be considered for salvage sales to minimized timber deterioration or sales where prompt removal is necessary to prevent the spread of insects. Shorter sale periods may also be appropriate when necessary to meet clearing deadlines in connection with development projects. When shorter sale periods are established, potential bidders shall be apprised of this condition in the prospectus.

3. Sales of products for which markets are not assured, such as pulpwood, bolts, or poles, should be given special consideration.

4. Sales in heavily competitive areas which do not require road construction should generally be of shorter duration than sales requiring road construction.

The following are proposed National C Provisions to be added to new timber sale contracts.

C8.231—Conditions for contract term extensions (Proposed). Forest Service may grant Purchaser's written request for Contract Term Extension if all of the following conditions have been met by Purchaser at time of Purchaser's request:

(a) At least 75 percent of estimated volume in A2 has been cut, removed from Sale Area, and presented for scaling.

(b) Specified Roads needed by Purchaser for removal of all Included Timber in accordance with his approved plan of operations under C6.3 were constructed and accepted by Forest Service prior to the applicable road completion date shown in C5.101.

(c) Purchaser's Operations to date have been in reasonable compliance with contract terms and the approved plan of operations under C6.3.

(d) All contractual requirements have been met by Purchaser and accepted by Forest Service on area cutover at time of Purchaser's request except for areas where logging is in progress at time of Purchaser's request. Purchaser's burning of current slash, or seeding or planting for erosion control, may be temporarily waived if weather or other considerations make such work currently impractical.

Instructions: Use in all new 2400-6 contracts.

CT8.231—Conditions for Contract Term Extension (Proposed). Forest Service may grant Purchaser's written request for Contract Term Extension if all of the following conditions have been met by Purchaser at time of Purchaser's request:

(a) At least 75 percent of estimated volume in AT2 has been cut, paid for, and removed from Sale Area.

(b) Specified Roads needed by Purchaser for removal of all Included Timber in accordance with his approved plan of operations under CT6.3 were constructed and accepted by Forest Service prior to the applicable road completion date shown in CT5.101.

(c) Purchaser's Operations to date have been in reasonable compliance with contract terms and the approved plan of operations under CT6.3.

(d) All contractual requirements have been met by Purchaser and accepted by Forest Service on area cutover at time of Purchaser's request except for areas where logging is in progress at time of Purchaser's request. Purchaser's burning of current slash, or seeding or planting for erosion control, may be temporarily waived if weather or other considerations make such work currently impractical.

Instructions: Use in all new 2400-6T contracts.

* * * * *

Following is a copy of graphs referred to in FSM 2433.12(1)(b).

M. RUPERT CUTLER,
Assistant Secretary.

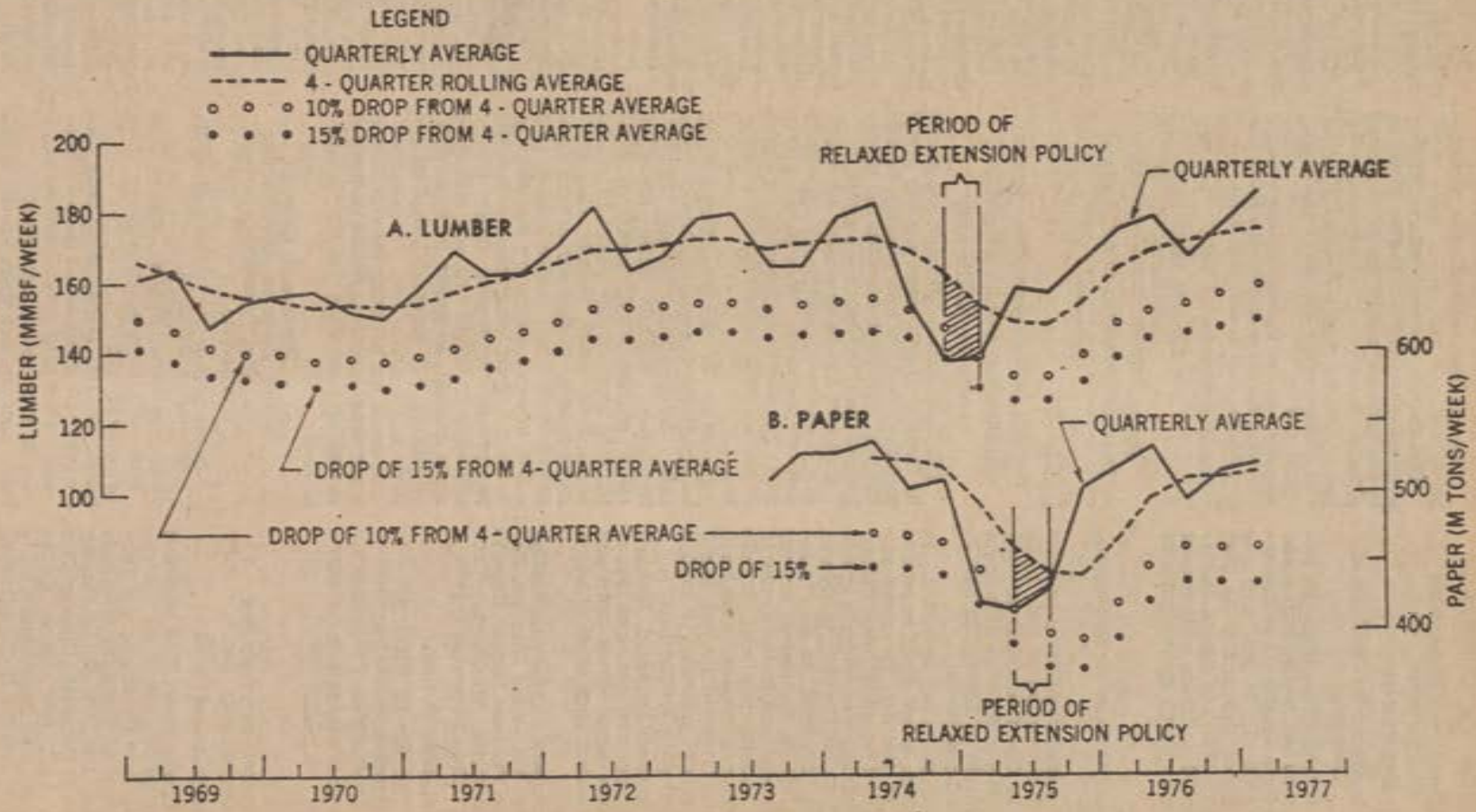
SEPTEMBER 29, 1977.

Exhibit 1

AVERAGE WEEKLY PRODUCTION RATES 1969 - 1977

A. LUMBER (COAST & INLAND MILLS) (WWPA)

B. PAPER (A.P.I.)



[FR Doc.77-29218 Filed 10-4-77;8:45 am]

[3510-12]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

SPORTSMAN

Receipt of Application for Certificate of Exemption

Notice is hereby given that the following applicant has applied in due and timely form for a Certificate of Exemption under Pub. L. 94-359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

Applicant:

The Sportsman, 184 Pierce St., Birmingham, Mich. 48011.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States; (ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity any such species part; (iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products consisting of 14 jewelry items, one carved whale tooth and seven items carved from slices of whale teeth.

Written comments on this application may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before November 4, 1977.

Dated: September 30, 1977.

MORRIS M. PALLIZZI,
Acting Associate Director for Fisheries Management.

[FR Doc.77-29263 Filed 10-4-77;8:45 am]

[3510-12]

TWENTIETH CENTURY-FOX MARINELAND, INC.

Modification of Permit

Notice is hereby given that, pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Public Display Permit issued to Twentieth Century-Fox Marineland, Inc., 6600 Palos Verdes Drive South, Rancho Palos Verdes, California 90274, is modified in the following manner:

The period of validity, during which the authorized marine mammal may be taken, is extended from December 31, 1977, to December 31, 1978.

This modification is effective on October 5, 1977.

The Permit, as modified, and documentation pertaining to the modification is available for reivew in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven St. NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry St., Terminal Island, Calif. 90731.

Dated: September 19, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-29264 Filed 10-4-77;8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $3.50 ($7.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPLnumber. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent application 758,879: Fusible Heat Sink for a Cryogenic Refrigerator; filed January 12, 1977.

Patent 4,005,144: Ethynyl-Substituted Aromatic Ortho Diamines and Method of Synthesis. Filed April 9, 1976, patented January 25, 1977; not available NTIS.

Patent 4,005,327: Low Beam Velocity Retina for Schottky Infrared Vidicons; filed October 28, 1975, patented January 25, 1977, not available NTIS.

Patent 4,005,366: System to Simulate Motion and Plasma Induced Signal Variations from Reentry Vehicles; filed August 18, 1975, patented January 25, 1977; not available NTIS.

Patent 4,005,378: Surface Acoustic Wave Filter; filed November 25, 1975, patented January 25, 1977; not available NTIS.

Patent 4,005,399: Impedance Sensitive Power Line Intrusion Alarm System; filed February 14, 1975, patented January 25, 1977; not available NTIS.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3,957,031: Light Collectors in Cylindrical Geometry; filed May 29, 1975, patented May 18, 1976; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 712,416: Polymer-Bound Metallocarborane Catalyst; filed August 6, 1976.

Patent application 736,902: Photometric Method and Apparatus for Measuring Packing Fraction of Terminated Fiber Optic Cables; filed October 29, 1976.

Patent application 737,807: On Line Electro-Optic Modulator; filed November 1, 1976.

Patent application 747,590: Low-Loss Single Filament Fiber Optic Connector; filed December 6, 1976.

Patent application 749,935: Desensitizer for N-Propyl Nitrate; filed December 13, 1976.

Patent application 753,646: Microstrip Hybrid Ring Coupler; filed December 20, 1976.

Patent application 756,575: Method and Means of Link Coupling with Separate Control of Link Reactance and Coupling Coefficient; filed January 3, 1977.

Patent application 757,429: Fourier Power Spectra of Optical Images using CCD's; filed January 6, 1977.

Patent application 758,624: Complex Photodichroic Spatial Filter; filed January 12, 1977.

Patent application 759,970: Non-Linear Analog-to-Digital Converter; filed January 17, 1977.

Patent application 761,749: A Method of Manufacturing Three Dimensional Integrated Circuits; filed January 23, 1977.

Patent 3,893,332: Leakage Test System; filed February 21, 1974, patented July 8, 1975; not available NTIS.

Patent 3,913,107: Noise Cancelling Magnetic Antenna for Use with Watercraft; filed September 6, 1974, patented October 14, 1975; not available NTIS.

Patent 3,938,888: Automated Precision Flame-Emission Photometric Apparatus; filed February 3, 1975, patented February 17, 1976; not available NTIS.

Patent 3,958,176: Method for Measuring Suitability of Aluminum for Use in Certain Propellants; filed February 24, 1975, patented May 18, 1976; not available NTIS.

Patent 3,961,169: Based-Bit Generator; filed March 25, 1975, patented June 1, 1976; not available NTIS.

Patent 3,963,310: Liquid Crystal Waveguide; filed August 20, 1973, patented June 15, 1976; not available NTIS.

Patent 3,968,126: Ferrocene Derivatives and Their Preparation, filed March 22, 1974, patented July 6, 1976; not available NTIS.

Patent 3,976,596: Hydridometallic Carborane Catalytic Compounds; filed March 26, 1975; patented August 24, 1976; not available NTIS.

Patent 3,983,832: Planing Ski Conversion to Stand-Off Armor; filed July 18, 1975, patented October 5, 1976; not available NTIS.

Patent 3,988,682: Voltage Ramp Temperature Controller; filed June 23, 1975, patented October 26, 1976; not available NTIS.

Patent 3,988,778: System for Random, Time Accurate Access to Recorded Material; filed February 10, 1975, patented October 26, 1976; not available NTIS.

Patent 3,988,888: Filter/Cooler; filed June 14, 1974, patented November 2, 1976; not available NTIS.

Patent 3,992,683: Optically Pumped Collision Laser in Hg at 546.1 NM; filed May 28, 1976, patented November 16, 1976; not available NTIS.

Patent 3,994,696: Aluminum Soap Demisting Agent in Jet Fuel; filed May 22, 1975; patented November 30, 1976; not available NTIS.

Patent 3,995,155: Integrated Optical Data Bus Coupler; filed June 6, 1975; patented November 30, 1976; not available NTIS.

Patent 3,995,311: Optical Logic Elements; filed Septmeber 22, 1975; patented November 30, 1976; not available NTIS.

Patent 3,995,957: Internally Referenced, Laser Intracavity Technique for Measuring Small Gains or Losses; filed October 16, 1975; patented December 7, 1976; not available NTIS.

Patent 3,996,484: Interactive Negative Resistance Multiple-Stable State Device; filed September 5, 1975; patented December 7, 1976; not available NTIS.

Patent 3,996,525: Acousto-Optically Tuned Laser; filed May 12, 1975; patented December 7, 1976; not available NTIS.

Patent 3,999,083: Automatic Threshold Circuit; filed March 31, 1975; patented December 21, 1976; not available NTIS.

Patent 3,999,301: Reticle-Lens System; filed July 24, 1975; patented December 28, 1976; not available NTIS.

Patent 4,001,726: High Accuracy Sweep Oscillator System; filed January 23, 1976; patented January 4, 1977; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 658,487: Improved Nozzle for Use with Abrasive and/or Corrosive Materials; filed February 17, 1976.

Patent application 760,771: Improved Backwall Cell; filed January 19, 1977.

Patent application 767,912: Preparation of Dielectric Coatings of Variable Dielectric Constant by Plasma Polymerization; filed February 11, 1977.

Patent application 776,869: Solar Cell Collector and Method for Producing Same; filed February 22, 1977.

Patent 3,999,886: Hingeless Helicopter Rotor with Improved Stability; patented December 28, 1976; not available NTIS.

Patent 4,000,929: Magnetic Bearing System; patented January 4, 1977; not available NTIS.

Patent 4,005,574: Reverse Pitch Fan with Divided Splitter; patented February 1, 1977; not available NTIS.

[FR Doc.77-29242 Filed 10-4-77;8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

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Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent 4,005,363: Range Resolving Ground Line Sensor; filed October 22, 1974; patented January 25, 1977; not available NTIS.

Patent 4,005,414: Method for Providing Means to Eliminate Ambiguous Polarization Effects on Phase and Amplitude of Radar Backscatter Due to Unknown Target Aspect Angle; filed June 24, 1975; patented January 25, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Management Branch, General Services Division, Federal Bldg., Agricultural Research Service, Hyattsville, Md. 20782.

Patent 4,002,769: Insect Maturation Inhibitors; filed August 1, 1975; patented January 11, 1977; not available NTIS.

U.S. ENVIRONMENTAL PROTECTION AGENCY, Room W513, 401 M St., SW., Washington, D.C. 20460.

Patent 3,857,777: Ion Exchange Membrane for Measuring Orthophosphate; filed August 10, 1973; patented December 31, 1974; not available NTIS.

Patent 3,994,822: Polarization Excitation Device for X-Ray Fluorescence Analysis; filed September 30, 1974; patented March 16, 1976; not available NTIS.

Patent 3,948,769: Ligand Exchange Process for Removal of Ammonia; filed April 8, 1974; patented April 6, 1976; not available NTIS.

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Bldg., Bethesda, Md. 20014.

Patent application 734,129: Homocysteine Thiolactone Perchlorate and a Method of Making Same; filed October 20, 1976.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets, NW., Washington, D.C. 20240.

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Patent application 749,583: Beneficiation of Olivine Foundry Sand by Differential Attrition Grinding; December 12, 1976.

Patent application 749,586: Foam Injection Leaching Process for Fragmented Ore; filed December 10, 1976.

Patent 4,002,428: Deductive Method for Measuring Ion Concentration Electrically; filed May 21, 1976; patented January 11, 1977; not available NTIS.

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U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

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Patent application 747,461: Sealant-Primer Coating; filed December 13, 1976.

Patent application 750,087: Prosthetic Implant Suitable for the Plateau of a Joint, and Method of Making the Same; filed December 13, 1976.

Patent application 751,308: Soft abrasive disc; filed December 16, 1976.

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Patent 3,937,951: All-Sky Photoelectric Lightning Detector Apparatus; filed December 9, 1974; patented February 10, 1976; not available NTIS.

Patent 3,961,964: Coating Composition for Suppressing Combustion of Titanium Metal; filed October 24, 1973; patented June 8, 1976; not available NTIS.

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Patent 3,992,976: Liquid Propellant Gun; filed September 12, 1975; patented November 23, 1976; not available NTIS.

Patent 3,992,997: Warhead Casing; filed March 31, 1975; patented November 23, 1976; not available NTIS.

Patent 3,992,998: Warhead, Penetrating Nose Shape; filed February 10, 1975; patented November 23, 1976; not available NTIS.

Patent 3,994,231: Guided Missile Warhead Fuze; filed December 8, 1971; patented November 30, 1976; not available NTIS.

Patent 3,994,895: Product and Process for Protecting Split Line of a Movable Nozzle; filed October 21, 1974; patented November 30, 1976; not available NTIS.

Patent 3,997,914: Analog Encoder Decoder Circuit. Filed February 2, 1976, patented December 14, 1976; not available NTIS.

Patent 3,998,124: Bomb Rack Arming Unit; filed June 2, 1975; patented December 21, 1976; not available NTIS.

Patent 3,998,408: Remote Elevated Platform; filed February 19, 1976; patented December 21, 1976; not available NTIS.

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Patent 4,005,357: Electrostatic Field Sensor; filed February 13, 1976; patented January 25, 1977; not available NTIS.

Patent 4,005,423: Synthetic Aperture Radar Utilizing a Low-Speed Analog-to-Digital Converter; filed July 9, 1975; patented January 25, 1977; not available NTIS.

TENNESSEE VALLEY AUTHORITY, Division of Law, Muscle Shoals, Ala. 35660.

Patent 4,017,589: Production of Ammonium Polyphosphates from Melamine Phosphates; filed March 17, 1976; patented April 12, 1977; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 564,622: Improvement in Combusion Engine; filed April 2, 1975.
Patent application 694,407: A Reverse Osmosis Membrane of High Urea Rejection Properties; filed June 9, 1976.
Patent application 750,798: Process for Purification of Waste Water Produced by a Kraft Process Pulp and Paper Mill; filed December 15, 1976.
Patent application 755,310: A Method for Aerosol Analysis by Thermolumiescence; filed December 29, 1976.
Patent application 760,795: Detection of Microbian Infection in Blood and Antibiotic Determinations; filed January 19, 1977.
Patent application 763,753: In-Situ Laser Retorting of Oil Shale; filed January 28, 1977.
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Patent application 772,165: Simulator for Practicing the Mating of an Observer-Controlled Object with a Target; filed February 25, 1977.
Patent application 772,167: Device for the Detection of Phenol and Related Compounds; filed February 25, 1977.
Patent application 776,029: Apparatus and Method for Reducing Thermal Stress in a Turbine Rotor; Filed March 4, 1977.
Patent application 776,146: Formulated Plastice Separators for Soluble Electrode Cells; filed March 10, 1977.
Patent 4,003,257: Analysis of Volatile Organic Compounds; patented January 18, 1977; not available NTIS.
Patent 4,007,434: Notch Filter; patented February 8, 1977; not available NTIS.
Patent 4,007,891: The Engine Air Intake System; patented February 15, 1977; not available NTIS.
Patent 4,008,348: Particulate and Solar Radiation Stable Coating for Spacecraft; patented February 15, 1977; not available NTIS.

[FR Doc.77-29243 Filed 10-4-77;8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $3.50 ($7 outside North American Continent). Requests for copies of patent applications must include the PAT-APPLnumber. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Reqests for licensing information on a particlar invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, OFFICE OF JUDGE ADVOCATE GENERAL, PATENT DIVISION, ROOM 2C-455, PENTAGON, WASHINGTON, D.C. 20310.

Patent 3,953,853: Passive Microwave Power Distribution Systems; filed June 25, 1974; patented April 27, 1976; not available NTIS.
Patent 3,959,794: Semiconductor Waveguide Antenna with Diode Control for Scanning; filed September 26, 1975; patented May 25, 1976; not available NTIS.
Patent 3,968,458: Microwave Power Reflector using Edge-Guided Mode; filed September 26, 1975; patented July 6, 1976; not available NTIS.
Patent 3,971,536: Combined Helicopter Flight Controller; filed June 10, 1975; patented July 27, 1976; not available NTIS.
Patent 3,971,618: Holding Device for Measuring the Capacity of Small Electrical Components; filed March 20, 1975; patented July 27, 1976; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, RESEARCH AGREEMENTS AND PATENT MGMT. BRANCH, GENERAL SERVICES DIVISION, FEDERAL BLDG., AGRICULTURAL RESEARCH SERVICE, HYATTSVILLE, MD. 20782.

Patent 2,981,738: Gluten Washing and Dewatering Device; filed February 18, 1976; patented September 21, 1976; not available NTIS.
Patent 4,011,752: Adaptive Speed and Direction Analyzer; filed February 6, 1976; patented March 15, 1977; not available NTIS.
Patent 4,018,755: Extraction of Proteins from Vegetable Seed Compositions; filed May 12, 1975; patented April 19, 1977; not available NTIS.

U.S. ENVIRONMENTAL PROTECTION AGENCY, ROOM W513, 401 M ST., SW., WASHINGTON, D.C. 20545.

Patent application 685,569: Wastewater Disposal System; filed May 12, 1976.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Bldg., Bethesda, Md. 20014.

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U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

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Patent applicant 751,402: Clog-Free Inorganic Grout Emplacement Gun; filed December 16, 1976.
Patent 4,000,067: Method for Rapid Sedimentation of Fine Particles from Suspensions; filed May 21, 1976; patented December 28, 1976; not aavilable NTIS.
Patent 4,002,563: Regular Copolyamides as Desalination Membranes; filed May 23, 1975; patented January 11, 1977; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

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Patent application 685,867: Magnetostrictive Transducer; filed May 12, 1976.
Patent application 689,894: Cable Brake and Lock; filed May 25, 1976.
Patent application 696,952: Variable Jet Nozzle with Balanced Two Dimensional Blocker Flap; filed April 14, 1976.
Patent application 720,310: Igniter; filed September 3, 1976.
Patent 3,940,607: Photo-Electric Lightning Detector Apparatus; filed December 9, 1974; patented February 24, 1976; not available NTIS.
Patent 3,949,682: Towling Thermal Protection System; filed June 10, 1974; patented April 13, 1976; not available NTIS.
Patent 3,990,345: Intervalometer; filed June 24, 1974; patented November 9, 1976; not available NTIS.
Patent 3,992,666: Technique for Detecting Energy and Determining the Frequency of Constituent Energy Components; filed January 27, 1975; patented November 16, 1976; not available NTIS.
Patent 4,000,757: High Gain Fluid Amplifier; filed December 4, 1975; patented January 4, 1977; not available NTIS.
Patent 4,003,458: Fail Safe Centrifugal Clutch; filed July 31, 1975; patented January 18, 1977; not available NTIS.
Patent 4,007,437: Acoustic Foghorn for Directional Signaling; filed August 20, 1975; patented February 8, 1977; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 775,239: Automatically Lockable Axially Extensible Strut; filed March 7, 1977.
Patent 4,004,292: System for Producing Chroma Signals; patented January 18, 1977; not available NTIS.
Patent 4,007,623: Spring Operated Accelerator and Constant Force Spring Mechanism Therefor; patented February 15, 1977; not available NTIS.
Patent 4,008,407: Nuclear Thermionic Converter; patented February 15, 1977; not available NTIS.

[FR Doc.77-29244 Filed 10-4-77;8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

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interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator
National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, OFFICE OF JUDGE ADVOCATE GENERAL, PATENT DIVISION, ROOM 2C-455, PENTAGON, WASHINGTON, D.C. 20310.

Patent 3,943,517: Adaptive Polarization Receiving System; filed October 29, 1974; patented March 9, 1976; not available NTIS.

Patent 3,967,444: Technique for Preventing Afterburning of the Inert Components of Solid-Propelled Rocket Motors by Using Formamidinesulfinic Acid in the Binder of the Inert Components; filed September 30, 1974, patented July 6, 1976; not available NTIS.

Patent 3,968,378: Electron Beam Driven Neutron Generator; filed June 11, 1974; patented July 6, 1976; not available NTIS.

Patent 3,968,411: Transmitter-Receiver Protection Device; filed March 27, 1975; patented July 6, 1976; not available NTIS.

Patent 3,968,724: Method for Accurately Varying the Density of a Powder or Powder Charge and Shrink Tubes for Use Therewith; filed October 3, 1974; patented July 13, 1976; not available NTIS.

Patent 3,969,628: Intense, Energetic Electron Beam Assisted X-Ray Generator; filed April 4, 1974; patented July 13, 1976; not available NTIS.

Patent 3,971,257: Laminar Jet Linear Accelerometer; filed August 14, 1975; patented July 27, 1976; not available NTIS.

Patent 3,971,989: Method and System for Absolute Measurement of Noise Power at All Radio Frequencies; filed May 21, 1975; patented July 27, 1976; not available NTIS.

Patent 3,975,292: Method of Screening Infra-Red Radiation; filed October 1, 1963; patented August 17, 1976; not available NTIS.

Patent 3,980,103: Fluidic Resistive Element; filed November 7, 1975; patented September 14, 1976; not available NTIS.

Patent 3,980,880: Automatic Exposure Control Circuit for an Image Intensifier Camera; filed April 4, 1974; patented September 14, 1976; not available NTIS.

Patent 3,982,219: Digital Pressure/Range Transducer; filed February 19, 1975; patented September 21, 1976; not available NTIS.

Patent 3,982,244: Radar Antenna, Monopulse Comparator Network and Mixer Simulator; filed June 30, 1975; patented September 21, 1976; not available NTIS.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent 4,006,479: Method for Dispersing Metallic Particles in a Dielectric Binder; filed February 4, 1969; patented February 1, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Mgmt. Branch, General Services Division, Federal Bldg., Agricultural Research Service, Hyattsville, Md. 20782.

Patent 3,983,746: Road Roughness Meter; filed August 14, 1975; patented October 5, 1976; not available NTIS.

U.S. ENVIRONMENTAL PROTECTION AGENCY, Room W513, 401 M St., SW., Washington, D.C. 20460.

Patent 3, 886, 694: Ascension Pipe Cleaning Apparatus with Self-Indexing Suspension; filed September 26, 1974; patented June 3, 1975; not available NTIS.

Patent 3,960,732: System for Dewatering Dilute Slurries; filed November 1, 1974; patented June 1, 1976; not available NTIS.

Patent 3,976,457: In-Stack Filter Cell; filed August 13, 1975; patented August 24, 1976; not available NTIS.

Patent 4,012,822: System for Sealing and Repairing Leaks in Ruptured Containers. March 22, 1977; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Bldg., Bethesda, Md. 20014.

Patent application 753,945: Method and Apparatus for Air Caloric Testing for the Evaluation of Aural Vestibular Disorders; filed December 23, 1976.

Patent 3,993,064: One-Handed Syringe; filed March 27, 1975; patented November 23, 1976; not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

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Patent application 755,916: Window Method for Measuring Leakage; filed December 30, 1976.

Patent application 755,917: Borehole Aerostatic Ground Support System; filed December 30, 1976.

Patent 3,999,980: Fluxless Recovery of Metallic Aluminum from Wastes; filed May 9, 1975; patented December 28, 1976; not available NTIS.

Patent 4,000,621: Remote Sealing of Mine Passages Containing Flowing Water; filed June 19, 1975; patented January 4, 1977; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

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Patent 3,922,104: Tension Link Control Device; filed September 20, 1974; patented November 25, 1975; not available NTIS.

Patent 3,983,636: Hydraulic Fluidic Level Control System; filed June 19, 1975, patented October 5, 1976; not available NTIS.

Patent 3,985,446: Remote Controlled, CRT Digital Display, LLLTV Camera-Sextant; filed August 27, 1974; patented October 12, 1976; not available NTIS.

Patent 3,986,021: Passive Solar Tracking System for Steerable Fresnel Elements; filed October 24, 1975; patented October 12, 1976; not available NTIS.

Patent 3,986,116: Transient Source and Direction of Propagation-Detector; filed January 27, 1975; patented October 12, 1976; not available NTIS.

Patent 3,986,122: Reliable Communications System; filed May 22, 1962; patented October 12, 1976; not available NTIS.

Patent 3,991,383: Franz-Keldysh Effect Tuned Laser; filed March 28, 1975; patented November 9, 1976; not available NTIS.

Patent 3,991,387: Method and Device for Synchronous Generation and Amplification of Tunable VUV Laser Radiation; filed November 19, 1975; patented November 9, 1976; not available NTIS.

Patent 3,992,079: Frequency Tunable Acoustooptic Mode Filter; filed December 11, 1975; patented November 16, 1976; not available NTIS.

Patent 3,992,613: TACAN Flying Target Control System; filed October 3, 1975; patented November 16, 1976; not available NTIS.

Patent 3,992,619: Optical Scanner; filed June 23, 1975; patented November 16, 1976; not available NTIS.

Patent 3,992,692: Programmable Underwater Acoustic Beacon; filed July 23, 1975; patented November 16, 1976; not available NTIS.

Patent 3,999,870: Inflatable Roadway; filed June 16, 1975; patented December 28, 1976; not available NTIS.

Patent 4,000,613: Dual Mode Fluid Management System; filed February 13, 1975; patented January 4, 1977; not available NTIS.

Patent 4,002,962: Phase Locked Servo Loop Circuit; filed October 1, 1973; patented January 11, 1977; not available NTIS.

Patent 4,004,764: Drogue Chute Extraction; filed May 13, 1974; patented January 25, 1977; not available NTIS.

Patent 4,004,948: Paint-On Thermocouple; filed May 29, 1975; patented January 25, 1977; not available NTIS.

Patent 4,007,437: Acoustic Foghorn for Directional Signaling; filed August 20, 1975, patented February 8, 1977; not available NTIS.

Patent 4,008,868: Aircraft Steering and Braking System; filed December 18, 1975; patented February 22, 1977; not available NTIS.

Patent 4,009,323: Storage Battery Comprising Positive Electrode of a Graphite and Lithium Fluoride Compound; filed May 12, 1975; patented February 22, 1977; not available NTIS.

Patent 4,014,022: Target Detection Method and Apparatus for Reducing Range-Smearing Error Caused by Relative Target Motion; filed June 16, 1975; patented March 22, 1977; not available NTIS.

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[3510-04]

GOVERNMENT-OWNED INVENTIONS

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DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20310.

Patent 3,971,854: Method of Producing Freeze-Dried, Cooked Beef Steak and Resulting Product; filed December 22, 1975, patented July 27, 1976; not available NTIS.

Patent 3,976,068: Fiber Acoustic Waveguide and System; filed December 15, 1975; patented August 17, 1976; not available NTIS.

Patent 3,975,756: Gadolinium Doped Germanium; filed June 28, 1974; patented August 17, 1976; not available NTIS.

Patent 3,979,182: Chemical Detection of Nitrogen Containing Compounds; filed April 29, 1969; patented September 7, 1976; not available NTIS.

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National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

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[3510-04]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161, for $3.50 ($7 outside North American Continent). Requests for copies of patent applications must include the PAT-APPLnumber. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

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[3510-04]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

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Patent Program Coordinator, National Technical Information Service.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

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[3510-04]

GOVERNMENT-OWNED INVENTIONS

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Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $3.50 ($7 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent application 776,039: Double Acting Dynamic Seal; filed March 9, 1977.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Mgmt. Branch, General Services Division, Federal Bldg., Agricultural Research Service, Hyattsville, Md. 20782.

Patent application 751,634: Bark Burning System; filed January 10, 1977.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 659,439: Method and Apparatus for Detecting and Measuring Trace Impurities in Flowing Gases; filed February 19, 1976.
Patent application 664,858: Isotope Separation by Photodissociation of Van der Waal's Molecules; filed March 8, 1976.
Patent application 664,859: Solar Radiation Absorbing Material; filed March 8, 1976.
Patent application 665,191: Multiple Fuel Supply System for an Internal Combustion Engine; filed March 9, 1976.
Patent application 666,533: Bearing Assembly and the Like for Use in Corrosive and Non-Corrosive Atmospheres; filed March 15, 1976.
Patent application 668,345: Solar Collector Having a Solid Transmission Medium; filed March 19, 1976.
Patent 3,969,615: Interpolator for Numerically Controlled Machine Tools; filed December 20, 1974; patented July 13, 1976; not available NTIS.
Patent 3,973,075: High Temperature Furnace; filed September 15, 1975; patented August 3, 1976; not available NTIS.
Patent 3,973,152: Ultrasonic Transducer with Laminated Coupling Wedge; filed April 3, 1975; patented August 3, 1976; not available NTIS.
Patent 3,976,569: Water Softening Process; filed February 25, 1975; patented August 24, 1976; not available NTIS.
Patent 3,976,747: Modified Dry Limestone Process for Control of Sulfur Dioxide Emissions; filed June 6, 1975; patented August 24, 1976; not available NTIS.
Patent 3,979,498: Recovery of Cesium and Palladium from Nuclear Reactor Fuel Processing Waste; filed August 6, 1975; patented September 7, 1976; not available NTIS.
Patent 3,981,321: Vehicle Fuel System; filed September 24, 1974; patented September 21, 1976; not available NTIS.
Patent 3,982,526: Turning Collectors for Solar Radiation; filed May 20, 1975, patented September 28, 1976; not available NTIS.
Patent 3,982,838: Compact Fast Analyzer of Rotary Cuvette Type; filed March 12, 1974; patented September 28, 1976; not available NTIS.
Patent 3,983,050: Method for Storage of Solid Waste; filed February 7, 1975; patented September 28, 1976; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 700,675: Radial depressor; filed June 28, 1976.
Patent application 762,084: Radiation Seal and Method; filed January 24, 1977.
Patent application 765,170: 360 Degrees Non-Programmed Visual System; filed February 3, 1977.
Patent application: 770,871: Trinary Pulse-Number Modulation Method; filed February 22, 1977.
Patent application 774,826: An Improved Ultrasonic Focused Transducer; filed March 7, 1977.
Patent application 776,578: Oceanographic Sensor with In-Situ Cleaning and Bio-Fouling Prevention System; filed March 11, 1977.
Patent application 777,225: Zero Temperature Coefficient of Resistance Bi-Film Resistor; filed March 14, 1977.
Patent 3,954,931: Process for Making a Molded Valve Housing for a Prosthetic Limb; filed April 12, 1974; patented May 4, 1976; not available NTIS.

Patent 3,983,501: Hybrid Tracking Loop for Detecting Phase Shift Keyed Signals; filed September 29, 1975; patented September 28, 1976; not available NTIS.

Patent 4,002,834: PCM Synchronization and Multiplexing System; filed December 9, 1974; patented January 11, 1977; not available NTIS.

Patent 4,005,282: Decometer; filed September 25, 1975; patented January 25, 1977; not available NTIS.

Patent 4,009,231: Powder Barrier Bonding Technique; filed March 20, 1975; patented February 22, 1977; not available NTIS.

Patent 4,017,859: Multi-Path Signal Enhancing Apparatus; filed December 22, 1975; patented April 12, 1977; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 779,428: Flow Compensating Pressure Regulator; filed March 21, 1977.

Patent application 780,729: Digital Automatic Gain Amplifier; filed March 24, 1977.

Patent application 780,930: Portable Breathing System; filed March 24, 1977.

Patent application 782,480: Wide Power Range Microwave Feedback Controller; filed March 29, 1977.

Patent application 782,481: Ocean Thermal Plant; filed March 29, 1977.

Patent Application 782,482: Remote lightning Monitor System; filed March 29, 1977.

Patent application 782,693: Lightning Current Waveform Measuring System; filed March 30, 1977.

Patent application 788,044: Reduced Chromium Stainless Steel Alloys; filed April 15, 1977.

Patent 3,555,483: Cryogenic Liquid Sensor; patented January 12, 1971; not available NTIS.

Patent 3,582,828: Charge Storage Diode Modulators and Demodulators; patented June 1, 1971; not available NTIS.

Patent 3,621,330: Depressurization of Arc Lamps; patented November 16, 1971; not available NTIS.

Patent 3,697,705: Electromagnetic Transducer Recording Head Having a Laminated Core Section and Tapered Gap; patented October 10, 1972; not available NTIS.

Patent 3,711,701: Uniform Variable Light Source; patented January 16, 1973; not available NTIS.

Patent 3,881,132: Compact, High Intensity Arc Lamp with Interral Magnetic Field Producing Means; patented April 29, 1975; not available NTIS.

Patent 4,018,092: Mechanical Sequencer; patented April 19, 1977; not available NTIS.

Patent 4,018,423: Emergency Descent Device; patented April 19, 1977; not available NTIS.

[FR Doc.77-29249 Filed 10-4-77;8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $3.50 ($7 outside North American Continent). Requests for copies of patent applications must include the PAT-APPLnumber. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

Patent application 776,037: Probe Station; filed March 9, 1977.

Patent application 776,387: Plastic/Mischmetal Incendiary Projectile; filed March 10, 1977.

Patent 4,010,921: Spacecraft Closed Loop Three-Axis Momentum Unloading System; filed August 20, 1975; patented March 8, 1977; not available NTIS.

Patent 4,011,452: Antinaroissus Reflector Assembly for Infrared Detector; filed November 6, 1975; patented March 8, 1977; not available NTIS.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3,959,073: Reactor Hold-down Arrangement; filed June 6, 1973; patented May 25, 1976; not available NTIS.

Patent 3,970,936: Telecommunication Using Muon Beams; filed May 29, 1973; patented July 20, 1976; not available NTIS.

Patent 3,970,956: Cylindrical Electron Beam Diode; filed July 24, 1975; patented July 20, 1976; not available NTIS.

Patent 3,973,928: Apparatus for Diffusion Separation; filed January 28, 1949; patented August 10, 1976; not available NTIS.

Patent 3,973,934: Apparatus for Diffusion Seperation; filed February 23, 1949; patented August 10, 1976; not available NTIS.

Patent 3,976,775: Method for Dissolving Plutonium Dioxide; filed May 6, 1975; patented August 24, 1976; not available NTIS.

Patent 3,976,888: Fission Fragment Driven Neutron Source; filed January 23, 1975; patented August 24, 1976; not available NTIS.

Patent 3,981,321: Vehicle Fuel System; filed September 24, 1974; patented September 21, 1976; not available NTIS.

Patent 3,982,928: Seperation of Uranium from (Th,U)O sub 2 Solid Solutions; filed January 3, 1975; patented September 28, 1976; not available NTIS.

Patent 3,983,219: High Purity Polonium Recovery; filed October 1, 1973; patented September 28, 1976; not available NTIS.

Patent 3,983,220: Recovery of Boric Acid from Ion Exchangers; filed November 7, 1974; patented September 28, 1976; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research Code 302, Arlington, Va. 22217.

Patent aplication 700,244: Parachute Deployment and Container System; filed June 28, 1976.

Patent application 743,441: Wide Band Proportional Transducer Array; filed November 19, 1976.

Patent application 743,723: 2,2,7,8-Tetraazaspiro (4.4) nonane, 2,3,7,8-Tetraazaspiro-(4.4) nona-2,7-diene and Derivatives; filed November 22, 1976.

Patent application 747,453: Particulate Sampling Probe; filed December 3, 1976.

Patent application 761,831: Improved Chirped Acousto-Optic & Switch; filed January 24, 1977.

Patent application 770,332: Gradient Index Minature Coupling Lens and Method of Fabrication; filed February 22, 1977.

Patent application 771,041: Doppler Processing Method and Apparatus; filed February 22, 1977.

Patent application 771,715: Knife Edge for Direct Measurement of the Electron Beam of a Scanning Electron Microscope; filed February 24, 1977.

Patent application 772,221: Strobe Light Having Reduced Electromagnetic Radiation; filed February 25, 1977.

Patent aplication 774,285: Hydro-Optic Vibration Detector; filed March 4, 1977.

Patent application 774,366: Liquid Propellant Guns; filed March 30, 1977.

Patent application 778,910: Fast Two Dimensional Fourier Transform Device; filed March 30, 1977.

Patent application 781,243: Integrated Refractive Effects Prediction System; filed March 25, 1977.

Patent application 781,278: Desensitizing Agent for Compositions Containing Crystalline High-Energy Nitrates or Nitrites; filed March 25, 1977.

Patent 3,983,470: Superconducting Apparatus for Generating High Frequency Microwaves; filed August 20, 1975; patented September 28, 1976; not available NTIS.

Patent 4,002,353: Towing Vehicle having a Cart-Hitching Mechanism; filed August 27, 1975; patented January 11, 1977; not available NTIS.

Patent 4,005,927: Broad Bandwidth Optical Modulator and Switch; filed March 10, 1975; patented February 1, 1977; not available NTIS.

Patent 4,006,597: Method for Microwave Transmission Energy with Superconducting Apparatus; filed June 3, 1976; patented February 8, 1977.

Patent 4,007,688: Timed Missile Flight Termination System; filed February 23, 1976; patented February 15, 1977; not available NTIS.

Patent 4,007,700: Multiple Seafloor Storage and Supply System; filed October 28, 1975; patented February 15, 1977; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 692,284: Durable Antistatic Coating for Polymethylmethacrylate; filed June 3, 1976.

Patent application 786,322: A System for Synchronizing Synthesizers of Communication Systems; filed April 11, 1977.

Patent application 788,045: Thermal Insulation Protection Means; filed April 15, 1977.

Patent Application 788,704: Volumetric Direct Nuclear Pumped Laser; filed April 19, 1977.

Patent application 788,705: Nondestructive Method for Instrumenting Helicopter Rotor Blades; filed April 19, 1977.

Patent application 792,067: Composite Lamination Method; filed April 28, 1977.

Patent 3,635,573: Adjustable Chamfering Tool; patented January 18, 1972; not available NTIS.

Patent 4,018,080: Device for Tensioning Test Specimens within an Hermetically Sealed Chamber; patented April 19, 1977; not available NTIS.

Patent 4,018,085: Amplifying Ribbon Extensometer; patented April 19, 1977; not available NTIS.

Patent 4,018,533: Optical Instrument Employing Reticle Having Preselected Visual Response Pattern Formed Thereon; patented April 19, 1977; not available NTIS.

Patent 4,019,179: Method of Locating Persons in Distress; patented April 19, 1977; not available NTIS.

[FR Doc.77-29250 Filed 10-4-77;8:45 am]

[6170-01]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

RETRANSFER AND REPROCESSING OF SPECIAL NUCLEAR MATERIAL OF U.S. ORIGIN

Denial of Petition for Rulemaking

On March 28, 1977 (42 FR 16466), ERDA gave notice that it had received a Petition for Rulemaking 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. By letter dated August 31, 1977 ERDA denied the Petition. Copies of the letter denying the petition are available for inspection at ERDA's Public Document Room, 20 Massachusetts Avenue, N.W., Washington, D.C.

HUDSON B. RAGAN,
Acting General Counsel.

[FR Doc.77-29269 Filed 10-4-77;8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 801-7; OPP-50331]

MISSISSIPPI AUTHORITY FOR CONTROL OF FIRE ANTS

Issuance of Experimental Use Permit and Solicitation of Public Views

The Environmental Protection Agency (EPA) has issued two experimental use permits to the Mississippi Authority for Control of Fire Ants, Jackson, Mississippi 39025. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

Experimental Use Permit No. 38962-EUP-1 allows the use of 0.5 pound of the insecticide dodecachlorooctahydro-1,3,4-metheno-2H-cyclobuta (cd) pentalene (0.05 Mirex Bait 10-5) on clear cut forest areas to evaluate control of imported fire ants. A total of 1,000 acres is involved; the program is authorized only in the State of Mississippi. The experimental use permit is effective from September 2, 1977 to December 31, 1977.

Experimental Use Permit No. 38962-EUP-2 allows the use of approximately 11 pounds of the insecticide dodecachlorooctahydro-1,3,4-metheno - 2H - cyclobuta (cd) pentalene (Ferriamicide Bait) on infested clear cut forest areas to evaluate control of imported fire ants. A total of 5,500 acres is involved; the program is authorized only in the States of Florida and Mississippi. The experimental use permit is effective from September 2, 1977 to October 1, 1978.

The Mississippi Authority for the Control of Fire Ants is the holder of all registrations for Mirex end-use products. With EPA acceptance of its phase-out plan on December 29, 1976, all registered Mirex formulations will be effectively cancelled by December 1, 1977, and all existing stocks of registered Mirex formulations within the United States will not be sold or distributed or used after June 30, 1978.

On August 10, 1977, the Mississippi Authority for Control of Fire Ants requested experimental use permits to use a 0.05% Mirex bait and a 0.025 to 0.1% Ferriamicide Bait (degradeable Mirex). The purpose of the program for the 0.5% Mirex bait (No. 38962-EUP-1) is to obtain efficacy data on the reduced concentration of Mirex formulation, a comparison of 0.05% active ingredient with the registered 0.1% active ingredient formulation. The purpose of the 0.025 to 0.1% Mirex bait (No. 38962-EUP-2) is to determine the efficacy of this degradable Mirex bait formulation and to investigate the bioaccumulation and rate of degradation in the environment.

In light of the Mississippi Authority Plan mentioned above to end all uses of registered Mirex formulations by June 30, 1978, loss of this season's testing would take away the only mechanism with which to gather data necessary to support any new registration requests in time for possible use in the 1978 season. Since Mirex formulations may be used through June 30, 1978, the newly approved use of the 0.05% formulation on 1,000 acres from September through December 1977 and of the Ferriamicide formulation from September 1977 through September 1978 should not increase any possible adverse effect on the environment. Further, the program for the degradable Mirex bait will create data which will enable a determination of the fate of this new compound in the environment to be made.

The Agency is soliciting public comment now rather than prior to issuance of the permits since timing of application was critical to the gathering of data this season.

All interested parties are invited to submit written comments pertinent to these experimental use permits. Comments should be forwarded to the Federal Register Section, Room E-401, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting the submissions. The comments must be received on or before November 4, 1977, and should bear the identifying notation OPP-50331.

All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. during normal working days.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, at the same address mentioned above. It is suggested that such interested persons call 202-755-4854 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: September 29, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-29281 Filed 10-4-77;8:45 am]

[6560-01]

[FRL 801-6]

SCIENCE ADVISORY BOARD EXECUTIVE COMMITTEE

Open Meeting

As required by Pub. L. 92-463, notice is hereby given that a meeting of the Executive Committee of the Environmental Protection Agency's Science Advisory Board will be held beginning at 9 a.m., October 25 and 26, in Room 1101 (West Tower), U.S. Environmental Protection Agency, Waterside Mall, 401 M Street SW., Washington, D.C.

This meeting is a regularly scheduled meeting of the Committee. The Committee will be briefed on selected EPA activities and the activities and reports of other Science Advisory Board Committees; discuss the report of the Study Group on encapsulated pesticides, an approach for the Science Advisory Board to provide advice on anticipatory research for the next budget cycle, approaches for improving the peer review of ORD programs, the formation of a subcommittee to provide the advice required by the Clean Air Act Amendments, the SAB review of Air and Water Monitoring Strategies; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend or submit a paper should contact Dr. Richard M. Dowd, Executive Secretary, of the Executive Committee, 202-755-0263, by c.o.b. October 19, 1977.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

SEPTEMBER 29, 1977.

[FR Doc.77-29282 Filed 10-4-77;8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

PURAC TASK AREA ON TECHNICAL STANDARDS

Meeting

In preparation for the next meeting of the Personal Use Radio Advisory Committee (PURAC), the PURAC Task Area investigating technical standards will meet October 19, 1977 at 9 a.m. in room A110 of the offices of the Federal Communications Commission at 1229 20th Street N.W., Washington, D.C. 20554.

The agenda for the meeting will be to discuss the task's progress in preparing its fact finding report for presentation to the full PURAC.

This meeting is open to the public. Individuals seeking further information about the task area or the meeting should contact the Task Coordinator, Mr. Howard L. Lester, c/o the General Electric Company, Research and Development Center, P.O. Box 43, Schenectady, New York 12301 (518-385-4043).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-29258 Filed 10-4-77;8:45 am]

[6712-01]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

EXECUTIVE COMMITTEE MEETING

TUESDAY, OCTOBER 18, 1977

The next Executive Committee meeting will be on Tuesday, October 18, 1977, in Conference Room 847, 1919 M Street NW., Washington, D.C. at 9:30 a.m.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of Minutes of Executive Committee meetings.
4. Committee Reports.
5. Approval of new Membership Applications.
6. Administrative Action items.
7. Approval of Terms of Reference revision for SC-71, "VHF Automated Radiotelephone Systems."
8. Approval of establishment of SC-72, "Numerical Identifictaion of Stations in Maritime Telecommunications Systems."
9. Discussion and approvals for 1978 Assembly Meeting.
10. Summary Reports and Announcements.
11. New business.
12. Establishment of next meeting date.

To comply with the advance notice requirements of Public Law 92-463, a comparatively long interval of time occurs between publication of this notice and an actual meeting. Consequently, there is no absolute certainty that the listed meetign room will be available on the day of a meeting. Those planning to attend a meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for a meeting will be available at the meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. Phone 202-632-6490.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees, and a Special Committee final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-29259 Filed 10-4-77;8:45 am]

[6712-01]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Secretariat note: In addition to the October meetings listed below, notices of the following October meetings already have been published in the FEDERAL REGISTER.

Special Committee No. 70, "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment," Thursday, October 6, 10 a.m., Conference Room (Second floor), U.S. Coast Guard Marine Inspection Office, Battery Park Building, Battery Park at South Ferry, New York, N.Y.

RTCM Executive Committee, Tuesday, October 18, 9:30 a.m., Room 847, 1919 M Street NW., Washington, D.C.

SC-65 SHIP RADAR

WASHINGTON, D.C.

Wednesday, October 19, 1977

Members of Special Committee No. 65, "Ship Radar", notice of 58th meeting, Wednesday, October 19, 1977—1:30 p.m., Conference Room 8210, 2025 M Street NW., Washington, D.C.

Agenda for SC-65 Committee Meeting appears later in this notice. SC-65 Working Group schedule. To be held at 2025 M Street NW., Washington, D.C.

Working group	Room	Date	Time
Basic Radar	8210	Oct. 19	9:30 a.m.

If other Working Group meetings are scheduled, Group Members will be notified.

NOTE.—Meeting Room location is subject to change. Check at Room 8210 first.

AGENDA

1. Call to Order; Chairman's Report; Adoption of Agenda.
2. Acceptance of SC-65 Summary Records; Appointment of Rapporteur.
3. Progress Report of Basic Radar Working Group.
4. Report of recent Executive Committee action on SC-65 papers.
5. Mini-meeting of: (a) CAWG on Evaluation; (b) REWG on Reliability.
6. Other business.
7. Establishment of next meeting date. (Proposed November 16, 1977).

Irvin Hurwitz, Chairman, SC-65, Federal Communictaions Commission, Washington, D.C. 20554. Phone: 202-632-7197.

Special Committee No. 72, "Numerical Identification of Stations In Maritime Telecommunications Systems", notice of 1st meeting, Wednesday, October 19, 1977—9:30 a.m. (full-day meeting), Conference Room 7327, 2025 M Street NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Appointment of Secretary.
3. Adoption of Agenda.
4. Discussion on Terms of Reference.
5. Review of Timetable.
6. Discussion of Preliminary Views.
7. Discussion of Work Assignments.
8. Other Business.
9. Establishment of Meeting Schedule. (Next meeting: Friday, October 28, 1977)

Francis K. Williams, Chairman, SC-72, Federal Communications Commission, Washington, D.C. 20554, Phone: 202-632-7054.

Special Committee No. 66, "Receiver Standards for the Maritime Mobile Service," notice of 43rd meeting, Thursday, October 20—9:30 a.m. (all-day meeting), Conference Room A-205, 1229 20th Street N.W., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Adoption of Agenda; Appointment of Rapporteur.
3. Acceptance of SC-66 Summary Record.
4. Continue preparation of MMS R-5, Standard for "General Purpose Marine Receivers".
5. Discussion of problem areas.
6. Solicitation of work assignments.
7. Other business.
8. Establishment of next meeting date.

H. R. Smith, Chairman, SC-66, ITT Mackay Marine, 441 U.S. Highway No. 1, Elizabeth, N.J. 07202, Phone: 201-527-0300.

Special Committee No. 71, "VHF Automated Radiotelephone Systems", notice of fourth meeting, Friday, October 21, 1977, 10 a.m. (full-day meeting), Conference Room A-110, 1229 20th Street NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of SC-71 Summary Record.
4. Morning Session (10:00 a.m.-11:45 a.m.), Afternoon Session (1:45 p.m.-3:45 p.m.); Presentation and discussion of proposals offered for Committee consideration.
5. Other business.
6. Establishment of next meeting date.

John J. Renner, Chairman, Advanced Technology Systems, Inc., 2425 Wilson Blvd., Arlington, Va. 22201, Phone: 703-525-2664.

SC-72, Numerical Identification of Stations In Maritime Telecommunications Systems, Friday, October 28, 1977.

Special Committee No. 72, "Numerical Identification of Stations In Maritime Telecommunications Systems", notice of 2nd meeting, Friday, October 28, 1977—9:30 a.m., Conference Room 7327, 2025 M Street NW., Washington, D.C.

NOTE.—Meeting Room location is subject to change. Check at Room 7327 first.

AGENDA

1. Call to Order.
2. Introduction of Attendees; Appointment of Secretary.
3. Adoption of Agenda.
4. Discussion on Terms of Reference.
5. Review of Timetable.
6. Discussion of Preliminary Views.
7. Discussion of Work assignments.
8. Other Business.
9. Establishment of Meeting Schedule.

Francis K. Williams, Chairman, SC-72, Federal Communications Commission, Washington, D.C. 20554, Phone: 202-632-7054.

To comply with the advance notice requirements of Public Law 92-463, a comparatively long interval of time occurs between publication of this notice and an actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of a meeting. Those planning to attend a meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for a meeting will be available at the meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. Phone 202-632-6490.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees, and a Special Committee final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-29260 Filed 10-4-77;8:45 am]

[6715-01]

FEDERAL ELECTION COMMISSION

[Notice 1977-50, AOR 1977-49]

ADVISORY OPINION REQUEST

Pursuant to 2 U.S.C. 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977-49 has been made public at the Commission. Copies of AOR 1977-49 were made available on September 28, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street NW., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A descriptive listing of the request recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-49: The Kerr-McGee Corp. Political Action Committee (K-M PAC) requests an advisory opinion on several issues:

(1) May corporate employees who participate in Kerr-McGee's Savings Investment Plan be regarded as stockholders and thus solicitable under 2 U.S.C. § 441b and Part 114 of the Commission's regulations?

(2) Is a bank which holds Kerr-McGee stock as a fiduciary thereby precluded from functioning as custodian and independent mailing service for K-M PAC under the twice-yearly solicitation provisions of 2 U.S.C. § 441b(b)(4)(B) and § 114.6 of the regulations?

(3) If K-M PAC solicits only employees of Kerr-McGee, is it required to make the names and addresses of stockholders available for political contribution solicitations by a labor organization?

(4) Is Kerr-McGee entitled to receive from a labor organization reimbursement of costs in making computer produced labels available for a labor organization's contribution solicitations?

(5) If labor organization is required to bear costs of using independent mailing service for distributing its solicitation materials, but cannot reach agreement on price terms, would the lack of agreement, and hence non-use of service by labor organization, preclude K-M PAC from using the service for its mailing?

(6) In view of K-M PAC's decision not to solicit employees (or stockholders) who are or may be foreign nationals may Kerr-McGee nevertheless be required to make addresses of such persons available to an independent mailing service for purposes of labor organization solicitations under 2 U.S.C. § 441b(b)(4)(B) and § 114.6 of the regulations?

(7) May solicitation materials used by K-M PAC inform the recipients that 2 U.S.C. § 441b permits a labor organization to solicit political contributions from Kerr-McGee personnel and that one or more labor organizations have indicated their intent to make such a solicitation?

(8) Are both the local of an international union and the international union itself separate labor organizations for purposes of 2 U.S.C. § 441b if both are signatories to a labor agreement?

(9) May those labor organizations, which do not agree on a twice yearly joint written solicitation with others representing Kerr McGee employees, solicit political contributions (under the twice yearly provisions) on their own behalf to their own separate segregated funds.

Requested by Robert H. Walsh on behalf of the Kerr-McGee Corp. Political Action Committee, Oklahoma City, Okla.

Dated: September 29, 1977.

THOMAS E. HARRIS,
Chairman for the Federal Election Commission.

[FR Doc.77-29212 Filed 10-4-77;8:45 am]

[3128-01]

FEDERAL ENERGY ADMINISTRATION

GASOLINE MARKETING ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Gasoline Marketing Advisory Committee will meet Friday, November 4, 1977, 10 a.m., in the Williamsburg Room, Olympic Hotel, Seattle, Wash.

The Commitee was established to provide the Administrator, FEA, with expert and technical advice concerning the wholesale and retail selling of gasoline.

The agenda for the meetings is as follows:

1. Old business—Discussion of requests and commitments from the previous committee meeting.
2. Gasoline decontrol—Standby mechanism.
3. Gasoline trigger data.
4. Refiner-supplier direct marketing (white paper).
5. Implementation of the National Energy Act: Impact on marketing segments.
6. Gasoline rationing.
7. New business—Items for discussion at the next meeting.
8. Remarks from the floor (10 minute rule).

A subcommittee meeting will be held Thursday, November 3, 1977, at 2 p.m. in the Colonial Room, Olympic Hotel, Seattle, Wash., to discuss and make recommendations to the parent committee concerning agenda items.

The meetings are open to the public. The Chairman of the Committee or subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee or subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management, 202-566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning these meetings may be obtained from the Ad-

visory Committee Management Office.

Transcripts of the meetings will be available for public review at the Freedom of Information Public Reading Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on September 30, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-29291 Filed 10-3-77;8:45 am]

[3128-01]

FUEL OIL MARKETING ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Fuel Oil Marketing Advisory Committee will meet Monday, December 5, 1977, at 10 a.m., at the Fairmont Hotel, atop Nob Hill, San Francisco, Calif.

The Committee was established to provide the Administrator, FEA, with expert and technical advice concerning the trade of selling fuel oil.

The agenda for the meeting is as follows:

1. Old business—Discussion of requests and commitments from previous committee meeting.
2. Strategic storage of product in the regions.
3. Emergency planning for upcoming heating season (coal and rail deliveries of coal will be linked together).
4. Monitoring program—FEA data collection.
5. Synthetic natural gas plants—FEA policy.
6. Heating oil distribution—Pullouts and contracts.
7. Heat pumps as a renewable resource.
8. New business—Items for discussion at the next meeting.
9. Remarks from the floor (10 minute rule).

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management, 202-566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on September 30, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-29292 Filed 10-3-77;8:45 am]

[3128-01]

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact, American Samoa Energy Conservation Plan

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by American Samoa, of its State Energy Conservation Plan. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of this plan, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for this plan.

Single copies of the environmental assessment of the State Plan for American Samoa are available upon request from the FEA National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

A copy of the State Plan is available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessment to Executive Communication, Box PZ, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—American Samoa Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m. e.d.s.t., October 28, 1977, in order to receive full consideration.

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

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-29293 Filed 10-3-77;8:45 am]

[3128-01]

SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact, Supplemental State Energy Conservation Plans

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the Supplemental State Energy Conservation Program. Federal funding for plans submitted under this program is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321 *et seq.*

Based upon an assessment of environmental impacts that are expected to result from implementation of these plans, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for these plans.

Single copies of the environmental assessment of the Supplemental State Plans are available upon request from the FEA National Energy Information Center, Room 1406, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Copies of the State Plans are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessment to Executive Communication, Box PY, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—Supplemental State Energy Conservation Plans." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m., October 26, 1977, in order to receive full consideration.

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

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-29294 Filed 10-3-77;8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

CONTINENTAL NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 25, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

Howard A. Levy, Esq., Suite 727, 17 Battery Place, New York, N.Y. 10004.

Agreement No. 8210-38 states that the Conference shall appoint a resident representative in the United States who may be the Chairman or other official of the North Atlantic Continental Freight Conference. The resident representative shall perform functions delegated to him by the Chairman such as attending and/or chairing meetings and implementing shippers' requests and complaints procedures adopted in the United States.

By Order of the Federal Maritime Commission.

Dated: September 30, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-29266 Filed 10-4-77;8:45 am]

[6730-01]

LYKES BROTHERS STEAMSHIP CO., INC., AND CAROLINA SHIPPING CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act., 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 25, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. R. J. Finnan, Pricing Analyst, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, La. 70130.

Agreement No. 10312, between the above-named parties, is a stevedoring contract whereby Lykes engages Carolina Shipping Company to perform stevedoring services for Lykes' vessels at the port of Charleston, S.C., in accordance with the terms, conditions and to the extent set forth in the agreement.

By order of the Federal Maritime Commission.

Dated: September 29, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-29265 Filed 10-4-77;8:45 am]

[6730-01]

[Docket No. 77-51]

MATSON NAVIGATION CO.; GENERAL INCREASE IN RATES IN THE U.S. MAINLAND/GUAM TRADE

Order of Investigation

Effective September 29, 1977, Matson Navigation Co. (Matson) proposes to increase its ocean freight rates and charges between West Coast, Hawaii, and Guam Ports (the trade) by 5 percent. The increases were filed with the Commission on August 16, 1977, and were accompanied by supporting financial and operating data pursuant to Commission General Order No. 11, 46 CFR 512.

A protest and petition for suspension and investigation was received relative to the reasonableness of Matson's proposed increase from the Government of Guam (Guam). Generally, Guam contends that the proposed increase is not cost justified and that its implementation would inflict severe economic consequences upon Guam and its citizens and requests that the Commission suspend the proposed increase and initiate an appropriate investigation.

United States Lines, Inc. (USL), Matson's competitor in the trade, filed a similar 5 percent increase simultaneously with Matson. The Commission believes that USL may be earning an excessive rate of return and therefore has ordered the increase of USL suspended and investigated. That investigation may result in a Commission order prescribing the maximum rate level to be charged by USL. Historically, the rate levels maintained by USL and Matson have remained at parity for competitive reasons. Therefore, any order affecting the rate level of USL will probably affect Matson as well. Accordingly, we believe that the revenue requirements of Matson must be considered in determining the level of rates which will, in all probability, be charged by both carriers in the trade.

Now, therefore, *it is ordered*, That, pursuant to the authority of sections 18 (a) and 22 of the Shipping Act, 1916, as amended, and section 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of the tariff matter listed in Supplement No. 4 to Matson Tariff FMC-F No. 152 for the purpose of making such findings as the facts and circumstances warrant;

It is further ordered, That this investigation determine whether the gross revenue to be derived from the proposed rate changes is just and reasonable. Evidence as to the effect of the proposed

changes on the movement of any particular commodity or commodities will be considered relevant to this basic issue and may be used to determine what overall revenue will, in fact, be derived. However the question of reasonableness of any particular commodity rate is not an issue for determination in this proceeding. A particular rate will be affected by an order that may result from this proceeding only insofar as a finding is made regarding the reasonableness of the overall rate level of which the particular rate is a part;

It is further ordered, That shippers or other persons complaining about the level of any particular commodity rate may file a complaint pursuant to section 22 of the Shipping Act, 1916 (46 U.S.C. 821) and litigate the issue of reasonableness of such rate with respect to cost of service, value, and service and any other applicable ratemaking factors. They may also petition for leave to intervene in this proceeding provided that they will not broaden the issue described above and that they meet the other tests prescribed by Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.27;

It is further ordered, That during the pendency of this investigation, Matson will serve the presiding officer and all parties of record with notice of any tariff changes affecting any of the ten leading commodities as reported pursuant to 46 CFR 512.25 at the same time such changes are filed with the Commission;

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, the hearing date shall be set no later than March 28, 1978.

The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That (1) a copy of this order be forthwith served upon the respondent and upon the Commission's Bureau of Hearing Counsel and published in the FEDERAL REGISTER, and (2) the respondent and Hearing Counsel be duly served with notice of time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene herein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72) with a copy to all parties to the proceeding.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-29267 Filed 10-4-77;8:45 am]

[6730-01]

[Docket No. 77-50]

NORTH CAROLINA STATE PORTS AUTHORITY, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO, LOCAL 1426, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO, LOCAL 1426-A, WAREHOUSEMEN v. DART CONTAINERLINE CO., LTD.

Notice of Filing of Complaint

SEPTEMBER 29, 1977.

Notice is hereby given that a complaint filed by North Carolina State Ports Authority, International Longshoremen's Association, AFL-CIO, Local 1426, International Longshoremen's Association, AFL-CIO, Local 1426-A, Warehousemen against Dart Containerline Co., Ltd., was served September 29, 1977. Complainants allege that respondent is diverting or attempting to divert cargo by the absorption of inland transportation costs from the Port of Wilmington, N.C., to other ports, in a manner unlawful and illegal under sections 16 and 17 of the Shipping Act, 1916, and section 8 of the Merchant Marine Act of 1920.

Hearing in this matter, if any is held, shall commence on or before March 28, 1978. The hearing shall include oral testimony and cross examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statement, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-29268 Filed 10-4-77;8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL DIRECT STUDENT LOAN; COLLEGE WORK-STUDY, SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

Approved List of Need Analysis Systems

AGENCY: Office of Education, HEW.

ACTION: Notice of approved need analysis systems.

SUMMARY: The Office of Education announces the list of approved need analysis systems for use by institutions of higher education in making awards to students during the academic year 1978-79 under the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grants Programs.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Hubert S. Shaw, Chief, Program Development Branch, Division of Student Financial Aid, Bureau of Student Financial Assistance, 400 Maryland Avenue SW., Washington, D.C. 20202 (202-245-9717).

SUPPLEMENTARY INFORMATION: *General.* Section 144.13 of the National Direct Student Loan Program Regulations (45 CFR 144.13), § 175.13 of the College Work-Study Program Regulations (45 CFR 175.13), and § 176.13 of the Supplemental Educational Opportunity Grant Program Regulations (45 CFR 176.13) approve the use of certain need analysis systems and methods of determining expected family contributions for dependent and independent students, and set forth procedures for an annual review and approval by the Commissioner of other need analysis systems for use in those programs. In order to be approved for dependent students the latter systems must generate expected parental contributions for at least 75 percent of the sample cases which are within $50 of the benchmark figures published by the Commissioner for those cases. The benchmark figures for the 1978-79 academic year were published in the FEDERAL REGISTER of June 30, 1977 (42 FR 33290). For independent students, a system that was not specifically included in the regulations must produce expected family contributions which are comparable to those produced by one of the systems specified in subparagraph (c)(1) of each section. An annual review of systems for independent students is not required.

The approved systems are:

1. Dependent students only—

(a) The Income Tax System.

2. Dependent and independent students—

(a) The method of calculating expected family contributions used in the Basic Educational Opportunity Grant Program (45 CFR 190);

(b) The system of need analysis published by the College Scholarship Service;

(c) The system of need analysis published by the American College Testing Program;

(d) The need analysis service published by the Graduate and Professional Student Financial Aid Service;

(e) The system of need analysis published, by Financial Analysis Service Inc., a division of Donley, Richardson and Associates;

(f) The system of need analysis published by Student Assistance Financial Evaluation, a program of Information and Communications, Inc.;

(g) The system of need analysis published by Student Aid Management, a program of Education Methods, Inc.;

(h) The system of need analysis published by the Illinois State Scholarship Commission;

(i) The system of need analysis published by Functional Solutions, Inc.;

(j) The system of need analysis published by Monroe, The Calculator Co.; and

(k) The system of need analysis published by J. S. Jones and Associates.

(20 U.S.C. 1087dd, 42 U.S.C. 2754, and 20 U.S.C. 1070b–1 and 1070b–2.)

(Catalog of Federal Domestic Assistance No. 13.418, Supplemental Educational Opportunity Grant Program; 13.463, College Work-Study Program; and 13.471, National Direct Student Loan Program.)

Dated: September 29, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-29181 Filed 10-4-77;8:45 am]

[4310–55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

NATIONAL FISH AND WILDLIFE HEALTH LABORATORY

Meeting

Notice is hereby given that a public meeting will be held by the Fish and Wildlife Service on Thursday, October 6, 1977, at 7:30 p.m., in the Lecture Hall of the Madison Memorial High School located at Mineral Point and Gamman Road in Madison, Wis.

The purpose of this meeting will be to explain the acquisition and renovation of the existing Ansul Laboratory facilities at 6006 Schroeder Road, Madison, Wis., for use by the National Fish and Wildlife Health Laboratory. Interested persons are invited to attend, appear, and present written statements at the time of the meeting.

Dated: September 29, 1977.

MILTON FRIEND,
Director, National Fish and Wildlife Health Laboratory.

[FR Doc.77-29357 Filed 10-4-77;8:45 am]

[4410–01]

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 749–77]

PRIVACY ACT OF 1974

Notice of System of Records

Notice is hereby given that pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a) the Department of Justice proposes to add a new subsystem of records entitled the "Application and petition system" of records to The Immigration and Naturalization Service Index System JUSTICE/INS–001 which was published in the FEDERAL REGISTER on March 21, 1977 (42 FR 15349).

JUSTICE/INS–001 has been revised and is reprinted below in its entirety to include the changes associated with the addition of this subsystem and to describe more accurately the record-keeping practices of the Immigration and Naturalization Service (INS). For the convenience of the reader, the changes relating to the added subsystem have been underscored. Finally, the notice reflects the addition of three locations for the maintenance of INS records: Glynco, Ga.; Oklahoma City, Okla.; and Louisville, Ky.; and the redesignation of a sub-office at Dallas, Tex. as a district office.

A report of the proposed subsystem has been provided to the President of the Senate, the Speaker of the House of Representatives, the Office of Management and Budget, and the Privacy Protection Study Commission.

Interested persons are invited to submit written comments concerning the routine uses applicable to this subsystem. Comments should be mailed by November 4, 1977 to the Office of Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530. Comments received will be available for inspection in Room 1266, Main Department of Justice Building, 10th and Constitution Avenue NW., Washington, D.C.

Dated: September 26, 1977.

GRIFFIN B. BELL,
Attorney General.

JUSTICE/INS–001

System name:

The Immigration and Naturalization Service Index System, which consists of the following subsystems:

A. Agency information control record index.

B. Alien address reports index and records.

C. Alien enemy index and records.

D. Automobile decal parking identification system for employees.

E. Centralized index and records (Master Index).

F. Congressional Mail Unit correspondence control index.

G. Document vendors and alterers index.

H. Enforcement indexes.

1. *Group one.* (a) Contact index. (b) Informant index. (c) Anti-smuggling index (general). (d) Criminal, immoral, narcotic, racketeer, and subversive index. (e) Suspect third party index.

2. *Group two.* (a) Air detail office index. (b) Anti-smuggling information centers, Canadian and Mexican borders. (c) Border Patrol Academy index. (d) Boarder Patrol sectors general index. (e) Fraudulent Document Center index.

3. Enforcement correspondence control index.

I. Examinations indexes.

1. Application and petition system.

2. Correspondence control index.

3. Service lookout system.

J. Extension training program enrollees.

K. Finance Section indexes.

1. Accounts with creditors.

2. Accounts with debtors.

L. Freedom of Information correspondence control index.

M. Intelligence indexes.

N. Microfilmed manifest records.

O. Naturalization and citizenship indexes.

1. Naturalization and citizenship docket cards.

2. Examiners docket lists of petitioners for naturalization.

3. Master docket list of petitions for naturalization pending one year or more.

P. Personnel investigations index and records.

Q. Property issued to employees.

R. Security access clearance index.

S. White House and Attorney General correspondence control index.

T. Health record system.

U. Personal data card system.

V. Compassionate cases system.

W. Emergency reassignment index.

X. Alien documentation, identification and telecommunications (ADIT) system.

System location:

A. Central Office: 425 Eye Street NW., Washington, D.C. 20536.

B. Regional Offices: (1) Burlington, Vt.; (2) Fort Snelling, Twin Cities, Minn.; (3) Dallas, Tex.; (4) San Pedro, Calif.

C. District offices in the United States: (1) Anchorage, Alaska; (2) Atlanta, Ga.; (3) Baltimore, Md.; (4) Boston, Mass.; (5) Buffalo, N.Y.; (6) Chicago, Ill.; (7) Cleveland, Ohio; (8) Dallas, Tex.; (9) Denver, Colo.; (10) Detroit, Mich.; (11) El Paso, Tex.; (12) Hartford, Conn.; (13) Helena, Mont.; (14) Honolulu, Hawaii; (15) Houston, Tex.; (16) Kansas City, Mo.; (17) Los Angeles, Calif., (18) Miami Fla.; (19) Newark, N.J.; (20) New Orleans, La.; (21) New York, N.Y.; (22) Omaha, Nebr.; (23) Philadelphia, Pa.; (24) Phoenix, Ariz.; (25) Portland, Maine; (26) Portland, Oreg.; (27) St. Albans, Vt.; (28) St. Paul, Minn.; (29) San Antonio, Tex.; (30) San Diego, Calif.; (31) San Francisco, Calif.; (32) San Juan, P.R.; (33) Seattle, Wash.; (34) Washington, D.C.

D. District offices in foreign countries: (1) Hong Kong, B.C.C.; (2) Mexico City, Mexico; (3) Rome, Italy.

E. Sub-offices: (1) Agana, Guam; (2) Albany, N.Y., (3) Cincinnati, Ohio; (4) Hammond, Ind.; (5) Harlingen, Tex.; (6) Las Vegas, Nev.; (7) Louisville, Ky.; (8) Memphis, Tenn.; (9) Milwaukee, Wis.; (10) Norfolk, Va.; (11) Oklahoma City, Okla.; (12) Pittsburgh, Pa.; (13) Providence, R.I.; (14) Reno, Nev.; (15) St. Louis, Mo.; (16) Salt Lake City, Utah; (17) Spokane, Wash.

F. Border Patrol Sector Headquarters: (1) Blaine, Wash.; (2) Buffalo, N.Y.; (3) Chula Vista, Calif., (4) Del Rio, Tex.; (5) Detroit, Mich.; (6) El Centro, Calif.; (7) El Paso, Tex.; (8) Grand Forks, N. Dak.; (9) Havre, Mont.; (10) Houlton, Maine; (11) Laredo, Tex.; (12) Livermore, Calif.; (13) Marfa, Tex.; (14) McAllen, Tex.; (15) Miami, Fla.; (16) New Orleans, La.; (17) Ogdensburg, N.Y.; (18)

Spokane, Wash.; (19) Swanton, Vt.; (20) Tucson, Ariz.; (21) Yuma, Ariz.

G. Border Patrol Academy, Los Fresnos, Tex.; Federal Law Enforcement Training Center (FLETC), Glynco, Ga.

H. Charlotte Amalie, St. Thomas, V.I.

I. Sub-offices in foreign countries: (1) Athens, Greece; (2) Frankfurt, Germany; (3) Naples, Italy; (4) Palermo, Palermo, Italy; (5) Rome, Italy; (6) Tokyo, Japan; (7) Vienna, Austria.

J. El Paso Intelligence Center (EPIC), El Paso, Tex.

Addresses of offices are listed in the telephone directories of the respective cities listed above under the heading "United States Government, Immigration and Naturalization Service."

Categories of individuals covered by the system:

A. Agency information control record index (Location A, supra). Individuals named or referenced in documents classified for national security reasons.

B. Alien address reports index and records (Location A, supra). Aliens required to report addresses each January.

C. Alien enemy index and records (Location A, supra).

1. Alien enemies who were interned during World War II.

2. Americans of Japanese ancestry (Nisei) who returned to Japan and, during World War II, either accepted employment by the Japanese Government or became naturalized in Japan.

D. Automobile decal parking identification for employees (Location B–4, supra). Current INS employees who have the privilege of parking their cars on government premises.

E. Centralized index and records (Master Index) (Locations A, C, D, E, and I, supra).

1. Individuals covered by provisions of the immigration and nationality laws of the United States.

2. Individuals who are under investigation, were investigated in the past, or who are suspected of violating the criminal or civil provisions of treaties, statutes, Executive orders, and Presidential proclamations administered by the Immigration and Naturalization Service, and witnesses and informants having knowledge of such violations.

F. Congressional Mail Unit correspondence control index (Location A, supra).

1. Individuals named in correspondence received, including INS employees and past employees; Federal, state, and local officials; and members of the general public.

2. Individuals named in reports or correspondence received, as individuals investigated in the past or under active investigation, or suspected of violations of the criminal or civil provisions of statutes enforced by INS, including Presidential proclamations and Executive orders relating thereto, and witnesses and informants having knowledge of violations.

G. Document vendors and alterers index (Location B–4; duplicates in several INS offices in the Western and Southern regions). Individuals who are alleged immigration law violators involved in the supply of fraudulent documents.

H. Enforcement indexes.

1. *Group one* (Locations A, B, C, and E, supra): (a) Contact index; (b) Informant index; (c) Anti-smuggling index (general); (d) Criminal, immoral, narcotic, racketeer and subversive indexes; (e) Suspect third party index.

(1) Individuals who are in a position to know, learn of, and assist in locating aliens illegally in the United States; (2) individuals who have significant knowledge of foreign or domestic organizations subversive in nature and are willing to appear as Government witnesses or cooperate with INS on a continuing basis; (3) individuals who are known or suspected of being professional arrangers, transporters, harborers, and smugglers of aliens; who operate or conspire to operate with others to facilitate the surreptitious entry of an alien over a coastal or land border of the United States; and witnesses having knowledge of such matters; (4) individuals who are known or suspected of being habitual or notorious criminals, immorals, narcotic violators or racketeers, or subversive functionaries or leaders; (5) individuals who are known or believed to be engaged in fraud operations involving the preparation and submission of visa petitions and other applications for benefits administered by INS; or the preparation and submission of applications for immigrant visas and/or Department of Labor certifications, or the filing of false United States birth registrations for alien children to enable them to pose as citizens or to enable parents who are immigrant visa applicants to evade the labor certification requirements.

2. *Group two.* (a) Air detail office index (Location J, supra). Individuals who are pilots and/or owners of private aircraft flying between the United States and foreign countries; individuals who engage in or are suspected of being engaged in illegal activity such as alien smuggling or entry without inspection.

(b) Anti-smuggling information centers, Canadian and Mexican borders (Locations: northern border, F–19, supra; southern border, J, supra). Individuals who are known or suspected of being smugglers or transporters of illegal aliens.

(c) Border Patrol Academy index (Location G, supra). Students or former students at the Border Patrol Academy; INS officers attending advanced training classes at the Academy or the Federal Law Enforcement Training Center (FLETC).

(d) Border Patrol sectors general index (Locations F, supra). Past or present INS employees; individuals who are law violators, witnesses, contacts, informants, members of the general public, Federal, state, county, and local officials.

(e) Fraudulent Document Center index (Location J, supra). Individuals who are members of the general public, notaries public, state and local birth registration officials and employees, immigration law violators, vendors of documents, donors of documents, midwives, and witnesses. Also included in the system are names and information about fictitious persons used by counterfeiters or alterers of citizenship documents.

3. Enforcement correspondence control index (Location A, supra). (a) Individuals named in correspondence received, including employees, past employees, and others; (b) individuals named in documents, reports, or correspondence as individuals under current or past investigation, suspended of violation of the criminal or civil provisions of the statutes enforced by INS, including Executive orders and Presidential proclamations, and witnesses and informants having knowledge of violations.

I. Examinations indexes (Location A supra; duplicates in some local offices):

1. Application and petition index: individuals who have filed or assisted in filing petitions to classify aliens for the issuance of immigrant visas.

2. Correspondence control index: members of the general public.

3. Service lookout system: violators or suspected violators of the criminal or civil provisions of statutes enforced by INS.

J. Extension training program enrollees (Location A, supra). INS employees and other Federal agency employees enrolled in extension training program courses administered by INS.

K. Finance Section indexes (Locations A and B, supra): (1) Accounts with creditors; (2) Accounts with debtors.

(a) Individuals who are indebted to the United States Government for goods, services, or benefits or for administrative fines and assessments.

(b) Employees who have received travel advances or overpayments from the United States Government, who are in arrears in their accounts, or who are liable for damage to Government property.

(c) Vendors who have furnished supplies, material, equipment, and services to the Government.

(d) Employees, witnesses and special deportation attendants who have performed official travel.

(e) Employees and other individuals who have a valid claim against the Government.

L. Freedom of Information correspondence control index (Locations A, B, C, D, E, F, G, H, and I, supra). Individuals who request access to or copies of records maintained by INS, under the provisions of the Freedom of Information Act (5 U.S.C. 552).

M. Intelligence indexes (Locations A and B, supra). Individuals who have or are suspected of having violated the criminal or civil provisions of the statutes enforced by INS.

N. Microfilmed manifest records (Locations A, C–26, C–10, C–20, and C–29, supra). Individuals who have arrived or

departed by aircraft or vessel at a United States port.

O. Naturalization and citizenship indexes (Locations C and E, supra, except E–6, E–7, E–8, and E–13).

1. Naturalization and citizenship docket cards. Individuals seeking benefits under Title III of the Immigration and Nationality Act of 1958, as amended.

2. Examiners' docket lists of petitioners for naturalization. Petitioners for naturalization and their beneficiaries.

3. Master docket list of petitioners for naturalization pending one year or more. Petitioners for naturalization and their beneficiaries.

P. Personnel investigations index and records (Location A, supra). Employees, former employees, other Government agency employees designated to perform immigration functions, witnesses, informants, and certain other persons having contacts with INS operations.

Q. Property issued to employees (Locations A, B, C, E, and F, supra). INS employees who have been issued property for use in performance of official duties.

R. Security access clearance index (Location A, supra). Current INS employees who have been cleared for access to documents and materials classified in the interest of national security.

S. White House and Attorney General correspondence control index (Location A, supra). Individuals named in or originating correspondence referred to INS by staff of the White House or Attorney General.

T. Health record system (Location A, supra). Persons at Location A who have requested health services or required emergency treatment.

U. Personal data card system (Locations A and B, supra). Employees and former employees of INS.

V. Compassionate cases system (Locations A and B, supra). INS employees who have requested transfers for personal reasons.

W. Emergency reassignment index (Locations B, C, E, and F, supra). INS employees who would be reassigned to other duty stations in case of emergency.

X. Alien documentation, identification, and telecommunications (ADIT) system (Location A, supra). Aliens lawfully admitted for permanent residence, commuters and other authorized frequent border crossings, and nonimmigrant persons other than transients.

Categories of records in the system:

A. Agency information control record index. This system contains reference and locater data on the following kinds of documents:

1. Top secret and secret materials classified as national security information, including all copies prepared from controlled documents originated, received, or transmitted by INS officers.

2. Confidential material originated by other agencies and referred to INS, including all copies prepared from controlled documents.

3. All investigative reports, responses to security checks, and intelligence material received from sources within the Department of Justice and other Federal intelligence sources.

B. Alien address report index and records. This system contains an index and copies of Form I–53, Alien Address Report, required to be filed January 1 of each year by aliens in the United States.

C. Alien enemy index and records. This system contains a microfilm index and files containing various forms, reports, and other information.

D. Automobile decal parking identification system for employees. This system contains a list by number of each Department of Justice decal car sticker issued to local INS employees.

E. Centralized index and records (Master Index). The system consists of index records and related records and files containing various forms, applications and petitions for benefits under the immigration and nationality laws, reports of investigation, statements, reports, correspondence, and memorandums. Records which may be accessed electronically are limited to index and file locater data including name, identifying number, date and place of birth, date and port of entry, coded status transaction data, and location of relating records or files.

F. Congressional Mail Unit correspondence control index. This system contains a locater record for each report or piece of correspondence received, reflecting the name of the individual and the number of the subject file in which specific information concerning the individual is maintained.

G. Document vendors and alterers index. This system consists of "mug book" photos of alleged immigration law violators involved in the supply of fraudulent documents, and data relating to the pictured violators including name, aliases, vital statistics, method of operation, list of convictions, present location, and source material.

H. Enforcement indexes. 1. *Group one.* (a) Contact index; (b) Informant index; (c) Antismuggling index (general); (d) Criminal, immoral, narcotic, racketeer and subversive indexes; (e) Suspect third party index. These systems of records are maintained on Form G–598, Contact Record; Form G–169, Informant Record; Form G–170, Smuggler Information Index Card; and other index cards containing reference and file locater data on the individuals, including in some cases biographic data, address, and a brief description of activities.

2. *Group two.* (a) Air detail office index. The primary record in the system is Form I–92A, Report of Private Aircraft Arrival, which is executed by the inspecting official upon arrival of a private aircraft from foreign territory. There are also index cards, forms, investigative reports, records, and correspondence on aircraft arrivals, failures to report for inspection, and known or suspected alien smuggling operations using aircraft; and microfiche indexes containing names of owners of aircraft of United States registry.

(b) Anti-smuggling information centers, Canadian and Mexican borders. This system contains Form G–170, Smuggler Information Index Card, other index cards, and correspondence relating to anti-smuggling activities. These indexes are in loose leaf form and are distributed to Border Patrol offices in the border areas.

(c) Border Patrol Academy index. This system contains general information and correspondence regarding each student's academic progress in training. The information is maintained on the following forms: SW–91, Probationary Achievement Report; SW–91A, Scholastic Grade Worksheet; SW–91B, IOBTC Achievement Report-Immigration Inspector; SW–91C, IOBTC Achievement Report-Investigator; SW–96, Class Rating Form; SW–128, Training Data; SW–282, Registration Information Form; SW–446, Conduct and Efficiency Report of Probationary Employee-5½ and 10 Months Exam Grades.

(d) Border Patrol sectors general index. This system contains indexes, forms, reports, and records relating to activities of the Border Patrol, including Form I–44, Record of Apprehension or Seizure; Form I–326, Prosecution Reports; Form I–263A and I–263B, Record of Sworn Statement; Form I–195, Criminal Prosecution Control Card; Form I–263W, Record of Sworn Statement-Witness; Form I–236, Prosecution Reports; Form G–170, Smuggler Information Index Card; Form G–296, Report of Violation of Section 239, Immigration and Nationality Act; Form G–330, Notice of Action Information; Form G–445, Conduct and Efficiency Evaluation of Probationary Appointees; Form G–598, Contact Record. This system also contains copies of correspondence and memorandums between INS offices and outside agencies and individuals, as well as photographs of some violators of the immigration laws of individuals suspected of being involved in immigration law violations.

(e) Fraudulent Document Center index. This system contains birth certificates, baptismal certificates, and other identification documents used by aliens to support their fraudulent claims to United States citizenship. Most of the documents are genuine; however, there are also counterfeit and altered documents in the system. Also contained in the system are cross indexes, Investigative reports, and records of individuals involved in fraud schemes or whose documents have been put to fraudulent usage.

3. Enforcement correspondence control index. This system contains reference and locater information on documents, reports, and correspondence received in the offices of the Associate Commissioner, Enforcement. Records are maintained on Form G–617, Correspondence

Control Card, and Form CO-147, Call-up Index—Domestic Control.

L. Examinations indexes. *1. Application and petition system. This system contains petitioners' names, date and place of birth, names of prior spouses, immigration "A" number if an alien, and date of marriage if married; beneficiarys' names, date and place of birth, immigration "A" number if any, names of spouses, and nationality code, and the names, dates, and places of birth of any children; name of the person administering the oath or preparing the form, if other than a Government employee.*

2. Correspondence control index. This system contains reference and locater information on documents, reports and correspondence received in the office of the Associate Commissioner, Examinations. Records are maintained on Form G-617, Correspondence Control Card.

3. Service lookout system. This system contains names and reference data on violators, alleged violators, and suspected violators of the criminal or civil provisions of the statutes enforced by INS.

J. Extension training program enrollees. This system contains correspondence and records of each enrolee's test scores; dates of actions such as mailing of lesson materials, test results, and certificates of completion; and dates of receipt of tests.

K. Finance Section indexes. 1. Accounts with creditors. Records are vendors' invoices, purchase orders, travel vouchers, and claims filed by appropriation for the fiscal year from which payment is chargeable.

2. Accounts with debtors. Records consist of bills for inspection services performed under the Act of March 2, 1931; fees, fines, penalties, and deportation expenses assessed pursuant to the Immigration and Nationality Act; and employee indebtedness for travel advances, for the unofficial use of Government facilities and services, for damage to or loss of Government property, and for erroneous or overpayment of compensation for travel expenses.

L. Freedom of Information correspondence control index. Records are kept on Form G-617, Correspondence Control Card, and include reference and locator information on each request for information received under the Freedom of Information Act.

M. Intelligence indexes. Records include reference and locator information on documents, reports, bulletins, and correspondence; records are categorized by name, violation, and activity.

N. Microfilmed manifest records. The system contains microfilmed indexes and arrival and departure manifests with brief biographical data and facts of arrival and departure. Arrival records for certain ports date from 1891, and departure records date from 1900. Records are not complete, as some records were destroyed and not microfilmed.

O. Naturalization and citizenship indexes. 1. Naturalization and citizenship docket cards. Docket cards are 3X5 or 5X8 index cards for each applicant, beneficiary, or petitioner, recording type of application, date of receipt, file and/or petition number, court number where petition for naturalization was filed, and reference number of the individual's case file.

2. Examiners' docket lists of petitioners for naturalization. Records are maintained on Form N-476, Examiner's Docket List, and record court of naturalization jurisdiction, petition number, petition filing date, court number, name of petitioner, name of beneficiary, proposed recommendation by the naturalization examiner, reasons for continuance, and reference number of the individual's case file.

3. Master docket lists of petitions for naturalization pending one year or more. Records are maintained on Form N-476, Examiner's Docket List, and contain reference and locater information on petitions pending for one year or longer.

P. Personnel investigations index and records. Index records for closed cases or cases under active investigation contain reference and locater information including names, locations, and allegations. Two relating sets of temporary work folders contain reports, documents, and correspondence.

Q. Property issued to employees. Records are maintained on Form G-570, Record-Receipt—Property Issued to Employees, which lists name, description of property, serial number, dates issued and returned, employee's initials, and supervisor's initials.

R. Security access clearance index. Records are kept on 3X5 index cards listing employee's name, dates when clearances were granted, and levels of clearance. Related records and reports are maintained by the Office of Management and Finance, Department of Justice.

S. White House and Attorney General correspondence control index. Records are maintained on Form G-617, Correspondence Control Card, and contain reference and locater information on correspondence addressed to the President and the Attorney General which has been referred to INS for appropriate attention.

T. Health record system. Records are kept on 5X7 index cards listing name, date, and treatment given.

U. Personal data card system. Records are kept on Form G-74, Personal Data Card, for each employee or former employee. Information includes name, date of birth, height, weight, sex, blood type, photograph, and color of hair and eyes.

V. Compassionate cases system. Records are kept on 3X5 index cards containing employees' name, position, grade, present location, date of request, date circulated to committee, disposition, and (when applicable) new location of employee. Relating records include the employee's request; Form G-410, Employee Qualification-Skills Inventory; local and regional recommendations, medical statements (where applicable), records of committee actions, and response to employee.

W. Emergency reassignment index. Records are kept on Form G-560, Emergency Activity Project Assignment. Information includes name, age, grade, title, official station, residence, telephone number, and emergency assignment activity.

X. Alien documentation, identification and telecommunications (ADIT) system. Records consist of formatted data base records of personal and biographical information such as name, date of birth, picture and fingerprint coordinates, height, mother's first name, father's first name, city/town/village of birth.

Authority for maintenance of the system:

A. General, applicable to all Service index ssytem, includes but is not limited to: Sections 103, 265 and 290 and Title III of the Immigration and Nationality Act, hereinafter referred to as the Act (66 Stat. 163), as amended, (8 U.S.C. 1103; U.S.C. 135; 8 U.S.C. 1360), and the regulations pursuant thereto.

B. Specific, applicable to some of the indexes, including but not limited to:

1. Executive Order 11652, and 28 CFR 17.79-Agency control information record index, and Access clearance information ssytem.

2. 31 U.S.C. 66a—Finance Section indexes.

3. Title III of the Act, as amended, (8 U.S.C. section 1401 through 1503), and the regulations promulgated thereunder—Naturalization and citizenship indexes.

4. Sections 235 and 287 of the Act, as amended, (8 U.S.C. 1225; and 8 U.S.C. 1357), and the regulations promulgated pursuant thereto—Personnel investigations.

5. Section 231 of the Act, as amended, (8 U.S.C. 1221)—Microfilmed manifest records.

6. 40 U.S.C. 483—Property management system.

7. 5 U.S.C. 4113—Extension training program.

8. 5 U.S.C. 552. The Freedom of Information Act requires certain record keeping; this system was established and is maintained in order to enable INS to comply with this requirement.

9. 5 U.S.C. 301—Health Record System, Personal Data Card System, and Compassionate Cases System.

10. Executive Order 11490—Emergency Reassignment Index.

11. Section 204, 214, and 290 of the Act, as amended (8 U.S.C. 1154, 1184, 1360)—Application and petition system.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

This system of records is used to serve the public by providing data for responses, when authorized, to written inquiries, complaints, and so forth. It is also used to administer the management, operational, and enforcement activities of the Service. The records are used by officers and employees of the Service and the Department of Justice in the admin-

istration and enforcement of the immigration and nationality laws, and related statutes, including the processing of applications for benefits under these laws, detecting violations of these laws, and for referrals for prosecution.

A. Relevant information contained in this system of records maintained by the Service to carry out its functions may be referred, as a routine use, to clerks and judges of courts exercising naturalization jurisdiction for the purpose of filing petitions for naturalization and to enable such courts to determine eligibility for naturalization or grounds for revocation of naturalization.

B. Relevant information contained in this system of records maintained by the Service to carry out its functions may be referred, as a routine use, to the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Laws Act, and all other immigration and nationality laws, including treaties and reciprocal agreements.

C. Relevant information contained in this system of records maintained by the Service to carry out its functions may be provided, as a routine use, to other federal, state, and local government law enforcement and regulatory agencies, foreign governments, the Department of Defense, including all components thereof, the Department of State, the Department of the Treasury, the Central Intelligence Agency the Selective Service System, the United States Coast Guard, the United Nations, INTERPOL, and individuals and organizations during the course of investigation in the processing of a matter or a proceeding within the purview of the immigration and nationality laws, to elicit information required by the Service to carry out its functions and statutory mandates.

D. In the event that this system of records maintained by the Service to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

E. In the event that this system of records maintained by the Service to carry out its functions indicates a violation or potential violation of the immigration and nationality laws, or of a general statute within Service jurisdiction, or by regulation, rule, or order issued pursuant thereto, the relevant records in this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal and to opposing counsel in the course of discovery.

F. A record from this system of records may be disclosed, as a routine use, to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

G. A record from this system of records may be disclosed, as a routine use, to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision of this Service concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

H. Indication of a violation or potential violation of the laws of another nation, whether civil or criminal, may be referred to the appropriate foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such laws; indication of any such violation or potential violation may also be referred to international organizations engaged in the collection and dissemination of intelligence concerning criminal activity.

I. Relevant information contained in this system of records may be disclosed, as a routine use, to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

J. A record from this system may be disclosed to other Federal agencies for the purpose of conducting national intelligence and security investigations.

K. Information contained in this system or records may be disclosed to an applicant, petitioner or respondent or to his or her attorney or representative (as defined in 8 CFR 1.1(j)) in connection with any proceeding before the Service.

Release of information to the news media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress.

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Generally, index records and cards are stored in manually operated index machines, file drawers, and boxes; other information is stored manually as paper records in file folders at locations A, B, C, E, F, and H, supra. Inactive files are stored at Federal Records Centers. Exceptions are as follows:

A. Alien address report index and records: Forms I-53, Alien Address Report, are microfilmed in the order in which they are received. An index is maintained on microfiche and on computer-readable magnetic tape.

B. Alien documentation, identification, and telecommunications (ADIT) system information is stored on magnetic tape and disks. Original forms completed by the individuals are filed with other records described for the subsystem "Centralized index and records."

C. Alien enemy index: Index records are maintained on microfilm. Actual files are stored in Federal Records Centers.

D. Centralized index and records: Most records are paper documents stored in file folders. Those index records which can be accessed electronically are stored on magnetic disk and tape.

E. Enforcement indexes: Original index cards and records are stored in manually operated file drawers and machines. Some records are also maintained in the automated system published in a notice entitled "JUSTICE/DEA-INS-111, Automated Intelligence Records System (Pathfinder)."

F. Examinations indexes: (1) *Application and petition system records are stored on magnetic media at the Department of Justice Data Management Service. Original paper forms completed by the individuals are filed with other records in the subsystem called "Centralized index and records."* (2) Service lookout system records are maintained on magnetic tape and in printed looseleaf reference books at ports of entry.

Retrievability:

Generally, records are indexed and retrievable by name and/or "A" or "C" file number. Exceptions are as follows:

A. Air detail office index system: Aircraft data is filed in numerical sequence, within each calendar year.

B. Intelligence indexes: Records are retrieved by name within organization, activity, or type of violation.

C. Examiners' docket lists of petitioners for naturalization, and Master docket lists of petitions for naturalization pending one year or more, are filed chronologically for each court exercising naturalization jurisdiction. Relating records are filed by petition number.

Access controls:

Records are safeguarded in accordance with Department of Justice rules and procedures. INS offices are located in buildings under security guard, and access to premises is by official identification. All records are stored in spaces which are locked outside of normal office hours. Many records are stored in cabinets or machines which are locked outside of normal office hours. Access to automated systems is controlled by restricted password for use of remote terminals in secured areas.

Retention and disposal:

Several general rules apply to many subsystems of records:.

A. Alien registration records are retained for 100 years from the closing date or date of last action.

B. Correspondence control cards (Forms G–617) are normally retained for one year following the year in which created.

C. Correspondence portions of subject files are normally retained no longer than two years. Records are then either microfilmed or desroyed by burning.

D. Records in policy portions of subject files are retained indefinitely.

E. Indexes and records not specifically mentioned are retained only so long as they serve a useful purpose.

F. Records are destroyed by shredding, burning, or as provided in disposal schedules.

Exceptions to the general practices are as follows:

A. Alien documentation, identification, and telecommunications (ADIT) system records are maintained until naturalization, death, or other material change in status of the individual, or until the registration card is relinquished.

B. Air detail office index: Forms I–92A are retained for five years.

C. Border Patrol trainee examination papers are destroyed six months after the trainee officer completes his probationary year.

D. Centralized index records stored on magnetic disk and tape are updated periodically and maintained for the life of the relating record. Original index cards are microfilmed, then destroyed.

E. Compassionate cases system records are retained for three years after completion of action.

F. Congressional Mail Unit correspondence control index records are retained for three years.

G. Emergency reassignment index records are destroyed upon the transfer, separation, retirement, or death of the employee.

H. Enforcement indexes relating to law violators and witnesses are retained for three years. Routine investigations records are destroyed when the investigation is closed. Correspondence control records are destroyed after final action on the subject matter.

I. Examinations indexes: (1) *Application and petition system records are deleted from the automated data base five years after the date of last activity. Inactive records will be stored on magnetic tape for an additional five years.* (2) Service lookout system records are deleted five years after insertion, unless removed at an earlier date or reinserted by the listing agency.

J. Finance Section indexes: accounts with creditors and debtors are retained for two years from the close of the fiscal year to which they relate and then are transferred to Federal Records Centers for storage and disposition.

K. Freedom of Information correspondence control index cards and records of requests under appeal or litigation are retained until completion of the action. Other index records of FOIA requests are retained for one year following the year in which created.

L. Health records are retained for six years after the date of the last entry.

M. Intelligence indexes: records are maintained indefinitely.

N. Naturalization examiners' docket lists and master docket lists are retained for two years. Naturalization and citizenship docket cards are purged after applications are rejected, closed, granted, or denied; or petitions for naturalization are granted, denied, or nonfiled.

O. Microfilmed manifest records are retained permanently.

P. Personal data cards are retained for three years after the employee is separated (Location A, supra). In regional offices (Location B, supra), records are destroyed after the employee is separated.

Q. Personnel investigations records are destroyed at the close of the fiscal year following the year of investigation. However, Operation Clean Sweep records are being retained until the program is terminated. Records of criminal investigations are retained as long as the information serves a useful purpose.

R. Security access clearance index records are destroyed upon the separation, death, or retirement of the employee.

S. White House and Attorney General correspondence control index cards are retained for one year beyond the expiration of the term of the President.

System manager(s) and address:

A. The system manager, Service-wide, is the Associate Commissioner, Management (Location A, supra).

B. The Associate Commissioner, Management, is the sole manager of the following subsystems:

1. Agency information control record index.
2. Alien address reports index and records.
3. Alien documentation, identification and telecommunications (ADIT) system.
4. Alien enemy index.
5. Centralized index and records (Master Index).
6. Congressional Mail Unit correspondence control index.
7. Document vendors and alterers index.
8. Enforcement correspondence control index.
9. Examinations indexes: (*1*) *Application and petition system;* (2) Correspondence control index; (3) Service lookout system.
10. Finance Section indexes.
11. Freedom of Information correspondence control index.
12. Health record system.
13. Intelligence indexes.
14. Micofilmed manifest records.
15. Property issued to employees.
16. Security access clearance index.
17. White House and Attorney General correspondence control index.

C. The following officials are system managers for special subsystems:

1. Automobile decal parking identification for employees: Deputy Regional Commissioner (Location B–4, supra).

2. Enforcement indexes, group one (Contact index; Informant index; Antismuggling index (general); Criminal, immoral, narcotic, racketeer and subversive indexes; Suspect third party index): the ranking Service officer of the offices in which the indexes are maintained (Locations A, B, C, and E, supra).

3. Enforcement indexes, group two: (a) Air detail office index: Deputy Director (Location J, supra). (b) Antismuggling information centers: (1) Canadian border, Chief Patrol Agent (Location F–19, supra); (2) Mexican Border, Deputy Director (Location J, supra). (c) Border Patrol Academy index: Chief Patrol Agent (Location G, supra). (d) Border Patrol sectors general index: Chief Patrol Agent (Location F, supra). (e) Fraudulent Document Center index (Location J, supra).

4. Compassionate cases system: Associate Commissioner, Management (Location A, supra); Regional Commissioners (Location B, supra).

5. Emergency reassignment index: Regional Commissioners (Location B, supra); District Directors (Location C, supra); Officers in charge (Location E, supra); Chief Patrol Agents (Location F, supra).

6. Extension training program enrollees: Chief, Employee Development Branch, Office of Assistant Commissioner, Personnel (Location A, supra).

7. Naturalization and citizenship indexes: (a) Naturalization and citizenship docket cards, and Examiners' docket lists of petitioners for naturalization: District Directors (Location C, supra); Officers in Charge (Location E, supra, except E–6, E–7, E–8, and E–13). (b) Master docket lists of petitions for naturalization pending one year or more: the Associate Commissioner, Management (Location A, supra); Regional Commissioners (Location B, supra); District Directors (Location C, supra); Officers in charge (Location E, supra, except E–6, E–7, E–8, and E–13).

8. Personal data card system: Associate Commissioner, Management (Location A, supra); Regional Commissioners (Location B, supra).

Notification procedure:

A. Inquiries should be addressed to the system managers listed above, except for the following subsystems:

1. Finance Section indexes: address inquiries to the INS office at which business was conducted.

2. Freedom of Information correspondence control index: address inquiries to the INS office nearest the requestor's place of residence, or (if known) the INS office where the record is located.

B. Systems totally exempt from disclosure pursuant to 5 U.S.C. 552a(j) and (k) are listed below:

1. Agency information control record index.

2. Document vendors and alterers index.

3. Emergency reassignment index.

4. Enforcement indexes, group one: (a) Contact index. (b) Informant index. (c) Anti-smuggling index (general). (d) Criminal, immoral, narcotic, racketeer, and subversive indexes. (e) Suspect third party index.

5. Enforcement indexes, group two: Anti-smuggling information centers, Canadian and Mexican borders.

6. Examinations indexes: Service lookout system.

7. Intelligence indexes.

Record access procedures:

In all cases, requests for access to a record from any record subsystem shall be in writing or in person. If a request for access is made in writing, the envelope and letter shall be clearly marked "Privacy Access Request." The requester shall include a description of the general subject matter and if known, the relating file number. To identify a record relating to an individual, requester should provide the individual's full name; date and place of birth; alien, citizen, or employee identification number; and, if appropriate, the date and place of entry into or departure from the United States. The requester shall also provide a return address for transmitting the information.

Most of the subsystems of records contain information which the Attorney General has exempted from disclosure pursuant to 5 U.S.C. 552a(j) and (k), and records which are classified pursuant to Executive order. Each requester will be accorded access to the records relating to himself only to the extent that such records are not within the scope of exemptions and are not classified.

Contesting record procedure:

Any individual desiring to contest or amend information maintained in the system should direct his request to the INS office nearest his residence or to the office in which he believes a record concerning him may exist. The request should state clearly what information is being cointested, the reasons for contesting it, and the proposed amendment to the information.

Record source categories:

Basic information contained in INS records is supplied by individuals on Department of State and INS applications and reports. Other information comes from inquiries and/or complaints from members of the general public and members of the Congress; referrals of inquiries and/or complaints directed to the White House or Attorney General; INS reports of investigation, sworn statements, correspondence and memorandums; official reports, memorandums, and written referrals from other government agencies, including Federal, state, and local, and from various courts and regulatory agencies; information from foreign government agencies and international organizations; and personnel and administrative applications and forms.

Systems exempted from certain provisions of the act:

The Attorney General has exempted this system from subsections (c) (3) and (4); (d); (e) (1), (2), and (3); (e)(4) (G), (H), and (I); (e) (5) and (8); (f); (g); and (h) of the Privacy Act. These exemptions apply to the extent that information in the subsystems is subject to exemption pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the FEDERAL REGISTER as additions to Title 28, Code of Federal Regulations (28 CFR 16.99).

[FR Doc.77-29124 Filed 10-4-77;8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

SCIENCE FOR CITIZENS ADVISORY COMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Science for Citizens Advisory Committee.

Date and Time: October 21, 1977, 9 a.m. to 5 p.m., and October 22, 1977, 9 a.m. to 12 noon.

Place: Room 405, 5225 Wisconsin Avenue, Washington, D.C. 20550.

Contact person: Ms. Rachelle Hollander, Acting Program Manager, Science for Citizens Program, Office of Science and Society, National Science Foundation, Washington, D.C. 20550, telephone 202-282-7770.

Type of meeting: Open.

Purpose of committee: To provide advice and recommendations concerning the development of the Science for Citizens program.

Agenda: (1) Review program announcements for (a) public service science residencies and internships, and (b) forums, conferences, and workshops; and (2) development of criteria for planning grants for Public Service Science Centers and Scientific and Technological Information Institutes.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, Washington, D.C. 20550.

M. REBECCA WINKLER,
Acting Committee Management Officer.

SEPTEMBER 30, 1977.

[FR Doc.77-29262 Filed 10-4-77;8:45 am]

[7555-01]

SUBCOMMITTEE ON ECONOMICS OF THE ADVISORY COMMITTEE FOR SOCIAL SCIENCES

Meeting

In accordance with Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Economics of the Advisory Committee for Social Sciences.

Date and time: October 21 and 22, 1977, 9 a.m. to 6 p.m. each day.

Place: Room 1224, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. James H. Blackman, Program Director for Economics, Division of Social Sciences, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5968.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in economics.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

SEPTEMBER 30, 1977.

[FR Doc.77-29261 Filed 10-4-77;8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 29, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be

approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

United States Travel Service, USER Survey—National Travel Information Service, single time, travel agencies, Economics and General Government Division, C. Louis Kincannon, 395–3451.

Bureau of Census, General Revenue Sharing Survey—Indian Tribes, RS–14, annually, Indian tribal officials, Charles A. Ellett, 395–5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Data Collection Forms in Response to Section 437, GEPA, Calendar 1977 Collection, CE–511, annually, government agencies, Laverne V. Collins, 395–5867.

Alcohol, Drug Abuse, and Mental Health Administration, NIDA State Appropriations Survey, annually, Single State Agencies, Richard Eisinger, 395–6140.

Center for Disease Control, Monitoring Abortion in Sentinel Hospitals (MASH), weekly, medical care facilities, Richard Eisinger, 395–6140.

DEPARTMENT OF LABOR

Employment and Training Administration, Study on Actual Duration of Spell Unemployment Experienced by Disqualified UI Claimants and UI Beneficiaries, single time, UI claimants, Strasser, A., 395–5867.

REVISIONS

VETERANS ADMINISTRATION

Supplement to SF 129, Bidder's Mailing List Application, 08–6299, on occasion, Persons or concerns wishing to be added to VA bidder's list, Caywood, D. P., 395–3443.

DEPARTMENT OF COMMERCE

Economic Development Administration, Local Public Works Payroll Reporting Form, EC–746, weekly, construction (sub)contractors on public works projects, Economics and General Government Division, Strasser, A., 395–3451.

DEPARTMENT OF THE TREASURY

Departmental and Other, Monthly Report of Assets, Liabilities, and positions in Specified Foreign Currencies of Firms in the United States, FC–3, monthly, non-banking business concern and nonprofit institutions, C. Louis Kincannon, 395–3211.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service:

Prices Paid by Farmers for Equipment, Supplies and Marketing Containers, quarterly, farm equipment dealers, Strasser, A., 395–5867.

Hop Inquiries (Acreage, Production, and Prices), Other (see SF–83), Hop growers, Ellett, C. A., 395–5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Vocational Rehabilitation Report to Social Security Administration—Disability Applicant, SSA–853, on occasion, State vocational rehabilitation agencies, Human Resources Division, Caywood, D. P., 395–3532.

DEPARTMENT OF LABOR

Employment and Training Administration, weekly PSE Expansion Report, ETA–3, weekly, State and local agencies, Lowry, R. L., 395–3772.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–29353 Filed 10–4–77;8:45 am]

[3110–01]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 27, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

U.S. CIVIL SERVICE COMMISSION

Allotments Questionnaire, single-time, individual or households, Marsha Traynham, 395–4529.

SMALL BUSINESS ADMINISTRATION

Local Development Company Loan Program Evaluation Questionnaire for Participating Small Business, single-time, business loan recipients, economics and general government division, Raynsford, R., 395–3451.

Course Evaluation, single-time, potential business, economics and general government division, 395–3451.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, A Study of Questionnaire and Interview Effects, single-time, cattle and hog farmers, Ellett, C. A., 395–5867.

DEPARTMENT OF COMMERCE

Bureau of Census, Schedule for New York City Housing Vacancy Survey, Visitation Letter, H–100 and 100L, single-time, households in New York City, Laverne V. Collins, 395–5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Key Question Determining Continuing Eligibility for Supplemental Security Income Payments, SSA–8202, annually, aged, blind or disabled recipients of SSI Payments, Caywood, D. P., 395–3443.

Office of Education, Bilingual Vocational Training Inventory, OE–536, single-time, directors of bilingual vocational training, Reese, B. F., 395–3532.

Alcohol, Drug Abuse and Mental Health Administration, PCP Investigation, single-time, data systems, Richard Eisinger, 395–6140.

Office of Human Development:

National Study of the Incidence and Severity of Child Abuse and Neglect (Pretest) (Part 2: Parent Survey), single-time, household having children under 18, Laverne V. Collins, 395–5867.

Evaluation of Title IV—Acareer Training Program in Aging Institutional Mail Survey, single-time, schools receiving title IV–A Grants, Human Resources Division, Raynford, R., 395–3532.

REVISIONS

RAILROAD RETIREMENT BOARD

Statement of Spouse of Employee Annuitant, G–318, on occasion, spouse of employee annuitant, Caywood, D. P., 395–3443.

DEPARTMENT OF COMMERCE

Bureau of Census, (Part of 1980 Decennial Census of Population and Housing) Special Census Prelist Address Register–1977 Census of Oakland, California, DH–140–A, single-time, housing units in special places where mailing lists is N/A, Richard Eisinger, 395–6140.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Call Report for Unregulated and Specialized Lenders Under the Federally Insured Student Loan Program, OE 1166–3, annually, colleges, universities and State institutions, Laverne V. Collins, 395–5867.

EXTENSIONS

DEPARTURE OF AGRICULTURE

Food and Nutrition Service, Special Milk Program Application, FNS–826, on occasion, non-profit child care institutions, Human Resources Division, 395–3532.

DEPARTMENT OF TRANSPORTATION

Coast Guard, Notification of Change in Status of Vessel, CG 3921, on occasion, boat owners, Strasser, A., 395–5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–29354 Filed 10–4–77;8:45 am]

[8025–01]

SMALL BUSINESS ADMINISTRATION

SBIC NATIONAL ADVISORY COUNCIL

Meeting

The Small Business Administration SBIC National Advisory Council will hold a public meeting at 9:30 a.m. and conclude at 5 p.m., Wednesday, October 9, at the Small Business Administration office, 450 Golden Gate Ave., San Francisco, California, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Peter F. McNeish, U.S. Small Business Administra-

tion, 1441 L St. NW., Washington, D.C. 20416, (202) 653-6585.

Dated: September 30, 1977.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc.77-29444 Filed 10-4-77;8:45 am]

[4710-01]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 571]

MISSION, TEX.

Application for Bridge Permit

Notice is hereby given that the Department of State has received an application for a permit authorizing the construction, operation and maintenance of an international bridge in the Mission-McAllen, Texas, area. The application has been filed by the City of Mission, Texas, for a permit authorizing a highway bridge and rail crossing connecting Mission with the new Industrial Park northwest of the City of Reynosa.

The Department's jurisdiction with respect to this application is based upon Executive Order 11423, dated August 16, 1968, and the International Bridge Act of 1972 (Pub. L. 92-343, 86 Stat. 731, approved September 26, 1972).

As required by E.O. 11423, the Department of State is circulating this application to concerned agencies for comment. In addition, the Office of Environmental Affairs of the Department of State is initiating an assessment of the environmental effects of the proposal to determine if an environmental impact statement will be required.

Interested persons may submit their views regarding this application in writing by November 4, 1977 to Mr. Phillip R. Trimble, Assistant Legal Adviser for Economic and Business Affairs, Room 6420, Department of State, 2201 C Street, NW., Washington, D.C. 20520.

The application and related documents made part of the record to be considered by the Department of State in connection with this application are available for inspection and copying in the Office of the Assistant Legal Adviser for Economic and Business Affairs during normal business hours.

Any questions relating to this notice may be addressed to Mr. Trimble at the above address, (202-632-0242) or to Ms. Diane Wood, (202-632-3970).

Dated: September 28, 1977.

For the Secretary of State.

PHILLIP R. TRIMBLE,
Assistant Legal Adviser for Economic and Business Affairs.

[FR Doc.77-29251 Filed 10-4-77;8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 77-243]

WHITE OR IRISH POTATOES, OTHER THAN CERTIFIED SEED—TARIFF-RATE QUOTA

Tariff-Rate Quota for the Quota Year Beginning September 15, 1977, for White or Irish Potatoes, Other Than Certified Seed

SEPTEMBER 28, 1977.

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of the quota quantity for white or Irish potatoes, other than certified seed, for the 12-month period beginning September 15, 1977.

SUMMARY: Each year the tariff-rate quota for potatoes described in item 137.25, Tariff Schedules of the United States (TSUS), is based on the estimate by the Department of Agriculture of potatoes entered during the calendar year.

EFFECTIVE DATES: The 1977 tariff-rate quota is applicable to white or Irish potatoes described in item 137.25, TSUS, entered, or withdrawn from warehouse, for consumption during the 12-month period beginning September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Helen C. Rohrbaugh, Head, Quota Section, Duty Assessment Division, Office of Operations, U.S. Customs Service, Washington, D.C. 20229 (202-566-8592).

The tariff-rate quota for white or Irish potatoes, other than certified seed, pursuant to item 137.25, Tariff Schedules of the United States, for the 12-month period beginning September 15, 1977, is 45,000,000 pounds.

The estimate of the production of white or Irish potatoes, including seed potatoes, in the United States for the calendar year 1977, made by the United States Department of Agriculture as of September 1, 1977, was in excess of 21 billion pounds.

In accordance with headnote 2, part 8A, of schedule 1, Tariff Schedules of the United States, the quota quantity is not increased because the estimated production is greater than 21,000,000,000 pounds.

JOHN A. HURLEY,
Acting Commissioner of Customs.

[FR Doc.77-29177 Filed 10-4-77;8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 24, Rule 19; 8th Rev. Exemption No. 128]

ATCHISON, TOPEKA & SANTA FE RAILROAD CO., ET AL.

Mandatory Car Service Rules

To: The Atchison, Topeka & Santa Fe Railroad Co., Chicago & North Western Transportation Co., Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Chicago, Rock Island & Pacific Railroad Co., Illinois Central Gulf Railroad Co., Louisville & Nashville Railroad Co., Missouri-Illinois Railroad Co., Missouri Pacific Railroad Co., Seaboard Coast Line Railroad Co., Southern Railway Co.

It appearing, That the ten railroads listed below have mutually agreed to the use of each other's empty plain cars having mechanical designations "XM", "FM"—less than 200,000 lbs., "GA", "GB", "GD", "GH", and "GS" and bearing reporting marks assigned to such carriers.

It further appearing, That these ten railroads have mutually agreed to participate in an Expanded Clearinghouse Project in which each road will treat the cars of the nine roads as systems, with the Car Service Division of the AAR acting as agent.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, empty plain cars described in the Official Railway Equipment Register I.C.C.-R.E.R. No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "XM", "FM"—less than 200,000 lbs., "GA", "GB", "GD", "GH", and "GS" and bearing the following reporting marks are exempt from the provisions of Car Service Rules 1 and 2, while on the lines of any of the above named railroads.

The Atchison, Topeka & Santa Fe Railroad Co., reporting marks: ATSF. Effective August 22, 1976.

Chicago & North Western Transportation Co., reporting marks: CNW-CGW-CMO-FDDM-MSTL. Effective October 17, 1976.

Chicago, Milwaukee, St. Paul & Pacific Railroad Co., reporting marks: MILW. Effective July 15, 1976.

Chicago, Rock Island & Pacific Railroad Co., reporting marks: RI-ROCK. Effective September 12, 1976.

Chicago, Rock Island & Pacific Railroad Co., reporting marks: RI-ROCK. Effective September 12, 1976.

Illinois Central Gulf Railroad Co., reporting marks: ICG-GM&O-IC. Effective August 22, 1976.

Louisville & Nashville Railroad Co., reporting marks: L&N-CIL-MON-NC. Effective August 15, 1976.

Missouri-Illinois Railroad Co., reporting marks: MI. Effective July 15, 1976.

Missouri Pacific Railroad Co., reporting marks: MP-C&EI-KO&G-T&P. Effective July 15, 1976.

[Deleted] [1]

[1] St. Louis Southwestern Railway Co., eliminated.

Seaboard Coast Line Railroad Co., reporting marks: SCL–ACL–C&WC–SAL. Effective August 15, 1976.
Southern Railway Co., reporting marks: SOU–AEC–CG–GF–NS–SA. Effective July 15, 1976.

It is further ordered, That this order will become effective for specific ownerships on dates to be set by the Car Service Division as each road is phased into the Project starting July 15, 1976, the Car Service Division to issue appropriate notification to Project participants, and to advise the undersigned.

Effective 11:59 p.m., October 1, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 22, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-29220 Filed 10-4-77;8:45 am]

[7035–01]

[Ex Parte No. 241; Rule 19; 13th Rev. Exemption No. 129]

BESSEMER & LAKE ERIE RAILROAD CO., ET AL.

Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous 40-ft. plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 404 issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Bessemer & Lake Erie Railroad Co.,[1] reporting marks: BLE.
Chicago, West Pullman & Southern Railroad Co., reporting marks: CWP.
Chicago, Rock Island & Pacific Railroad Co., reporting marks: RI–ROCK.
Detroit & Mackinac Railway Co., reporting marks: D&M–DM.
Illinois Terminal Railroad Co., reporting marks: ITC.
Louisville, New Albany & Corydon Railroad Co., reporting marks: LNAC.
Missouri-Kansas-Texas Railroad Co., reporting marks: MKT.
Missouri Pacific Railroad Co., reporting marks: CEI–MI–MP–TP.
New Hope & Ivyland Railroad Co., reporting marks: NHIR.
Richmond, Fredericksburg & Potomac Railroad Co., reporting marks: RFP.
[Deleted][2]

Effective 12:01 a.m., September 30, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 22, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-29221 Filed 10-4-77;8:45 am]

[1] Addition.
[2] St. Louis-San Francisco Railway Co. eliminated.

[7035–01]

[Ex Parte No. 241; Rule 19; Exemption No. 127, Amdt. No. 6]

BESSEMER & LAKE ERIE RAILROAD CO., ET AL.

Mandatory Car Service Rules

AMENDMENT NO. 6 TO EXEMPTION NO. 127

To: Bessemer & Lake Erie Railroad Co., The Baltimore & Ohio Railroad Co., The Chesapeake & Ohio Railway Co., Western Maryland Railway Co.

Upon further consideration of Exemption No. 127 issued June 29, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 127 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to *expire December 31, 1977*.

This amendment shall become effective September 30, 1977.

Issued at Washington, D.C., September 22, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-29219 Filed 10-4-77;8:45 am]

[7035–01]

[No. 36654]

BOYLE BROTHERS, INC.

Petition for Clarification, Publication of Arbitraries and Weighing Charges; Instituting a Proceeding

The purpose of this notice is to inform the public that upon a petition of Boyle Brothers, Inc., filed August 9, 1977, which sought the institution of a rulemaking proceeding, the Commission is starting a declaratory order proceeding pursuant to the Administrative Procedure Act (5 U.S.C. 554(e)) concerning petitioner's proposed tariff publications.

Petitioner seeks to have the Commission interpret its proposed tariff publications as reasonable. The publications involve the following: First, the establishment of an additional charge (or arbitrary) of three cents per 100 pounds, subject to a minimum charge of $10 on all shipments destined to any point in the State of Vermont. A proposed mileage Table No. 19, would add an additional charge of three cents per 100 pounds, minimum charge of $12 per vehicle used, on all shipments destined to points in New York City, Nassau, and Suffolk Counties, N.Y. Second, petitioner proposes to reimburse the carrier for weighing shipments without the consent (or request) of the shipper, consignee, or other designated party responsible for payment of the freight charges.

Petitioner submits that its proposal has been rejected by the Commission's Bureau of Traffic because of an alleged violaton of Rule 4(a) and 4(b) of Tariff Circular MF No. 3, as the proposal was not a "clear and explicit statement of rates" and provided "a complicated plan" prohibited by those rules. Petitioner believes that by the summary rejection of its tariff publication, the Commission's Bureau of Traffic is giving a new interpretation to Rules 4(a) and 4(b), without an opportunity for the petitioner to show on a formal record that the proposal is reasonable.

By an order served concurrently with this publication, the proceeding is being set for handling under the modified procedure. Oral hearings do not appear necessary at this time and are not contemplated.

Any interested parties subsequently permitted to intervene should comply with Rules 43 to 52 (49 CFR 1100.43 to 1100.54), inclusive, of the Commission's general rules of practice, and the filing and service of pleadings is to be as follows: (a) Opening statement of facts and arguments by petitioner and any parties supporting petitioner on or before 20 days from the date of service of this order; (b) 30 days after that date, statement of facts and argument by replicant and any supporting parties; and (c) reply by petitioner and any supporting parties 20 days thereafter.

All written submissions will be available for public inspection during regular business hours at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, Washington, D.C.

Issued in Washington, D.C., September 22, 1977.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29271 Filed 10-4-77;8:45 am]

[7035–01]

[Rule 19, Ex Parte No. 241, 32nd Rev. Exemption No. 90]

CAMINO, PLACERVILLE & LAKE TAHOE RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

It appearing, that the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars

to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Camino, Placerville & Lake Tahoe Railroad Co.
Reporting Marks: CPLT.
City of Prineville.
Reporting Marks: COP.
The Clarendon & Pittsford Railroad Co.
Reporting Marks: CLP.
Greenville & Northern Railway Co.
Reporting Marks: GRN.
Greenwich & Johnsonville Railway Co.
Reporting Marks: GJ.
Lake Erie, Franklin & Clarion Railroad Co.
Reporting Marks: LEF.
Louisville & Wadley Railway Co.
Reporting Marks: LW.
Louisville, New Albany & Corydon Railroad Co.
Reporting Marks: LNAC.
McCloud River Railroad Co.
Reporting Marks: MR.
[Deleted] [1]
Municipality of East Troy, Wis.[2]
Reporting Marks: METW.
New Orleans Public Belt Railroad.[2]
Reporting Marks: NOPB.
Pearl River Valley Railroad Co.
Reporting Marks: PRV.
The Pittsburgh & Lake Erie Railroad Co.
Reporting Marks: P&LE.
Providence & Worcester Co.
Reporting Marks: PW.
Raritan River Rail Road Co.
Reporting Marks: RR.
Sacramento Northern Railway.
Reporting Marks: SN.
St. Johnsbury & Lamoille County Railroad.
Reporting Marks: SJL.
St. Lawrence Railroad.
Reporting Marks: NSL.
Sierra Railroad Company.
Reporting Marks: SERA.
Terminal Railway, Alabama State Docks.
Reporting Marks: TASD.
Tidewater Southern Railway Co.
Reporting Marks: TS.
Toledo, Peoria & Western Railroad Co.
Reporting Marks: TPW.
Vermont Railway, Inc.
Reporting Marks: VTR.
WCTU Railway Co.
Reporting Marks: WCTR.
Yreka Western Railroad Co.
Reporting Marks: YW.

Effective October 1, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 23, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-29272 Filed 10-4-77;8:45 am]

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[1] Missouri-Kansas-Texas Railroad Co. eliminated.
[2] Addition.

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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[6320-01]

1

CIVIL AERONAUTICS BOARD.

Notice of rescheduled meeting from September 30, 1977, to October 7, 1977: MA-57 amending M-63; September 28, 1977.

TIME AND DATE: 10 a.m., October 7, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: The Air Charter Tour Operators of America to make a presentation to the Board regarding the problems affecting the charter tour operators industry.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The General Counsel for the Air Charter Tour Operators of America have requested that the meeting originally scheduled for September 30, 1977, be rescheduled for October 7, 1977.

[S-1506-77 Filed 10-3-77;9:24 am]

[6320-01]

2

CIVIL AERONAUTICS BOARD.

Notice of additions of items to the September 29, 1977, meeting agenda; MA-58 amending M-61; September 28, 1977.

TIME AND DATE: 2 p.m., September 29, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 3a. Docket 30226, increase in subsidy for Kodiak-Western Alaska Airlines, Inc. (Memo No. 6669-D, BFR, OC, BOR). 3b. Docket 31428, exemption for Reeve Aleutian Airways, Inc., to continue carriage of military passengers on certain scheduled services at less than its tariff rates (Memo No. 5333-D, BFR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: On August 29, 1977, Kodiak-Western filed a petition for an increase in its temporary subsidy rate. The carrier informally indicated to the staff that if relief is not granted on an emergency basis, it will be forced to curtail severely (or perhaps cease) its operations after October 1, 1977. On September 27, 1977, Reeve Aleutian Airways filed a petition for an exemption to transport military passengers on scheduled commercial flights during the period October 1, 1977, through September 30, 1978. Reeve Aleutian's military contract is effective October 1, 1977. The staff forwarded its recommendations to the Board concerning these cases on September 28, 1977. In order for the Board to consider these cases before October 1, 1977, it is necessary for these items to be added to the September 29, 1977, agenda. Accordingly, the following Members have voted that agency business requires the addition of items 3a and 3b to the September 29, 1977, agenda and that no earlier announcement of these additions was possible:

Chairman Alfred E. Kahn.
Vice Chairman Richard J. O'Melia.
Member G. Joseph Minetti.
Member Elizabeth E. Bailey.

[S-1507-77 Filed 10-3-77;9:24 am]

[6320-01]

3

CIVIL AERONAUTICS BOARD.

Notice of change of time for the September 29, 1977, meeting; MA-59 amending M-61; September 29, 1977.

TIME AND DATE: 3 p.m., September 29, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Scheduled meeting for September 29 as announced by M-61 as amended by MA-54, MA-55, MA-56 and MA-58.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Chairman Kahn is appearing at a Congressional meeting today and will not be available for the meeting until 3 p.m.

[S-1508-77 Filed 10-3-77;9:24 am]

[3410-05]

COMMODITY CREDIT CORPORATION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 48453, September 23, 1977.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Friday, September 30, 1977, 3 p.m.

STATUS: Open meeting.

CHANGES IN THE MEETING: Additional agenda item: (5) General discussion re: CCC administrative responsibilities concerning pilot projects for the production and marketing of industrial hydrocarbons and alcohols from agricultural commodities and forest products.

CONTACT PERSON FOR MORE INFORMATION:

Bill Cherry, Acting Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, telephone 202-447-7583.

[S-1513-77 Filed 10-3-77;11:39 am]

[6714-01]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of change in subject matter of agency meeting.

At its open meeting held at 2:30 p.m. on Friday, September 30, 1977, the Board of Directors of the Federal Deposit Insurance Corporation unanimously determined, on motion of Chairman George A. LeMaistre, seconded by Director John G. Heimann (Comptroller of the Currency), that Corporation business required its addition of the following matters to the agenda for consideration at that meeting, on less than seven days' notice to the public:

Application of the Western New York Savings Bank, Buffalo, N.Y., for consent to establish a branch at 1777 Sheridan Drive, Town of Tonawanda, N.Y.

Resolution rejecting the highest bid received for the stock of First National Bank of Jefferson Parish, Gretna, La., which stock was acquired by the Corporation from the receiver of International City Bank & Trust Company, New Orleans, La.

Resolution extending to November 1, 1977, the deadline for the submission of statements of employment and financial interests by employees of the Corporation.

Resolution augmenting the budget of administrative expenses for 1977.

The Board further determined that no earlier notice of a change in the subject matter of the meeting was possible.

Dated: September 30, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1504-77 Filed 10-3-77;8:45 am]

[6714-01]

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of change in subject matter of agency meeting.

At its closed meeting held at 2 p.m. on Friday, September 30, 1977, the Board of Directors of the Federal Deposit Insurance Corporation unanimously determined, on motion of Chairman George A. LeMaistre, seconded by Director John G. Heimann (Comptroller of the Currency), that Corporation business required its addition of Case Nos. 43,227-L and 43,234-L, regarding the liquidation of assets acquired by the Corporation from Northeast Bank of Houston, Houston, Tex. (in liquidation), to the agenda for consideration at the meeting, on less than seven days' notice to the public.

The Board also voted to withdraw Case No. 43,204-L, regarding the liquidation of assets acquired by the Corporation from Northern Ohio Bank, Cleveland, Ohio, from consideration, at the request of the Division of Liquidation.

The Board further determined that no earlier notice of a change in the subject matter of the meeting was possible.

Dated: September 30, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1505-77; Filed 10-3-77;8:45 am]

[6730-01]

7

FEDERAL MARITIME COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: September 30, 1977, 42 FR 52601.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: October 5, 1977, 10 a.m.

CHANGES IN THE MEETING: Addition of the following item to the closed session: 2. Docket No. 77-22—Actions to adjust or meet conditions unfavorable to shipping in the foreign trade of the United States (Guatemalan Decree No. 41-71); consideration of comments on proposed rule.

[S-1511-77 Filed 10-3-77;11:01 am]

[6730-01]

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: October 11, 1977, 10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Section 510.5, general order 4—Surety bond requirements—Proposed rulemaking proceeding.

2. Agreement No. 7631-6; modification of the Concordia Line joint service agreement to establish intermodal authority.

3. Agreement No. 9522-31; modification of the Med-Gulf Conference agreement providing for voting by secret ballot and right of independent action.

4. Docket No. 73-70—*Inter Equip, Inc. v. Hugo Zanelli & Co.*, review of order of dismissal.

Portion closed to the public:

1. Docket No. 77-44—In re Atlantic and Gulf/Indonesia Conference, Atlantic and Gulf/Singapore, Malaya, and Thailand Conference, Pacific-Straits Conference, and Pacific/Indonesian Conference: Application for approval of interconference agreement Nos. 10175 and 10176; and for approval of conference agreements Nos. 8080-14, 6060-17, 8240-11, and 5680-18—Review of order of discontinuance.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5727.

[S-1512-77 Filed 10-3-77;11:01 am]

[7030-01]

9

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., October 13, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public.

Docket 182, Fort Sill Apache.
Docket 196, Hopi.
Docket 197, Nisqually.
Docket 206, Sqauxin.
Docket 208, Stellacoom.
Docket 356, Pueblo of Santa Clara.
First quarter fiscal year 1978 financial plan.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6174.

[S-1510-77 Filed 10-3-77;11:01 am]

[7715-01]

10

POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, October 5, 1977.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Minutes of the 305th meeting.

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268, Telephone (202) 254-5614.

[S-1509-77 Filed 10-3-77;10:31 am]

federal register

WEDNESDAY, OCTOBER 5, 1977

PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3474]

NORTHPORT, TUSCALOOSA COUNTY, ALA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Northport, Tuscaloosa County, Ala. 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).

DATE: 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.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at McGuire Engineering Co., Northport, Ala.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor J. Frank Manderson, Drawer L, Northport, Ala. 35476.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Northport, Tuscaloosa County, Ala., 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Black Warrior River.	Confluence of Mill Creek.	148
	Upstream of Lurleen Wallace Blvd.	152
Black Warrior Tributary No. 1.	Upstream of 5th St...	151
	Downstream of 9th St.	151
Mill Creek.....	Upstream of 5th St...	148
	Upstream of 37th St..	157
	Upstream of Flatwoods Rd.	165
Mill Creek Tributary No. 1.	Upstream of 12th St..	149
	Upstream of 17th St..	160
	Upstream of 33d St...	205
Mill Creek Tributary No. 1 A.	Upstream of 30th St..	195
	Upstream of 32nd St..	212
Mill Creek Tributary No. 2.	Confluence with Mill Creek Tributary No. 1.	148
	Upstream of 17th St..	153
	Upstream of 24th St..	176
	Upstream of 33rd St..	214
Mill Creek Tributary No. 3.	43rd Ave. (extended)...	162
	Downstream of U.S. Highway 43.	170
Mill Creek..... Tributary No. 4.	Downstream of U.S. Highway 43.	176
Tater Hill Creek...	Upstream of Old Columbus Rd.	149
	Approximately 150 ft upstream of U.S. 82.	159
Tater Hill Creek Tributary No. 1.	Upstream of U.S. Highway 82.	160
	Upstream of 34th St..	172
Twomile Creek....	Approximately 175 ft upstream of U.S. Highway 82.	162
	Upstream of Union Chapel Rd.	205
	Downstream of Old Barness Rd.	233
Twomile Creek Tributary No. 1.	Approximately 125 ft upstream of U.S. 82.	161
	Upstream of Alabama 69.	174
Twomile Creek Tributary No. 2.	Upstream of Shirley Rd.	205
	Approximately 100 ft upstream of Country Road 14.	232
	Upstream of Crawford Rd.	268
Twomile Creek Tributary No. 2A.	Confluence with Twomile Creek Tributary No. 2.	205
	Downstream of Country Road 14.	265
Twomile Creek Tributary No. 3.	Confluence with Twomile Creek.	170
	Confluence of Twomile Creek Tributary No. 3A.	193
Twomile Creek Tributary No. 3A.	Upstream Indian Lake Rd.	196
Twomile Creek Tributary No. 4.	Upstream of Hunter Creek Rd.	191
	Upstream of 43rd St..	218
Twomile Creek Tributary No. 5.	Upstream of Twin Oaks Rd.	216
	Upstream of Union Chapel Rd.	236
Twomile Creek Tributary No. 5A.	Confluence with Twomile Creek Tributary No. 5.	218

(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 (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28528 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3475]

PARAGOULD, GREENE COUNTY, ARK.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Paragould, Greene County, Ark. 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).

DATES: 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.

ADDRESSES: 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, 200 West Court, Paragould, Ark.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Robert Camp, 221 West Court, Paragould, Ark.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Paragould, Greene County, Ark., 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 Nations of base flood elevations (100-year 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Eight Mile Creek	County road	321
	do	313
	Upstream corporate limits.	296
	Downstream corporate limits.	288
	State Highway 135	282
	North 6th Ave	276
Loggy Creek	Upstream corporate limits.	305
	Reynolds Rd	293
	Downstream corporate limits.	289
Reynolds Creek	Country Club Rd	296
	Cast St	296

(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 (39 FR 2787, January 24, 1974).)

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28529 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3476]

JACKSONVILLE, PULASKI COUNTY, ARK.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Jacksonville, Pulaski County, Ark. 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).

DATE: 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.

ADDRESSES: 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, Jacksonville, Ark.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor James G. Reid, 109 South 2nd Street, Jacksonville, Ark. 72076.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Jacksonville, Pulaski County, Ark., 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bayou Meto Main Stem.	Upstream of Arkansas Highway 161.	246
	Jacksonville cutoff road from Arkansas Highway 161.	253
Bayou Meto Tributary No. 1.	Upstream of South Redmond Rd.	250
	Gregory Rd	283
Bayou Meto Tributary No. 1-A.	Upstream of Marshall Rd.	258
Jack Bayou Main Stem.	Eastern Pulaski County limits.	256
Jack Bayou Tributary No. 1.	Eastern Pulaski County limits.	253
	Upstream of Arkansas Highway 161.	273
Jack Bayou Tributary No. 1-A.	Upstream of Arkansas Highway 161.	275
Jack Bayou Tributary No. 2.	Upstream of U.S. Highway 67–167.	282
Jack Bayou Tributary No. 2-A.	Confluence with Jack Bayou Tributary No. 2.	258
Jack Bayou Tributary No. 2-B.	Upstream of eastern drive of Pine Meadows Trailer Park.	266

(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 (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28530 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3477]

GARDEN GROVE, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Garden Grove, Calif. 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).

DATE: 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.

ADDRESSES: 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, 11391 Acacia Parkway, Garden Grove, Calif.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor J. Tilman Williams, City Hall, 11391 Acacia Parkway, Garden Grove, Calif. 92640.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Garden Grove,

Calif., 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Estimated depth (feet)
Sheet flow from Santa Ana River.	Intersection of Westminster Ave. and Roxey Dr.	1
	Intersection of Marty La. and Sleman St.	1
	Intersection of Beacon Ave. and Span St.	1

(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 (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28531 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3478]

SEAL BEACH, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Seal Beach, Calif. 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).

DATE: 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.

ADDRESSES: 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, 211 8th Street, Seal Beach, Calif.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Dennis Courtemarche, City Manager, Seal Beach, City Hall 211 8th Street, Seal Beach, Calif. 90740.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Seal Beach, Calif., 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.

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. These proposed elevations will also be used to calculate the appropriate flood insurance premium for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Local runoff from golf course retarding basin.	North and West of Lampton Ave.	14

(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 Administration, 34 FR 2680, February 27, 1969 as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28532 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3479]

BOULDER COLO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Boulder, Colo. 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).

DATE: 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.

ADDRESSES: 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, 1777 Broadway, Boulder, Colo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Robert W. Westdyke, City Manager, City of Boulder, P.O. Box 791, Boulder, Colo. 80306.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Boulder, Colo., 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 1969 (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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Boulder Creek	6th St	5,372
	9th St	5,360
	Broadway	5,348
	Arapahoe Ave	5,341
	17th St	5,325
	19th St	5,315
	Folsom Field	5,304
	24th St	5,297
	28th St	5,285
	30th St	5,272
	Arapahoe Ave	5,248
	Colorado and Southern R.R.	5,224
South Boulder Creek	Arapahoe Ave	5,231
	Colorado and Southern R.R.	5,220

(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 (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28533 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3480]

PALMER LAKE, COLO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Palmer Lake, Colo. 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).

DATE: 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.

ADDRESSES: 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 Town Hall, Lower Glenway and Crescent, Palmer Lake, Colo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Randall Warthen, P.O. Box 208, Palmer Lake, Colo. 80133.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Palmer Lake, Colo., 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monument Creek	Virginia Ave	7,276
	Lovers La	7,110
	Private driveway	7,016
	Red Rock Ranch Rd.	7,010
	Private driveway	6,967
Monument Creek Tributary.	Westward La	7,002
	Colorado Highway 105.	6,977
	County road	6,947
Monument Creek Bypass	Cloven Hoof Rd and private driveway.	5,956
North Monument Creek.	Walnut Ave	7,198
	Private driveway	7,158
	Spring St	7,118
Carpenter Creek	County Line Rd	7,220

(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 (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28534 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3481]

THORNTON, COLO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed based flood elevations (100-year flood) listed below for selected locations in the City of Thornton, Colo. 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).

DATE: 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.

ADDRESSES: 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, 8992 North Washington St., Thornton, Colo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Tony E. Richter, City Hall, 8992 North Washington St., Thornton, Colo. 80229.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrtor, Office of Flood Insurance, 202–755–5581, or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Thornton, Colorado, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 State. 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.

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. These proposed elevations will also be used to calculate the approviate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Grange Hall Creek	Union Pacific R.R.	5,203
	Colorado Blvd.	5,146
	Riverdale Rd.	5,101
South Fork Grange Hall Creek.	Washington St.	5,319
	104th Ave.	5,238
Grange Hall Creek tributary.	York St.	5,240
	112th Ave.	5,191
Basin 4100	Union Pacific R.R.	5,151
	Welsy Rd.	5,126
Brantner Gulch	Colorado Blvd.	5,180
Big Dry Creek	Interstate 25	5,162
	136th Ave.	5,147

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

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28535 Filed 10-4-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3482]

GLASTONBURY, HARTFORD COUNTY, CONN.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in The Town of Glastonbury, Hartford County, Conn. 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 Insurance Program (NFIP).

DATE: 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.

ADDRESSES: 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 Town Clerk's Office, Glastonbury Town Hall, 2108 Main St., Glastonbury, Conn. 06033.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Henry A. Kinne, Mayor, Town of Glastonbury, Glastonbury Town Hall, 2108 Main St., Glastonbury, Conn. 06033.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581, or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notices of the proposed determinations of base flood elevations (100-year flood) for the Town of Glastonbury, Connecticut, 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.

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. These proposed evaluations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary B	650 ft. upstream from confluence with Smith Brook.	51
	50 ft downstream of Farmstead La. culvert.	70
	40 ft downstream of Founders Rd. culvert.	85
	At the downstream face of Cart Rd. culvert.	88
	50 ft downstream of Coach Rd. culvert.	90
	At culvert, 425 ft upstream of Coach Rd.	95
	At culvert, 900 ft upstream of Coach Rd.	101
Wildcat Brook	At confluence with Salmon Brook.	156
	At the dam, 315 ft upstream of the confluence with Salmon Brook.	164
	At the upstream face of access Rd. culvert.	177
	At the downstream face of Hebron Rd. culvert.	183
	1300 ft upstream of Hebron Rd. culvert.	190
Connecticut River	3.45 mi downstream of Roaring Brook confluence.	26
	At the confluence with Roaring Brook.	27
	Upstream corporate limit.	28
Roaring Brook	At the Tyron Street Bridge.	27
	100 ft downstream of Main Street Bridge.	31
	0.63 mi upstream of the Main St.	70
	0.43 mi downstream of of Matson Hill Rd.	122
	0.11 mi downstream of Matson Hill Rd.	161
	80 ft upstream of Matson Hill Rd.	168
	At the dam, 0.13 mi upstream of Matson Hill Rd.	181
	At the Brainard Pond Dam.	229
	At the Woodland Street Bridge.	232
	At the Cold Brook Road Bridge.	237
	At the New London Turnpike Bridge.	248
	At the dam, 0.33 mi downstream of Connecticut Route 2.	262
	At the Hodges Pond Dam.	285
	At the Fisher Hill Road Bridge.	295
	At the Argus Park Pond Dam.	306
	At the Shoddy Mill Rd. culvert.	315
	100 ft upstream of Wier St.	340
	At the dam 0.38 mi upstream of Weir St.	362
	At the dam, 100 ft downstream of the Tributary A confluence.	374
	0.36 mi upstream of the Tributary A confluence.	391
Salmon Brook	At the Nanbue Ave. culvert.	28
	0.28 mi upstream of the Route 17 culvert.	36
	At the Eastern Blvd. culvert.	67
	At the dam, 350 ft upstream of Mill St.	90
	At the Mill Bldg. culvert.	104
	0.45 mi upstream of the Mill Bldg. culvert.	107
	At the Bell Street Bridge.	147
	At the confluence with the south branch of Salmon Brook.	174
Porter Brook	At the Nanbue Ave. culvert.	28
Hubbard Brook	At the Route 17 culvert.	29
	At the footbridge, 200 ft downstream of Williams St.	35
	At the Williams Pond Dam.	50
	At the New London Turnpike culvert.	66
	At the Rogers Pond Dam.	80
	At the Connecticut Route 2 culvert.	86
	0.86 mi upstream of the Connecticut Route 2 culvert.	116
Smith Brook	At the footbridge, 0.28 mi upstream of Main St.	28

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	At the Connecticut Route 17 culvert.	41
	At the Buttonball La. culvert.	49
	200 ft upstream Buttonball La.	50
	0.14 mi upstream of Buttonball La.	51
Tributary A	At the confluence with Roaring Brook.	374
	0.19 mi upstream from the confluence with Roaring Brook.	416
	0.86 mi upstream from the confluence with Roaring Brook.	454
Holland Brook	At the footbridge, 0.475 mi upstream from the confluence with Meadow Drain Brook.	28
	At the culvert, 0.14 mi downstream of Main St.	38
	At the Main Street Bridge.	46
	At the Little Acres Rd. culvert.	89
Wickham Brook	At the Connecticut Route 17 culvert.	38
	At the Buttonball Lane Bridge.	48
Grindle Brook	At the confluence with Great Pond.	49
	At the Great Pond Rd. culvert.	83
	0.23 mi upstream of Great Pond Rd.	87

(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 (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28536 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3483]

PORTLAND, MIDDLESEX COUNTY, CONN.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Portland, Middlesex County, Conn. 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).

DATE: 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.

ADDRESSES: 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 Town Hall of Portland, Conn.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify First Selectman Marie T. Larson, P.O. Box 71, Portland, Conn.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Portland, Middlesex County, Conn., 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Halas Brook	Upstream of State Route 17.	139
	Upstream of Thompson Hill Rd.	231
Reservoir Brook	Upstream of Wilcox Rd.	39
	Approximately 50 ft upstream of Thompson Hill Rd.	190
	Upstream of the Old Marborough Turnpike.	221
Connecticut River	Intersection of the southeastern corporate limits and the north bank of the Connecticut River.	20
	Upstream of State Route 17A.	23
	Intersection of the northern corporate limits and the east bank of the Connecticut River.	26
Carr Brook	Upstream of Strickland Rd.	25
	Upstream of Rose Hill Rd.	84
	Pennfield Hill Rd.	109

(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 (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28537 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3484]

JUNO BEACH, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Juno Beach, Fla. 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).

DATE: 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.

ADDRESSES: 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 Town Hall, 841 Ocean Drive, Juno Beach, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Alfred M. Elderd, Town Hall, 841 Ocean Drive, Juno Beach, Fla. 33408.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Juno Beach, Fla., 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Shoreline from northern corporate limit to southern corporate limit.	7
Intracoastal waterway.	Celestial Way to Galaxy Pl.	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 (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28538 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3485]

LAKE PARK, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Lake Park, Fla. 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).

DATE: 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.

ADDRESSES: 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 Hall, 535 Park Avenue, Lake Park, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Bob Carlson, Town Manager, Town of Lake Park, P.O. Box 12276, Lake Park, Fla. 33403.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Lake Park, Fla., 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Worth	Shoreline from northern corporate limits to southern corporate limits.	7
	Lake Shore Dr. to Cypress Dr.	7
C-17	West end of Gateway Rd.	12
Rainfall ponding	West end of Industrial Ave.	17

(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 (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28539 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3486]

LAKE WORTH, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Lake Worth, Fla. 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).

DATE: 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.

ADDRESSES: 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, 7 North Dixie, Lake Worth, Fla. 33460.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Leamon Andrews, City Hall, 7 North Dixie, Lake Worth, Fla. 33460.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for City of Lake Worth, Fla., 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Shoreline from northern corporate limit to southern corporate limit.	7
Lake Worth	East end of North 16th Ave.	7
	East end of South 12th Ave.	7
Rainfall	Lake Osborne Dr. west side.*	11
	West end of 22nd Ave.*	11
	West end of 17th Ave*.	12

*Flooding at these locations is caused by poor drainage.

(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 (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28540 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3487]

LAUDERHILL, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Lauderhill, Fla.

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).

DATE: 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.

ADDRESSES: 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, 1080 Northwest 47th Avenue, Lauderhill, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Eugene Cipolloni, City Hall, 1080 Northwest 47th Avenue, Lauderhill, Fla. 33313.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Lauderhill, Fla., 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Middle River Canal (C-13)	Florida Turnpike	8
	Inverrary Dr.	8
Plantation Canal (C-12)	U.S. Highway 441	7
	Florida Turnpike	7
Middle River Canal Tributary	Northwest 31st St.	8
	U.S. Highway 441	8

(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 (39 FR 2787, January 24, 1974).)

Issued August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28541 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3488]

NORTH PALM BEACH, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of North Palm Beach, Fla. 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).

DATE: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Hall, 501 U.S. Highway 1, North Palm Beach, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor M. C. Love, Jr., Village Hall, 501 U.S. Highway 1, North Palm Beach, Fla. 33408.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gvies notice of the proposed determinations of base flood elevations (100-year flood) for the Village of North Palm Beach, Fla., 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Shoreline from northern corporate limit to southern corporate limit.	7
Lake Worth	do	7
	East end of Wellaw La.	7
Intracoastal waterway, North Palm Beach Waterway to C-17 Canal.	U.S. 1 State Road 5 Bridge over intracoastal waterway.	7
	Lighthouse Drive Bridge over North Palm Beach waterway.	7
	U.S. 1 State Roads Bridge over C-17 Canal.	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 (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28542 Filed 10-4-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3489]

SEWALL'S POINT, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Sewall's Point, Fla. 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).

DATES: 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.

ADDRESSES: 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 Hall, 1 South Sewall's Point Road, Jensen Beach, Fla. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Major General Donald W. Graham, USAF Ret., Liaison Officer, Town of Sewall's Point, Town Hall, 1 South Sewall's Point Rd., Jensen Beach, Fla. 33452.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Sewall's Point, Florida, 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Indian River	State Road A1A, Sewall's Point Rd.	8
	High Point Rd. and Island Rd.	7
St. Lucie River	West End of State Road A1A.	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 (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28543 Filed 10-4-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3490]

STUART, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Stuart, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: 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.

ADDRESSES: 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, 121 Flagler Avenue, Stuart, Fla. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Kenneth S. Stimmell, City Hall, 121 Flagler Ave., P.O. Drawer 599, Stuart, Fla. 33494.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581, or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Stuart, Fla., 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.

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 equirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Fedral, state or regional entities. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
St. Lucie River	North End of Colorado Ave.	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 (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28544 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3491]

ATHENS, GA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rules.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Athens, Ga. 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).

DATES: 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.

ADDRESSES: 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, 301 College Ave., Athens, Ga. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Upshaw Bentley, Jr., City Hall, 301 College Ave., Athens, Ga. 30601.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202–755–5581, or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTAL INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Athens, Ga., 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.

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 much 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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Brooklyn Creek	Talmadge Dr.	708
	King St.	694
	Broad St.	666
	Dearing extension	663
	Baxter St.	652
	Baxter Dr.	632
	Dudley Dr.	627
	Fortson Dr.	618
	Milledge Circle	609
	West Lake Dr.	602
Brooklyn Creek-Tributary A	Belvoir Heights	701
Brooklyn Creek-Tributary B	Rockspring Rd.	698
	Paris St.	676
	Minor St.	666
Carr's Creek	U.S. Highway 78	637
	Unnamed paved road	629
Hunnicutt Creek	Janice Dr.	672
	Ashton St.	658
	Seaboard Coastline RR.	629
	Oglethorpe Ave.	624
Middle Oconee River	Mitchell Bridge	584
	U.S. Highway 29	583
	Malcolm Branch	580
	U.S. Highways 29 and 78	577
	U.S. Highways 441 and 129, Georgia Highway 15	563
North Oconee River	North Athens bypass	620
	Elizabeth St.	617
	Seaboard Coastline RR.	615
	North Ave.	615
	Broad St.	611
	Georgia RR.	609
	U.S. Highway 78 and Oconee St.	607
	Cemetery Rd.	605
Tanyard Creek	Baxter St.	621
	Lumkin St.	612
	Sanford Dr.	606
Trail Creek	Seaboard Coastline RR.	611
Tributary C	John Davis Rd.	563
Tributary D	Will Hunter Rd.	562
Tributary F	Boulevard	688
	Nantahala Ave.	685
	Seaboard Coastline RR.	669
	Barber St.	661
	Southern RR.	655
	Waterworks Dr.	635
Tributary M	Unnamed dirt road	640
	Unnamed Rd.	631
	Newton Bridge Rd.	623
Tributary MT	Seaboard Airline	668
	U.S. Highway 29	656
Tributary O	Tallassee Rd.	621
Tributary P	U.S. Highway 29	642
	U.S. Highway 29	630

(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 (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28545 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3374]

CORONA, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Corona, Calif. 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).

DATE: 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.

ADDRESSES: 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, 815 West 6th Street, Corona, Calif.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Tom Gunderson, City Hall, P.O. Box 940, 815 West 6th Street, Corona, Calif. 91720.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator

gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Corona, 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Arlington Channel	Parkridge Ave.	629
	Atchison, Topeka, and Santa Fe RR.	659
	McKinley St.	667
Main Street Channel	6th St.	629
	Circle City Dr.	653
	Rimpon Ave.	675
	Fullerton Ave.	737
	Kellogg Ave.	801
	Garretson Ave.	862
	Chase Ave.	1,035
	Access road	1,120
	do.	1,202
Mangular Channel	Kroonen Ave.	853
	Ontario Ave.	853
North Norco Channel	Country Club La.	569
Oak Street Channel	Ontario Ave.	879
	Chase Dr.	1,042
South Norco	Lincoln Ave. (Goodwin St.).	567
	River Rd.	579
Temescal Wash	Lincoln Ave. (Goodwin St.).	567
	Cota St.	576
	River Rd.	591
	Main St.	593
	Joy St.	609
	Atchison, Topeka, and Santa Fe RR.	615
	Riverside Freeway	616
	Quarry St.	620
	6th St.	626
	El Sobrante Ave.	629
	Compton Ave.	639
	Pacific Electrical RR.	641
	Magnolia Ave.	649
Temescal Wash Breakout	Cota St.	583
South Norco Channel Tributary A	River Rd.	579
	Parkridge Ave.	582
	Hamner Ave.	596
West Norco Channel	River Rd.	563

(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 (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28546 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3375]

SOUTH LAKE TAHOE, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of South Tahoe, Calif. 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).

DATE: 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.

ADDRESSES: 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, South Lake Tahoe, Calif.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Del Laine, City Hall, P.O. Box 7322, South Lake Tahoe, Calif. 95705.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of South Lake Tahoe, 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.

These elevations together with the flood plain management measures required by section 1910.8 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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bijou Creek	Ralph Dr.	6,306
	Pioneer Trail	6,285
	Fairway Ave.	6,323
	U.S. Route 50	6,292
Heavenly Valley Creek	Pioneer Trail	6,295
	Johnson Rd.	6,255
Trout Creek	U.S. Route 50	6,243
Upper Truckee River	do.	6,241

(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 (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28547 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3376]

BOULDER, COLO.

Proposed Flood Elevation Determination

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Boulder, Colo. 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).

DATE: 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.

ADDRESSES: 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, 1777 Broadway, Boulder, Colo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Frank Buchanan, P.O. Box 791, Boulder, Colo. 80306.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Boulder, 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Boulder Creek	6th St.	5,372
	9th St.	5,360
	Broadway	5,348
	Arapahoe Ave.	5,341
	17th St.	5,325
	19th St.	5,315
	Folsom Field	5,304
	24th St.	5,297
	28th St.	5,285
	30th St.	5,272
	Arapahoe Ave.	5,248
	Colorado and Southern R.R.	5,224
South Boulder Creek.	Arapahoe Ave.	5,231
	Colorado and Southern R.R.	5,220

(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 (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28548 Filed 10-4-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3377]

TRINIDAD, COLO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Trinidad, Colo. 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).

DATE: 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.

ADDRESSES: 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, 135 North Animas, Trinidad, Colo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John Rino, City Hall, 135 North Animas, Trinidad, Colo. 81082.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581, or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Trinidad, 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Purgatoire River	I-25	6,009
	Commercial St.	5,986
	Linden Ave.	5,972
Prospect Canyon	Atchison Ave.	6,087
	Robinson Ave.	6,064
	Nickerson Ave.	6,040
Pinon Canyon	Nevada Ave.	6,027
	Arizona Ave.	6,020
Portland Avenue Canyon.	East Main St.	5,986
	Colorado and Southern R.R.	5,978
Fishers Peak Arroyo.	2d St.	6,058

(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 (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28549 Filed 10-4-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3378]

ANDOVER, MASS.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Andover, Mass. 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).

DATE: 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.

ADDRESS: 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 Hall, 20 Main St., Andover, Mass. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. J. Maynard Austin, Town Manager, Town of Andover, Town Hall, 20 Main St., Andover, Mass. 01810.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Andover, 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.

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. These proposed 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.

The proposed 100-year flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River	Interstate 93	50
Shawsheen River	Interstate 93 (upstream)	75
	Interstate 93 (downstream)	74
	Andover St	71
	Balmoral St	34
	Boston and Maine R.R.	34

(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 (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28550 Filed 10-4-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3379]

FARMINGTON, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Farmington, Mich. 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).

DATES: 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.

ADDRESSES: 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, 23600 Liberty St., Farmington, Mich. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John Richardson, City Hall, 23600 Liberty St., Farmington, Mich. 48024.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581, or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Farmington, 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Upper River Rouge	Grand River Ave	685
	Powers Rd	692
	Shiawassee Rd	705
Tarabusi Creek	Smithfield Rd	755
	Brittany Hill Rd	787
	Blanchard Rd	798

(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 (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28551 Filed 10-4-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3380]

KAWKAWLIN, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Kawkawlin, Mich. 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).

DATE: 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.

ADDRESSES: Maps 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, 1379 East Beaver Road, Kawkawlin, Mich.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Lloyd Pagot, Township Supervisor, Township of Kawkawlin, Township Hall, 1379 East Beaver Road, Kawkawlin, Mich. 48631.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year

flood) for the Township of Kawkawlin, 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.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are reqiured. 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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kawkawlin River-North Branch.	Beaver Rd.	595
	M-13 Expressway	590
Saginaw Bay	Le Bourdias Rd. (extended).	585
	Oakwood Drain (extended).	585
	Boutell Rd. (extended).	585
Railroad Drain	Detroit and Mackinac Rd.	585
	Elevator Rd.	585
	M-13 Expressway	591
Rosebush Drain	Detroit and Mackinac Rd.	585
	Linwood Rd.	585
Tap-Grove Drain	M-13 Expressway	593
	Linwood Rd.	596
Indian Town Drain.	Two Mile Rd.	586
	Lauria Rd.	586
	Beaver Rd.	587

(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 (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28552 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3381]

INVERNESS, MISS.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Inverness, Miss. 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).

DATE: 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.

ADDRESSES: 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 Hall, East Grand Avenue, Inverness, Miss.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Robert Y. Wright, Town Hall, East Grand Avenue, Inverness, Miss. 38753.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Inverness, 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary 3	Upstream corporate limits.	113
	Downstream corporate limits.	112
Mound Bayou	Baird St.	116
	Grand Ave.	115
Tributary 2	Upstream corporate limits.	118
Tributary 1	Upstream corporate limits.	119

(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 (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28553 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3382]

HERCULANEUM, JEFFERSON COUNTY, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Herculaneum, Jefferson County, Mo. 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).

DATE: 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.

ADDRESSES: 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 Clerk's Office, City Hall, No. 1 Parkwood Court, Herculaneum, Mo. 63048.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable William H. Burlage, Mayor, City of Herculaneum, City Hall, No. 1 Parkwood Court, Herculaneum, Mo. 63048.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Herculaneum, Jefferson County, Mo., 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Joachim Creek	1,300 ft downstream of Missouri Illinois R.R.	412
	1,000 ft upstream of Interstate 55.	412
Hidden Valley Creek.	At confluence with Joachim Creek.	412
	100 ft downstream of Commercial Blvd.	412
	100 ft upstream of Commercial Blvd.	415
	1,050 ft upstream of Commercial Blvd.	417
	3,050 ft upstream of Commercial Blvd.	428
	At city limits	446
Bonacher Creek	At confluence with Joachim Creek.	412
	300 ft downstream of Lake Dr.	412
	At Lake Dr	422
	250 ft downstream of Highway 61 spur.	423
	At Highway 61 spur	430
	250 ft upstream of I-55.	439
Mississippi River	Southern corporate limits.	412
	Northern corporate limits.	413

(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, FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28554 Filed 10-4-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI–3383]

SPRINGFIELD, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Springfield, Mo. 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).

DATE: 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.

ADDRESSES: 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, 830 Bloonville Street, Springfield, Mo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Don Busch, City Manager, City of Springfield, 830 Bloonville Street, Springfield, Mo. 65801.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Springfield, 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ward Branch	Republic St., Highway M.	1,218
	Corporate limits.	
Dickerson Branch	Livington St	1,227
	Evergreen St	1,207
	Norton St	1,200
	Zoo Park Rd	1,188
	Corporate limits	1,159
Doling Branch	Highway I-44	1,217
	Norton St	1,211
Nichols Branch	Orchard Crest	1,246
	Eldon Ave	1,240
North Branch Wilsons Creek.	Nichols St	1,255
	Waddill St	1,240
	Highway 160 Bypass	1,220
	State St	1,210
	Highway 160 Bypass	1,200
Wilsons Creek	Missouri Pacific RR	1,218
	Golden Ave	1,212
	Corporate limits	1,198
Jordan Creek	Benton Ave	1,273
	Main St	1,263
	Fort St	1,251
	Mount Vernon St	1,241
	Grand St	1,231
	Bennet St	1,222
North branch, Jordan Creek.	Oak Grove Ave	1,353
	Glenstone Ave	1,328
	Fremont Ave	1,311
	Hampton Ave	1,292
	Sherman Ave	1,286
	St. Louis and San Francisco Ry.	1,275
South branch, Jordan Creek.	Patterson Ave	
	East Traffic Way	
	Glenstone Ave	
	Fremont Ave	
	Sherman Ave	
Fassnight Creek	Jefferson Ave	
	Thelma St	
	Fort Ave	
South Creek	National Ave	
	Campbell Ave	
	Forta Ave	1,255
	Scenic Ave. and Missouri Pacific RR.	1,228
	Golden Ave	1,209
Galloway Creek	Battlefield Rd	1,226
	Laguna Ave	1,204
	Barton St	1,189
	Republic St., Highway M.	1,177
	U.S. Highways 60-65	
James River	Corporate limits (upstream).	
	River Rd	
	Confluence with Galloway Creek.	1,152

(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 (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28555 Filed 10-4-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3384]

NEWPORT, N.C.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Newport, N.C. 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).

DATE: 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.

ADDRESSES: 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, Newport, N.C.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Gilbert Slaughter, City Hall, P.O. Box 115, Newport, N.C. 28570.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Newport, 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Newport River	State Road 1247, U.S. 70.	7
		7
Blakes Branch (Newport River).	State Road 1140	7
Cedar Swamp Creek (Newport River).	State Road 1140	7
Little Deep Creek (Newport River).	At extraterritorial boundary.	7
Deep Creek (Newport River).	State Road 1154	7
	State Road 1157	7
Snows Swamp Branch (Newport River).	100 ft downstream of Atlantic and East Carolina R.R.	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 (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28556 Filed 10-4-77;8:45 am]

[4210–01]

[24 CFR Part 1917]

[Docket No. FI-3385]

NEW HANOVER COUNTY, N.C.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in New Hanover County, N.C. 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).

DATE: 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.

ADDRESS: 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 Administration Building, 320 Chestnut St., Wilmington, N.C. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Dan Eller, County Manager, New Hanover County, County Administration Building, 320 Chestnut St., Wilmington, N.C. 28401.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581, or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for New Hanover County, 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cape Fear River	U.S. Route 74-76	11
	U.S. Route 421	11
	Seaboard Coast Line RR.	10
Northeast Cape Fear River.	U.S. Rodte 117 (near Cape Fear River).	11
	Seaboard Coast Line RR. (near Cape Fear River).	11
	U.S. Route 117 (upstream of Prince George Creek).	8
	Seaboard Coast Line RR. (upstream of Prince George Creek).	8
Island Creek	State Route 1002	8
	Sidbury Road *	18
Prince George Creek.	North Carolina Route 133 **	12
	Seaboard Coast Line RR.	13
	North Carolina Route 132.	14
	Blue Clay Rd. (State Route 1318) **	19
	Sidbury Rd. (State Route 1336) *.	20
Prince George Creek Tributary.	State Route 1335 *	23
Ness Creek	North Carolina Route 133 *.	22
Smith Creek	do	10
	Seaboard Coast Line RR.	10
	23rd St	10
	Kerr Ave	10
	North Carolina Route 132 *.	13
	do **	15

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kings Grant Tributary.	North Carolina Route 132 **.	15
	State Route 1327 *....	32
Murrayville Tributary.	Murrayville Rd. (State Route 1322) *.	24
	.....do **.....	26
Spring Branch.....	Kerr Ave.....	10
	North Carolina Route 132 *.	21
	.....do **.....	24
Mott Creek.....	River Rd.....	12
	Antionette Dr.....	12
	U.S. Route 421 *.....	15
	North Carolina Route 132 *.	19
	.....do **.....	21
Bradley Creek.....	Mallard St.....	13
Bradley Creek Tributary.	State Route 1419 *....	17
	U.S. Route 74 *.....	18

* Downstream side.
** Upstream side.

(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 (39 FR 2787, January 24, 1974))

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28557 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3386]

ROCKWELL, N.C.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Rockwell, N.C. 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).

DATE: 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.

ADDRESSES: 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 Hall, Rockell, N.C. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor O. T. Medley, Town Hall, P.O. Box 506, Rockwell, N.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581, or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Rockwell, 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Peeler Branch.....	Sides branch confluence.	720
	Broad St.*.....	740
	.....do.....	743
	Market St.*.....	745
	.....do.....	750
Rost Branch.....	Lower Stone Church Rd.*	710
	.....do.**.....	724
	China Grove Highway.*	760
	.....do.**.....	765

*Downstream.
**Upstream.

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

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28558 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3387]

WARRENTON, OREG.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Warrenton, Oreg. 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).

DATE: 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.

ADDRESSES: 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, 147 Southwest Main Street, Warrenton, Oreg.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Gilbert Gramson, City Manager, 147 Southwest Main Street, P.O. Box 250, Warrenton, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5207, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Warrenton, 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Columbia River	Bank of Columbia River, Harbor St.	9
Lewis and Clark River	Warren Astoria Highway.	7
	Clatsop County Airport.	7
Skipanon Slough	Harbor St	6
	Columbia Beach Rd.	6
Skipanon River	Oregon Coast Highway 101.	8
Alder Creek	Fort Stevens Highway.	4

(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 (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28559 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3388]

MORRISTOWN, VT.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Morristown, Vt. 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).

DATE: 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.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Hall, Morrisville, Vt.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Joseph L. Trombley, Chairman, Board of Selectmen, Town of Morristown, Village Hall, Morrisville, Vt. 05661.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Morristown, 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kenfield Brook	Town Highway 28	780
	Shady Hill Rd	761
Ryder Brook	Town Highway 56	715
	Vermont Route 100	699
	Town Highway 33	646
Lamoille River	Vermont Route 15A	652
	Bridge St	590
	Cady's Falls Dam	587
	Cady's Falls Rd	551
	Ten Bends Bridge	543

(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 (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28560 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3389]

NORTHFIELD, VT.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Northfield, Vt. 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).

DATE: 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.

ADDRESSES: 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 Building, Main Street, Northfield, Vt.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Robert Dorman, Town and Village Manager, Municipal Building, Main Street, Northfield, Vt. 05663.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Northfield, 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dog River	Wall St.	728
	Central Vermont R.R.	724
	Main St.	722
Union Brook	Pleasant St.	733
	Water St.	738

(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 (39 FR 2787, January 24, 1977).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28561 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3390]

BRANDON, RUTLAND COUNTY, VT.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Brandon, Rutland County, Vt. 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).

DATE: 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.

ADDRESSES: 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 Town Manager's Office, Town Office Building, Center Street, Brandon, Vt. 05733.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Edward Denecke, First Selectmen, Town of Brandon, Town Office Building, Center Street, Brandon, Vt. 05733.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Brandon, Rutland County, Vt., 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.

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 the 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. These proposed 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.

The proposed 110-year flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Neshobe River	500 ft downstream of Clay St.	362
	100 ft upstream of Clay St.	364
	1,300 ft upstream of Clay St.	365
	50 ft downstream of Vermont Ry.	367
	100 ft upstream of Vermont Ry.	373
	1,600 ft upstream of Vermont Ry.	374
	2,300 ft upstream of Vermont Ry.	410
	300 ft upstream of Center St. (below dam).	423
	400 ft upstream of Center St. (above dam).	430
	2,700 ft downstream of Wheeler Rd.	432
	At Wheeler Rd.	434
	800 ft downstream of Welton Rd.	436
	50 ft downstream of Welton Rd.	441
	100 ft upstream of Welton Rd.	450
	600 ft upstream of Welton Rd.	458
	100 ft downstream of Town Farm Rd.	479
	100 ft upstream of Town Farm Rd.	486
	1,300 ft upstream of Town Farm Rd.	487
	4,500 ft upstream of Town Farm Rd.	509
Neshobe River	100 ft upstream of State Route 53.	570
	1,600 ft upstream of State Route 53.	615
Arnold Brook	800 ft downstream of Arnold District Rd.	404
	25 ft downstream of Arnold District Rd.	430
	At Arnold District Rd.	443
	280 ft upstream of Arnold District Rd.	443

(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 (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28562 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3391]

MORRISVILLE, VT.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Morrisville, Vt. 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).

DATES: 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.

ADDRESSES: Maps and other information shownig the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Hall, Morristown, Vt. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Adrian West, Chairman, Board of Trustees, Village of Morrisville, Village Hall, Morrisville, Vt. 05661.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581, or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Morrisville, 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.

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. These proposed 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.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Boardman Brook	Wards Pond Dam	630
	Cottage St.	613
	Vermont Route 100	613
Lamoille River	Vermont Northern RR.	639
	Bridge St.	637
	Morrisville Dam	635

(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 (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28563 Filed 10-4-77;8:45 am]

federal register

WEDNESDAY, OCTOBER 5, 1977
PART III



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Housing Commissioner

■

MOBILE HOMES

Amendment to Construction and Safety Standards; Interpretive Bulletins

[4210-01]

Title 24—Department of Housing and Urban Development

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

[Docket No. R-77-465]

PART 280—MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

Miscellaneous Amendments

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This final rule issues six minor amendments to the Federal Mobile Home Construction and Safety Standards. These amendments are being issued to clarify certain aspects of the standards, and to remedy a potential life-safety problem that now exists in the standards.

EFFECTIVE DATE: December 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard A. Mendlen, Standards Branch, Mobile Home Standards Division, Office of Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4228, Washington, D.C. 20410, telephone 202-472-4710.

SUPPLEMENTARY INFORMATION: The following is a discussion of the amendments being made to the Federal standards for mobile homes:

1. Section 280.208(d) is being amended to preclude the placement of a smoke detector on any electrical circuit protected by a ground fault circuit interrupter (GFCI). (See § 280.806(b)). This revision is being made to assure proper operation of smoke detectors since circuits protected by a GFCI are subject to nuisance tripping of the circuit breaker which may have the effect of making the detector inoperable during periods of emergency. It is necessary to make this amendment immediately and without public comment to assure that the fire protection provided by smoke detectors is not negated by nuisance tripping of a GFCI.

2. Section 280.603(b)(4)(iii) is being amended to require that the receptacle outlet provided for the use of an electrical heat tape shall not be protected by a GFCI. This amendment also makes it clear that the receptacle outlet shall be located on the underside of the mobile home within two feet of the water supply inlet. The location provisions were originally provided in Interpretative Bulletin G-1-76 as published in the FEDERAL REGISTER at 42 FR 962 on January 4, 1977. Because this amendment changes portions of that interpretation, the remaining appropriate requirements with respect to location, have been incorporated into this amendment. This change is being made since the nuisance tripping problem for circuits protected by a GFCI may negate the effectiveness of an outlet provided for the use of an electrical heat tape. This amendment is necessary to assure that any exposed water piping is protected against freeezing.

3. Section 280.612(a) is being amended to correct a typographical error in the requirement for pressure testing of the water piping distribution system as published in the FEDERAL REGISTER at 40 FR 58777 on December 18, 1975. Because the pressure cited under former state and consensus standards for mobile homes reflected the correct pressure, the industry, recognizing the error, continued to use the correct pressure for performing the test under the Federal program. This typographical error was previously acknowledged by the Department in public meetings held in May 1976. This amendment merely reflects the current and correct practice for testing the water piping system.

4. Section 280.705(1)(3) is being amended to make it clear that manual shutoff valves required to be installed in the gas piping system are intended to permit servicing of individual appliances rather than to function as primary life-safety devices in the event of an emergency. This change is consistent with the National Mobile Home Advisory Council recommendation to direct occupants to leave the mobile home in the event of an emergency rather than to remain in the home and attempt to control the spread of leaking gas. Further, a master shutoff valve is usually provided at the mobile home site in conjunction with the connection of the gas piping to the utility service. This change has been concurred in by the National Mobile Home Advisory Council. The confusion with respect to this issue arose because the language "for shutoff in case of emergency" was added to this section. As discussed in Interpretative Bulletin H-3-77, issued on May 19, 1977, this language was intended only to stress the life-safety aspects of the valve and not to change the substantive requirements, as some have interpreted the language. Since the language was not intended to have a substantive effect and has only caused confusion, it is being deleted.

5. Section 280.707 is amended by adding a new paragraph (f) to make it clear that external switches, remote controls, and emergency disconnect switches are not required for oil fired heating equipment. The preamble discussion relating to oil fired heating equipment as published in the FEDERAL REGISTER on December 18, 1975, at 40 FR 58753 indicated that the Department had determined that the requirement for oil safety controls as originally published in § 280.707 (f) of the September 2, 1975, final rule was redundant. The Department stated the following reasons for its determination:

(a) Adequate safety controls are presently provided in oil fired furnaces,

(b) Equipment redesign has eliminated previous melting point problems,

(c) There may be adverse effects to furnace operation and durability associated with indiscriminate power interruption to the circulatory air blower, and

(d) The primary goal in the event of any fire is to remove all occupants from the mobile home, rather than encourage the occupant to remain in a burning unit, while attempting to cut off oil flow in case of a furnace fire.

However, certain reference standards in the table provided in § 280.703 contained a requirement for these devices. Therefore, this paragraph (f) is being added to make it clear that the requirement for external switches, remote controls, and emergency disconnect switches for oil fired heating equipment has been deleted. While the referenced standards cited remain in the table provided in section 280.703, section 280.4 states: "Whenever reference standards are inconsistent, the requirements of this standard prevail to the extent of the inconsistency." This amendment merely codifies the practice that has been followed since publication of the preamble language discussed above.

6. Finally, §280.708 is being amended so that the clothes dryer moisture-lint exhaust duct is no longer required to be listed as a component of the appliance since the Department has determined that such devices are not ordinarily certified as components of the appliance. However, the moisture-lint exhaust duct and termination fittings are to be installed in accordance with the appliance manufacturer's printed instructions. Under the amendment, mobile home manufacturers are required to provide printed installation instructions whenever provision for a future clothes dryer has been made. This assures that consumers and others have proper instructions on how to complete the installation of the exhaust duct system. This amendmen also requires that the manufacturer install an electrical receptacle where wiring has been provided for the installation of a future electrical clothes dryer. This change is being made since confusion has arisen over what constitutes an acceptable electrical connection for future installation of an electric clothes dryer. The confusion resulted in potentially unsafe situations for consumers and others when installing electric clothes dryers. This amendment reflects present practice and the Department's interpretation of the previous language.

For the reasons stated with respect to each amendment, the Secretary has determined that it would be unnecessary and contrary to the public interest to publish these amendments for public comment. Good cause exists for making these amendments effective on publication.

A Finding of Inapplicability of Section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. It is available for public inspection in the office of the Rules Docket Clerk, Room 5218, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, during normal business hours.

NOTE.—It is hereby certified that the economic and inflationary impacts of the proposed rule have been carefully evaluated in accordance with OMB Circular A-107.

These amendments are being signed by two Assistant Secretaries because the standards were originally codified in the Federal Regulations Chapter assigned to the Assistant Secretary for Housing Production and Mortgage Credit, but the substantive authority for the program has been transferred to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

Accordingly, 24 CFR Part 280 is amended as follows:

1. By adding the following sentence to the end of § 280.208(d):

§ 280.208 Mobile Home Fire Detection Equipment.

* * * * *

(d) * * * The smoke detector shall not be placed on any branch circuit protected by a ground fault circuit interrupter. (See section 280.208(b)).

2. By revising § 280.603(b)(4)(iii) to read as follows:

§ 280.603 General requirements.

* * * * *

(b) * * *

(4) * * *

(i) A receptacle outlet for the use of a heat tape located on the underside of the mobile home within 2 feet of the water supply inlet. The receptacle outlet provided shall not be placed on a branch circuit which is protected by a ground fault circuit interrupter.

* * * * *

3. By revising the last sentence of § 280.612(a) to read as follows:

§ 280.612 Test and inspection.

(a) * * * The test shall be made by subjecting the system to air or water at 100 psi for 15 minutes without loss of pressure.

* * * * *

4. By revising the first sentence of § 280.705(l)(3) to read as follows:

§ 280.705 Gas piping systems.

* * * * *

(l) * * *

(3) *Valves.* A shutoff valve shall be installed in the fuel piping at each appliance inside the mobile home structure, upstream of the union or connector in addition to any valve on the appliance and so arranged to be accessible to permit servicing of the appliance and removal of its components. * * *

* * * * *

5. By adding paragraph (f) to § 280.707 as follows:

§ 280.707 Heat producing appliances.

* * * * *

(f) Oil fired heating equipment. All oil fired heating equipment shall conform to UL 307(A)-1969 or ANSI 147.1-1969 and be installed in accordance with NFPA 31-1974. Regardless of the requirements of the above referenced standards, or any other reference standards, the following are not required: (1) External switches or remote controls which shut off the burner or the flow of oil to the burner, or (2) An emergency disconnect switch to interrupt electric power to the equipment under conditions of excessive temperature.

6. Section 280.708 is revised to read as follows:

§ 280.708 Exhaust duct system and provisions for the future installation of a clothes dryer.

(a) *General.* (1) All gas and electric clothes dryers shall be exhausted to the outside by a moisture-lint exhaust duct and termination fitting. When the clothes dryer is supplied by the manufacturer, the exhaust duct and termination fittings shall be completely installed by the manufacturer. However, if the exhaust duct system is subject to damage during transportation, it need not be completely installed at the factory when: (i) The exhaust duct system is connected to the clothes dryer, and (ii) a moisture lint exhaust duct system is roughed in and installation instructions are provided in accordance with section 280.708 (b)(3) or (c).

(2) A clothes dryer moisture-lint exhaust duct shall not be connected to any other duct, vent or chimney.

(3) The exhaust duct shall not terminate beneath the mobile home.

(4) Moisture-lint exhaust ducts shall not be connected with sheet metal screws or other fastening devices which extend into the interior of the duct.

(5) Moisure-lint exhaust duct and termination fittings shall be installed in accordance with the appliance manufacturer's printed instructions.

(b) *Provisions for future installation of a gas clothes dryer.* A mobile home may be provided with "stubbed-in" equipment at the factory to supply a gas clothes dryer for future installation by the owner provided it complies with the following provisions: (1) The "stubbed-in" gas outlet shall be provided with a shutoff valve, the outlet of which is closed by threaded pipe plug or cap; (2) the "stubbed-in" gas outlet shall be permanently labeled to identify it for use only as the supply connection for a gas clothes dryer; (3) a moisture-lint exhaust duct system shall be roughed in by the manufacturer. The manufacturer shall provide written instructions to the owner on how to complete the exhaust duct installation in accordance with provisions of § 280.708(a) (1) through (5).

(c) *Provisions for future installation of an electric clothes dryer.* When wiring is installed to supply an electric clothes dryer for future installation by the owner, the manufacturer shall: (1) Provide a roughed in moisture-lint exhaust duct system; (2) install a receptacle for future connection of the dryer; (3) provide written instructions on how to complete the exhaust duct installation in accordance with the provisions of § 280.-708(a)(1) through (5).

(Secs. 604 and 625 of the National Mobile Home Construction and Safety Standards Act of 1974, (42 U.S.C. 5403 and 5424 and § 7(d), Department of HUD Act, 42 U.S.C. 3535(d)).)

Issued at Washington, D.C., September 28, 1977.

GENO C. BARONI,
Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc.77-29254 Filed 9-30-77;3:59 pm]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection

[Docket No. N-77-677]

MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

Interpretative Bulletins D-1-77 and F-2-77

AGENCY: Department of Housing and Urban Development.

ACTION: Final interpretative bulletins.

SUMMARY: These are two final interpretative bulletins related to the Federal Mobile Home Construction and Safety Standards. Interpretative Bulletin D-1-77 clarifies how lumber moisture content is to be measured and evaluated.

The issuance of this bulletin has been prompted by the use of improper practices and evaluations made in determining if the moisture content in lumber met the requirements of the standard. Interpretative Bulletin F-2-77 provides guidance to the industry and consumers regarding the language used on the heat loss certificate.

The issuance of F-2-77 has been prompted by confusion in the industry over the substantive impact of the language on the heat loss certificate. A comprehensive index of all currently effective interpretative bulletins is also included with this notice.

EFFECTIVE DATE: December 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard A. Mendlen, Standards Branch, Mobile Home Standards Division, Office of Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, Room 4228, telephone 202-472-4771.

SUPPLEMENTARY INFORMATION: The Department initially published these interpretative bulletins in proposed form in the FEDERAL REGISTER at 42 FR 5985 on January 31, 1977. The public comment period closed on February 28, 1977, but all comments received since that date have been considered.

INTERPRETATIVE BULLETIN D-1-77—LUMBER MOISTURE CONTENT MEASUREMENT AND EVALUATION

Interpretative Bulletin D-9-77 as published on January 31, 1977, has been redesignated D-1-77 to be compatible with the Department's indexing procedure. This bulletin is being issued to establish the proper methods and measurement practices to be used in assuring that dimensional and board lumber used in mobile homes not exceed 19 percent moisture content at the time of installation, as required by 24 CFR 280.304(a). The final bulletin establishes that the tests to be used in evaluating the moisture content are those set out in American Society for Testing and Materials (ASTM) Standard D-2016. As a result of comments received on the proposed bulletin, the final version also states where on the lumber specimens the measurements must be taken, and it allows the moisture content reading for a piece of lumber to be corrected for temperature and species if either are different from those used to calibrate the meter being used to make the measurements.

The bulletin describes how electrode resistance type moisture meters must be used if that is the method chosen to evaluate moisture content. The final bulletin requires that a meter with insulated needles be used, since it provides a more accurate reading than a meter utilizing uninsulated needles. The bulletin also includes the originally proposed limitations on use of the meters on wet lumber and the statement that lumber in a temporarily wet condition shall be allowed time to dry before measuring moisture content.

The final bulletin remains essentially unchanged with regard to the acceptance of lumber which is identified by a nationally recognized grading agency as having a moisture content not greater than 19 percent. However, the bulletin now provides that if a lot or components of a lot of identified lumber is suspected of containing excessive moisture, it may be necessary to re-verify the moisture content as not being in excess of 19 percent by testing a random sampling of lot specimens.

The bulletin states that the moisture content of lumber that has not been identified by a nationally recognized grading agency be verified by sampling procedures described in ASTM D-2016.

In response to a public comment, the bulletin clarifies that these procedures are also applicable to lumber used in preassembled components (i.e., trusses, etc.). Also in response to public comment, this bulletin makes it clear that regardless of what method is used to establish acceptable moisture content, all lumber is subject to verification as to moisture content at the time of installation in the factory.

Finally the bulletin requires that all lumber be surface dry at the time of installation, as did the proposed bulletin.

Comments were also received with respect to two other issues related to lumber moisture content. One commenter suggested that there be measurement requirements for lumber greater than 2" nominal thickness. The Department did not follow this suggestion because such lumber is not commonly used in mobile homes.

Another commenter suggested that there be a requirement that all lumber surfaces be tested for dryness and moisture content. The Department believes that the sampling methods provided for by the bulletin provide adequate protection and, therefore, did not adopt this suggestion.

INTERPRETATIVE BULLETIN F-2-77—HEAT LOSS CERTIFICATE

Interpretative Bulletin F-2-77 makes it clear that the heat loss certificate required by 24 CFR 280.510(b) does not govern what type of heating equipment must be installed in the mobile home. The temperature shown on the heating certificate relating to maximum furnace operating economy and optimum energy conservation is provided only to advise consumers in selecting mobile homes that are energy efficient for the areas where they are to be located.

The proposed version of this bulletin was discussed by the National Mobile Home Advisory Council, which recommended that the Department take no action which would encourage unnecessary energy consumption in mobile homes. This interpretation and the requirements of § 280.510(b) are consistent with the recommendation because they assist the consumer in purchasing an energy efficient home.

There is currently no restriction on furnace sizing as it relates to energy conservation. The Department believes that such a restriction would be inappropriate because variations in equipment certification, temperature, wind velocity, and atmospheric pressure conditions may require larger furnaces in a particular location despite the fact that the larger furnace would not be necessary for most of the general geographical area as set out in the standards. The final bulletin includes the reference to variations in equipment certification, which was not in the proposed version.

COMPREHENSIVE INDEX—INTERPRETATIONS OF THE MOBILE HOME STANDARDS

Included in this notice is a comprehensive index of all currently effective interpretative bulletins issued under 24 CFR Part 280. This index includes bulletins issued through publication in the FEDERAL REGISTER as well as those issued through distribution without publication in the FEDERAL REGISTER. The index deletes reference to Interpretative Bulletin G-1-76 since an amendment to section 280.603(b)(4)(iii) being published concurrently with this index renders that bulletin obsolete and unnecessary. Reference to Interpretative Bulletin H-3-77 is being deleted for the same reason.

A Finding of Inapplicability of Section 102(c) of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. It is available for public inspection in the Office of the Rules Docket Clerk, Room 5218, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, during normal business hours.

NOTE.—It is hereby certified that the economic and inflationary impacts of the interpretative bulletins have been carefully evaluated in accordance with OMB Circular A-107.

Accordingly, 24 CFR 280.304(a) and 280.510(b) are interpreted as follows:

INDEX

Interpretative bulletin	Subject	Section(s)
A-1-77	Identification of Manufacturer and State of Manufacturer in the Mobile Home Serial Number.	280.5.
A-2-77	Durability of Information on Data Plate	280.5(a).
B-1-76	Swinging Exterior Passage Door Dimensions	280.105.
B-2-76	Interior Door Construction	280.108, 280.304.
B-3-76	Interior Door in a Hallway	280.113.
C-1-76	List of Material Applications not Requiring Flame Spread Certification	280.203(a).
C-2-76	Fire Protection for Furnace and Water Heater Spaces	280.203(a)(3), 280.203(b).
C-3-76	Combustible Kitchen Cabinet Protection	280.204.
C-4-76	⅜-in. Maximum Foam Plastic Siding Backer Board	280.207(b).
C-5-76	Foam Plastic Insulating Sheathing Materials	280.207(a).
C-1-77	Smoke Detector Standard, Waiver	280.208(c).
D-1-76	Allowable Design Stresses for Board Lumber	280.303(f), 280.304.
D-2-76	Carpet Application	280.305(a).
D-3-76	Structural Design Criteria, Wind Load	280.305(b).
D-4-76	Structural Design Criteria, "Net" Uplift	280.305(c) (1) and (2).
D-5-76	Structural Design Criteria, Allowable Eave Deflection	280.305(d).
D-6-76	Structural design criteria, interior partitions	280.305(f)(2).
D-7-76	Structural design criteria, tie down systems	280.306(a), 280.306(f).
D-8-76	Floor covering application in areas subject to excessive moisture	280.305(g)(2).
D-1-77	Lumber moisture content measurement and evaluation	280.304(a).
E-1-76	Alternate test procedure in lieu of testing to failure; allowable design live load determination for tested assemblies.	280.401(b).
E-2-76	Uplift testing	280.402(c)(2).
E-3-76	Egress windows	280.404.
F-1-76	Condensation control, exterior sheathing	280.504(b)(2).
F-1-77	Air infiltration at wall to wall, wall to floor connection	280.505(a)(2).
F-2-77	Heat loss certificate	280.510(b).
G-2-76	Master cold water shutoff valve	280.609(b)(1).
G-3-76	Antisiphon trap vent device, materials	280.611(d)(5).
G-1-77	Plastic drain line fittings	280.610(g) (2) and (3).
G-2-77	Accessibility to plumbing fixtures	280.607(c)(1).
H-1-76	Provision of exterior furnace/air conditioning appliance	280.709(a)(1).
H-2-76	Preparation of mobile home for external heating/cooling systems	280.709(e)(6).
H-3-76	Vertical clearance over cooking top	280.709(f).
H-1-77	Clothes dryer/rough-in of moisture lint exhaust duct system	280.708 (b)(3) and (c).
H-2-77	Undercutting of bathroom doors	280.175(b)(1) and (4).
I-1-76	Installation of "snap-in" type boxes	280.808(n).
I-2-76	Exterior lighting outlet requirements	280.813(a).
I-1-77	Location and type of outdoor receptacle outlet	280.806(d)(8).
I-2-77	External heating or air conditioning equipment wiring protection, waiver	280.808(k).
J-1-76	Clarification and guidance regarding transportation standards	Subpt. J.

INTERPRETATIVE BULLETIN D–1–77

LUMBER MOISTURE CONTENT MEASUREMENT AND EVALUATION SECTION 280.304

Moisture content for dimensional and board lumber shall be evaluated by test methods described in ASTM D–2016. The moisture content shall be measured near the middle of the wide face of the lumber at least 20 inches from the end of the specimen being evaluated. The moisture content reading may be corrected for temperature and species if the specimen being evaluated is different from that used to calibrate the meter.

If an electrode resistance type moisture meter is used to evaluate moisture content, a meter with insulated needles shall be used. The needles shall be driven to a depth of ⅛"–3/16" for board lumber of 1" nominal thickness and 5/16" for dimensional lumber of 2" nominal thickness. Electrical resistance meters shall not be used on material that has recently been exposed to rain, dew, or high humidity and is in a temporarily wet condition. Lumber in a temporarily wet condition shall be allowed adequate time to dry prior to checking the moisture content.

Dimensional and board lumber which is identified by a nationally recognized grading agency as having a moisture content not to exceed 19 percent may be accepted as in compliance with the requirements of this section. However, if a lot or components of a lot of identified lumber is suspected of having excessive moisture, the moisture content may be re-verified as not being in excess of 19 percent by evaluating a random sampling of lot specimens.

The moisture content of each lot of non-identified dimensional and board lumber shall be verified by sampling procedures described in ASTM D–2016 (20 specimens or 10 percent of the lot, whichever is greater).

Regardless of the method used to establish that the moisture content of lumber does not exceed 19 percent, all lumber surfaces shall be dry and all lumber subject to verification as to moisture content at the time of installation in the factory.

The sampling and measurement criteria set out in this bulletin are also applicable to pre-assembled components containing dimensional and board lumber.

INTERPRETATIVE BULLETIN F–2–77

HEAT LOSS CERTIFICATE—SECTION 280.510(b)

The temperature shown on the heating certificate relating to maximum furnace operating economy and optimum energy conservation is provided as an advisory recommendation to consumers in selecting an energy efficient mobile home that is suitable for the climatic requirements of the area in which the home is to be installed. However, this recommendation on operating economy and energy conservation is not intended to prohibit manufacturers from installing heating equipment having a larger capacity than required to maintain an indoor temperature of 70° F in the climatic zone specified on the heating certificate. Such a prohibition would be inappropriate because variations in equipment certification, temperature, wind velocity, and atmospheric pressure conditions may require larger heating equipment to maintain an average of 70° F temperature inside of the home.

However, regardless of the size of furnace installed, the outdoor winter design temperature (97½ percent) specified on the heating certificate shall be determined in accordance with the method described in footnote 1 of § 280.510(b).

(Secs. 604, 625, National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5403, 5424); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., September 28, 1977.

GENO C. BARONI,
Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection.

[FR Doc.77–29255 Filed 9–30–77;3:59 pm]

federal register

WEDNESDAY, OCTOBER 5, 1977

PART IV



INTERSTATE COMMERCE COMMISSION

■

SYSTEM DIAGRAM MAPS

[7035-01]

INTERSTATE COMMERCE COMMISSION

[AB 156 (SDM)]

DELAWARE & HUDSON RAILWAY CO.

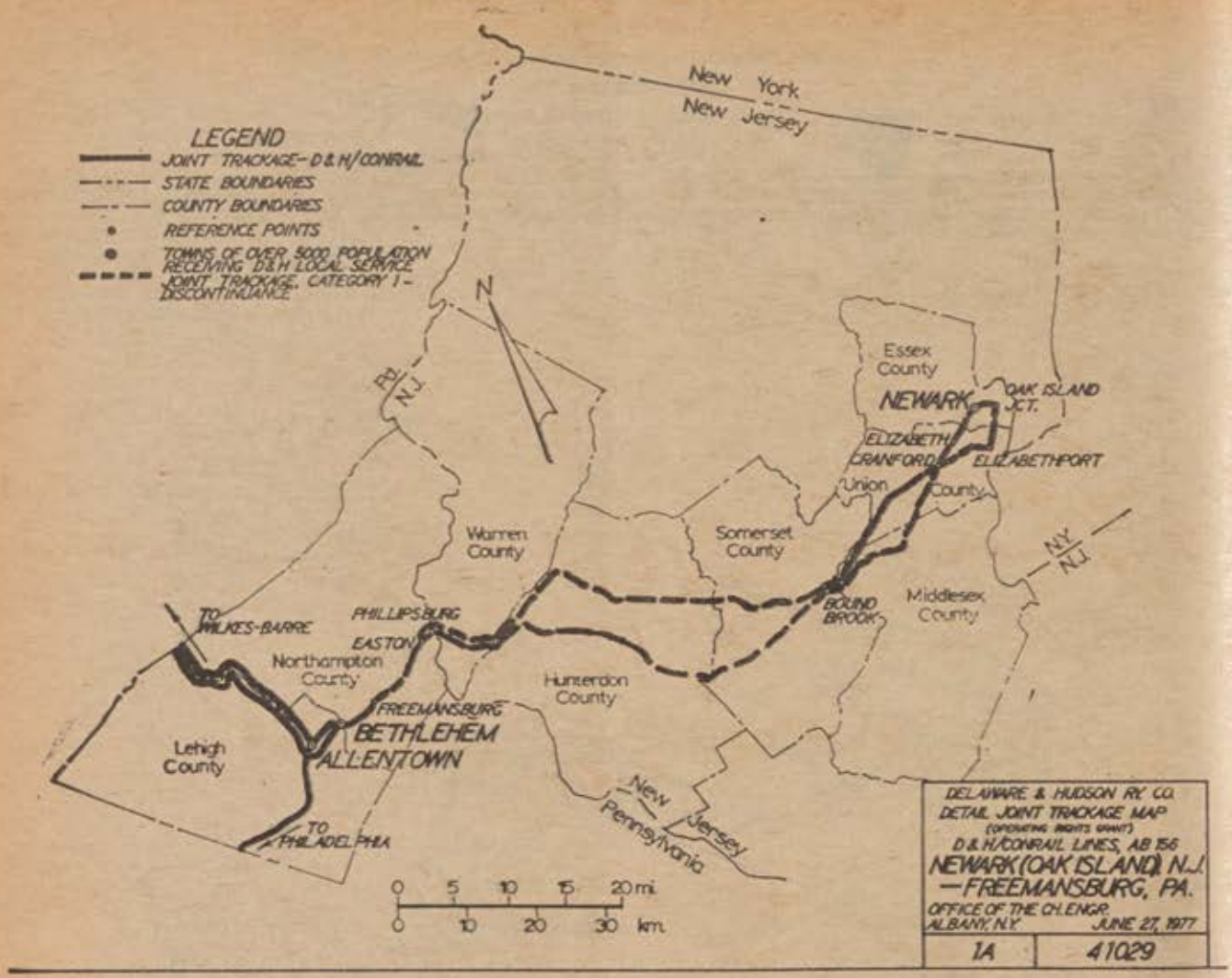
System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Delaware & Hudson Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB 156 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on September 19, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 156 (SDM).

H. G. Homme, Jr.,
Acting Secretary.


THE BRIDGE LINE to NEW ENGLAND and CANADA
CANADA
UNITED STATES
Quebec
New York
ROUSES POINT
PLATTSBURGH
SOUTH JCT.
BANNEMON
ALBANY RIVER JCT.
AUSABLE FORKS
New York
Vermont
RUTLAND
CASTLETON
NORTH CREEK
WHITEHALL
WARRENSBURGH
THURMAN
GLENS FALLS
HUDSON FALLS
SARATOGA SPRINGS
MECHANICVILLE
SCHENECTADY
DELANSON
COHOES
TROY
ALBANY
WATERVLIET
Massachusetts
New York
Ontario
New York
ONEONTA
NIAGARA FALLS
BLACK ROCK
BUFFALO
ATTICA
GROVELAND
HORNELL
CORNING
BINGHAMTON
ENDICOTT
ENDWELL
JOHNSON CITY
Pennsylvania
New York
CANADA
UNITED STATES
CARBONDALE
SCRANTON
WILKES-BARRE
New Jersey
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PENNSYLVANIA
READING
PHILADELPHIA
ROCKVILLE
HARRISBURG
YORK
PERRYVILLE
Maryland
BALTIMORE
Maryland
Virginia
ALEXANDRIA
WASHINGTON
New York
Pennsylvania
STANDARD METROPOLITAN STATISTICAL AREAS
1 ALBANY-SCHENECTADY-TROY
2 BUFFALO
3 BINGHAMTON
4 NORTHEAST PENNSYLVANIA
5 ALLENTOWN-BETHLEHEM-EASTON
6 NEWARK
7 ROCHESTER
8 ELMIRA
9 NEW BRUNSWICK-PERTH AMBOY-SAYREVILLE
10 READING
11 PHILADELPHIA
12 HARRISBURG
13 YORK
14 LANCASTER
15 WILMINGTON
16 BALTIMORE
17 WASHINGTON
Trackage of former Lehigh Valley Railroad and Central Railroad of New Jersey between Newark (Oak Island), N. J. and Freemansburg, Pa. is located in counties of Essex, Union, Middlesex, Somerset, Hunterdon and Warren in New Jersey and Northampton in Pennsylvania.
LEGEND
PROPRIETARY TRACKAGE - D&H
JOINT TRACKAGE - D&H/CONRAIL
STATE BOUNDARIES
COUNTY BOUNDARIES
S.M.S.A.
REFERENCE POINTS
TOWNS OF OVER 5000 POPULATION RECEIVING D&H LOCAL SERVICE
JOINT TRACKAGE, CATEGORY 1-DISCONTINUANCE
0 10 20 30 40 M.
0 10 20 30 40 50 60 KM.
DELAWARE & HUDSON RY. CO.
SYSTEM DIAGRAM MAP
(AB 156)
OFFICE OF THE CHIEF ENGR.
ALBANY, N.Y.
APRIL 28, 1977
12A
41017



SYSTEM DIAGRAM MAP

DELAWARE AND HUDSON RAILWAY COMPANY DESCRIPTION OF LINES WHICH MAY BE SUBJECT TO DISCONTINUANCE APPLICATION WITHIN THREE YEARS

D&H has operating rights over the lines of Consolidated Rail Corporation between Newark (Oak Island), New Jersey, and Freemansburg (near Allentown-Bethlehem), Pennsylvania.

More particularly, D&H's operating rights in the state of New Jersey utilize (1) the line formerly operated by The Central Railroad Company of New Jersey ("CNJ") as its Newark-Elizabethport Branch between Newark (Oak Island) (Milepost 1.7) and Elizabethport (Milepost 5.5), and the former main line of CNJ between Elizabethport (Milepost 8.9) and Phillipsburg (Milepost 72.1); and (2) the former main line of Lehigh Valley Railroad Company ("LV") between Newark (Oak Island) (Milepost 6.5) and the New Jersey-Pennsylvania state line (Milepost 76.6). The lines are located in the New Jersey Counties of Essex, Union, Middlesex, Somerset, Hunterdon and Warren.

In the Commonwealth of Pennsylvania, D&H's said operating rights utilize the former main line of LV between the New Jersey-Pennsylvania state line (Milepost 76.6) and Freemansburg (Milepost 85.8). The line is located in Northampton County, Pennsylvania.

The only agency or terminal section on the line is at Newark (Oak Island), New Jersey (Milepost 1.7).

[FR Doc.77-29018 Filed 10-4-77;8:45 am]

[AB 140 (SDM)]

THE HOBOKEN SHORE RAILROAD CO.

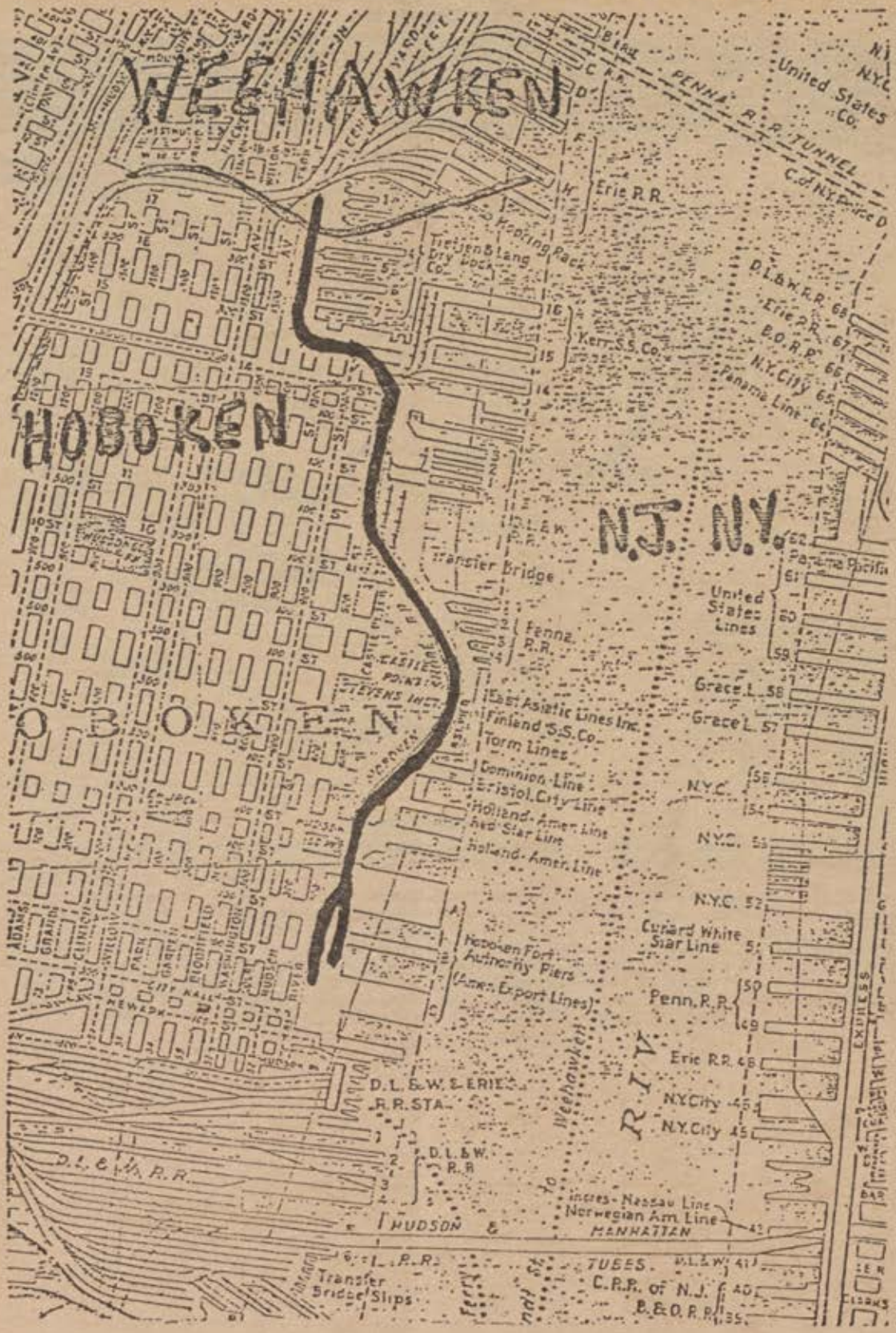
System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Hoboken Shore Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 140 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 140 (SDM).

H. G. Homme, Jr.,
Acting Secretary.

AB 140 (SDM)


WEEHAWKEN
HOBOKEN
N.J. N.Y.
PENNA. R.R. TUNNEL
United States Co.
Erie R.R.
Hoboken Pier
Kerr S.S. Co.
D.L.&W. R.R.
Erie R.R.
B.O.R.R.
N.Y. City
Panama Line
Transfer Bridge
United States Lines
Penna. R.R.
East Asiatic Lines Inc.
Finland S.S. Co.
Torm Lines
Dominion Line
Bristol City Line
Holland-Amer. Line
Red Star Line
Grace L.
N.Y.C.
Cunard White Star Line
Hoboken Port Authority Piers
(Amer. Export Lines)
Penn. R.R.
Erie R.R.
N.Y. City
D.L.&W. R.R.
D.L.&W. R.R. STA.
Hudson & Manhattan R.R.
Transfer Bridge Slips
TUBES
C.R.R. of N.J.
B.&O.R.R.
Norwegian Am. Line
EXPRESS

[AB No. 140]

HOBOKEN SHORE RAILROAD

DESCRIPTION OF LINE

Hoboken Shore Railroad supplies the following information regarding its System Diagram Map pursuant to 49 CFR Section 1121.21. The line set forth falls within category 1 of 49 CFR Section 1121.21(b) in that the carrier anticipates said line will be the subject of an abandonment application within a three-year period of the filing of this map: (a) Said line is designated as the entire line of the Hoboken Shore Railroad. (b) Said line is located entirely in New Jersey. (c) Said line is located entirely in Hudson County. (d) Said line commences at a point on the waterfront approximately two hundred (200) feet north of First Street in the City of Hoboken, New Jersey on property of the Port of New York Authority and continues until its connection with the Erie Railroad Company at a point just north of Seventeenth Street in the Township of Weehawken, New Jersey. (e) The stations on the line are located at Fifth Street, Eleventh Street and Fifteenth Street in Hoboken, New Jersey and are all less than one mile apart.

THOMAS E. DURKIN, Jr.,
Attorney for Hoboken Shore Railroad.

[FR Doc.77-29019 Filed 10-4-77;8:45 am]

[AB 199 (SDM)]

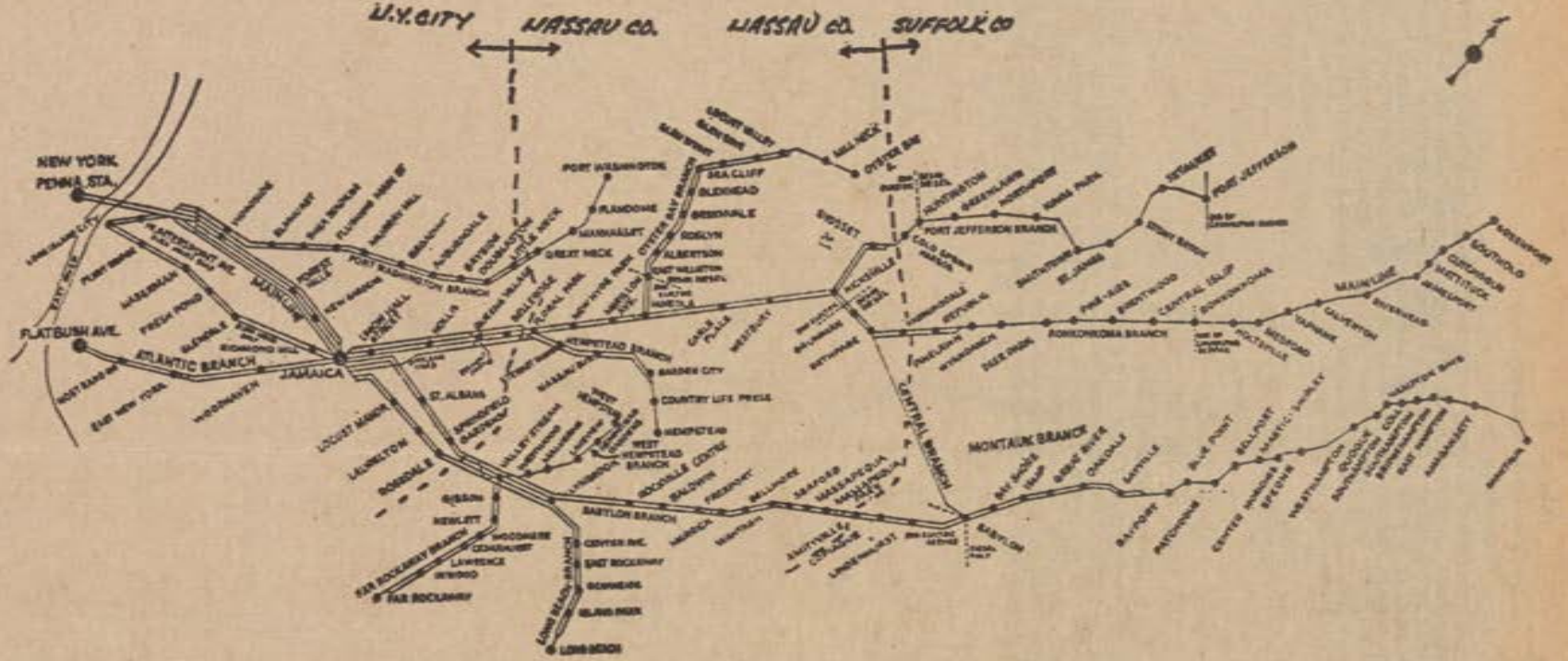
THE LONG ISLAND RAIL ROAD

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Long Island Rail Road, has filed with the Commission its color-coded system diagram map in docket No. AB 199 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 199 (SDM).

H. G. HOMME, Jr.,
Acting Secretary.



SYSTEM MAP ~ THE LONG ISLAND RAIL ROAD

NOTE 1- ENTIRE LIRR SYSTEM LOCATED WITHIN NEW YORK STATE. WITH EXCEPTION OF PENN STATION THE LIRR SYSTEM IS LOCATED ON LONG ISLAND.

NOTE 2- LIRR OPERATES WITHIN NEW YORK CITY AND NASSAU SUFFOLK STANDARD METROPOLITAN AREAS

DESCRIPTION OF LONG ISLAND RAIL ROAD SYSTEM

Following is a description of the Long Island Rail Road system as required by Ex Parte No. 274 (Sub.-No. 2), Sections 1121.20 and 1121.21.

The LIRR does not have any lines which fall under categories 1, 2, 3 or 4. The following information relates to category 5 only.

Category 5—All other lines or portions of lines which the carrier owns and operates directly or indirectly.

Stations	Distance from Long Island City	County	State
OYSTER BAY BRANCH			
Nassau Tower	18.6	Nassau	New York.
East Williston	19.8	do	Do.
Albertson	20.8	do	Do.
Roslyn	22.2	do	Do.
Greenvale	24.2	do	Do.
Glen Head	25.4	do	Do.
Sea Cliff	26.7	do	Do.
Glen St	27.3	do	Do.
Glen Cove	27.9	do	Do.
Locust Valley	29.0	do	Do.
Mill Neck	31.1	do	Do.
Oyster Bay	32.9	do	Do.
MONTAUK BRANCH			
Long Island City	0	Queens	Do.
Penny Bridge	1.8	do	Do.
Haberman	2.4	do	Do.
Fresh Pond	3.9	do	Do.
Glendale	5.2	do	Do.
Richmond Hill	7.6	do	Do.
Jamaica	9.0	do	Do.
St. Albans	11.8	do	Do.
Springfield Gardens	13.0	do	Do.
Valley Stream	16.1	Nassau	Do.
Valley Tower	16.2	do	Do.
Lynbrook	17.7	do	Do.
Rockville Centre	19.3	do	Do.
Baldwin	21.2	do	Do.
Freeport	22.7	do	Do.
Merrick	24.1	do	Do.
Bellmore	25.6	do	Do.
Seaford	27.7	do	Do.
Massapequa	28.7	do	Do.
Massapequa Park	29.0	do	Do.
Amityville	31.3	Suffolk	Do.
Copiague	32.4	do	Do.
Lindenhurst	33.7	do	Do.
Babylon	36.6	do	Do.
Bay Shore	40.7	do	Do.
Islip	43.1	do	Do.
Great River	45.2	do	Do.
Oakdale	47.4	do	Do.
Sayville	49.8	do	Do.
Bayport	51.0	do	Do.
Blue Point	52.0	do	Do.
Patchogue	53.9	do	Do.
Bellport	57.8	do	Do.
Mastic-Shirley	62.3	do	Do.
Center Moriches	66.3	do	Do.
Speonk	71.6	do	Do.
Westhampton	74.3	do	Do.
Quogue	77.0	do	Do.
Hampton Bays	81.7	do	Do.
Southampton College	85.8	do	Do.
Southampton	89.3	do	Do.
Bridgehampton	94.0	do	Do.
East Hampton	100.9	do	Do.
Amagansett	104.3	do	Do.
Montauk	115.8	do	Do.
MAIN LINE			
Penn Station	0	Manhattan	Do.
Harold Tower	3.7	Queens	Do.
Long Island City	0	do	Do.
Hunterspoint Ave	.6	do	Do.
Harold Tower	1.8	do	Do.
Woodside	3.1	do	Do.
Win Tower	3.8	do	Do.
Forest Hills	6.7	do	Do.
Kew Gardens	7.7	do	Do.
Jamaica	9.3	do	Do.
Queens Village	13.2	do	Do.
Queens Tower	13.3	do	Do.
Floral Park	14.9	Nassau	Do.
New Hyde Park	16.2	do	Do.
Merillon Ave	17.3	do	Do.
Mineola	18.5	do	Do.
Nassau Tower	18.6	do	Do.
Carle Pl	20.4	do	Do.
Westbury	21.4	do	Do.
Hickaville	24.8	do	Do.
Divide Tower	24.9	do	Do.
Grumman	26.6	do	Do.
Bethpage	27.9	do	Do.
B Tower	28.6	do	Do.
Farmingdale	30.2	do	Do.
Republic	31.4	Suffolk	Do.
Pinelawn	32.4	do	Do.
Wyandanch	34.6	do	Do.
Deer Park	36.4	do	Do.
Pilgrim	38.7	do	Do.
Pine-Aire	39.2	do	Do.
Brentwood	40.8	do	Do.
Central Islip	43.3	do	Do.
Ronkonkoma	48.3	do	Do.
Holtsville	51.8	do	Do.
Medford	54.1	do	Do.
Yaphank	58.6	do	Do.
Manorville	65.1	do	Do.
Calverton	69.1	do	Do.
Riverhead	73.3	do	Do.
Jamesport	78.3	do	Do.
Mattituck	82.4	do	Do.
Cutchogue	85.3	do	Do.
Southold	90.1	do	Do.
Greenport	94.3	do	Do.
PORT WASHINGTON BRANCH			
Harold Tower	1.8	Queens	Do.
Woodside	3.1	do	Do.
Win Tower	3.8	do	Do.
Elmhurst	4.7	do	Do.
Shea Stadium	6.7	do	Do.
Flushing Main St	7.5	do	Do.
Murray Hill	8.4	do	Do.
Broadway	9.2	do	Do.
Auburndale	9.9	do	Do.
Bayside	10.8	do	Do.
Douglaston	12.1	do	Do.
Little Neck	12.7	do	Do.
Great Neck	13.9	Nassau	Do.
Manhasset	15.4	do	Do.
Plandome	16.5	do	Do.
Port Washington	18.1	do	Do.

Stations	Distance from Valley	County	State
LONG BEACH BRANCH			
Valley Tower	0	Nassau	New York.
Lynbrook	1.5	do	Do.
Center Ave	2.4	do	Do.
East Rockway	2.9	do	Do.
Ocean side	3.4	do	Do.
Island Park	5.9	do	Do.
Long Beach	6.9	do	Do.

Stations	Distance from Long Island City	County	State
HEMPSTEAD BRANCH			
Queens Tower	13.3	Queens	New York.
Bellerose	14.3	do	Do.
Floral Park	14.9	do	Do.
Stewart Manor	16.3	do	Do.
Nassau Boulevard	17.3	do	Do.
Garden City	18.4	do	Do.
Garden Tower	18.7	do	Do.
Country Life Press	19.0	do	Do.
Hempstead	19.8	do	Do.
CENTRAL BRANCH			
B Tower	28.6	Nassau	New York.
Babylon	35.8	Suffolk	Do.
PORT JEFFERSON BRANCH			
Divide Tower	24.9	Nassau	Do.
Syosset	29.1	do	Do.
Cold Spring Harbor	31.9	Suffolk	Do.
Huntington	34.7	do	Do.
Greenlawn	37.4	do	Do.
Northport	39.6	do	Do.
Kings Park	43.4	do	Do.
Smithtown	47.1	do	Do.
St. James	49.9	do	Do.
Stony Brook	53.1	do	Do.
Setauket	54.9	do	Do.
Port Jefferson	57.4	do	Do.

Stations	Distance from Valley	County	State
FAR ROCKAWAY BRANCH			
Valley Tower	0	Nassau	New York.
Gibson	.8	do	Do.
Hewlett	1.7	do	Do.
Woodmere	2.3	do	Do.
Cedarhurst	3.2	do	Do.
Lawrence	4.0	do	Do.
Inwood	4.4	do	Do.
Far Rockaway	5.0	Queens	Do.

Stations	Distance from Flatbush Ave.	County	State
ATLANTIC BRANCH			
Flatbush Ave	0	Kings	New York.
Nostrand Ave	1.6	do	Do.
East New York	4.0	do	Do.
Jamaica	9.3	Queens	Do.
Locust Manor	12.2	do	Do.
Laurelton	13.1	do	Do.
Rosedale	14.0	do	Do.
Valley Stream	15.7	Nassau	Do.
Valley Tower	15.8	do	Do.

Stations	Distance from Valley	County	State
WEST HEMPSTEAD BRANCH			
Valley Tower	0	Nassau	New York.
Westwood	1.3	do	Do.
Malverne	2.1	do	Do.
Lakeview	3.3	do	Do.
Hempstead Gardens	4.0	do	Do.
West Hempstead	4.6	do	Do.

Stations	Distance from Garden	County	State
GARDEN-MITCHEL FIELD, SECONDARY TRACK			
Garden Tower	0	Nassau	New York.
Clinton Rd	.7	do	Do.
Newsday	1.1	do	Do.
A. & P	1.3	do	Do.
Mitchel Field	2.0	do	Do.

[FR Doc.77-29020 Filed 10-4-77;8:45 am]

Department	Billing Code
Legal Services Corporation	6820-35
Libraries and Information Science, National Commission	7527-01
Library of Congress/Copyright Office	1410-03
Management and Budget Office	3110-01
Marine Mammal Commission	6820-31
National Aeronautics and Space Administration	7510-01
National Capital Planning Commission	7520-01
National Credit Union Administration	7535-01
National Institute of Education	4110-39
National Mediation Board	7550-01
National Labor Relations Board	7545-01
National Science Foundation	7555-01
Navy Department:	
DCPA U 8	3810-01
Defense, Office of Secretary SD-0859	3810-70
Navy: Judge Advocate General	3810-71
Nuclear Regulatory Commission	7590-01
Occupational Safety and Health Review Commission	7600-01
Overseas Private Investment Corporation	3210-01
Panama Canal Company	3640-01
Pennsylvania Avenue Development Corporation	7630-01
Pension Benefit Guaranty Corporation	7708-01
Postal Rate Commission	7715-01
Postal Service	7710-12
Railroad Retirement Board	7905-01
Renegotiation Board	7910-01
Science and Technology Policy, Office of	7555-02
Securities and Exchange Commission	8010-01
Selective Service System	8015-01
Small Business Administration	8025-01
Smithsonian Institution	8030-01
State Department	4710-01
Susquehanna River Basin Commission	7040-01
Technology Assessment, Office of	1630-01
Telecommunications Policy Office	3160-01
Tennessee Valley Authority	8120-01
Transportation Department:	
Office of Secretary	4910-62
Federal Railroad Administration	4910-06
Federal Aviation Administration	4910-13
Coast Guard	4910-14
Federal Highway Administration	4910-22
Urban Mass Transportation Administration	4910-57
National Transportation Safety Board	4910-58
National Highway Traffic Safety Administration	4910-59
Materials Transportation Board	4910-60
St. Lawrence Seaway Development Corporation	4910-61
Treasury Department:	
Customs Service	4810-22
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Revenue Sharing	4810-28
Alcohol, Tobacco and Firearms	4810-31
Federal Law Enforcement Training Center	4810-32
Comptroller of the Currency	4810-33
Engraving and Printing	4810-34
Government Finance Operations	4810-35
Mint, Bureau	4810-37
Public Debt	4810-40
Secret Service	4810-42
Internal Revenue Service	4830-01
U.S. Information Agency	8230-01
Veterans Administration	8320-01
Water Resources Council	8410-01
White House Office	3195-01

If your agency's name does not appear above, GPO may not have received your printing and binding requisition (Standard Form 1). Your documents can not be printed in the FEDERAL REGISTER without a billing code.

INFORMATION AND ASSISTANCE: Mr. William Rose, 202-275-2867.

MULTNOMAH LAW LIBRARY

NEW BILLING PROCEDURES FOR AGENCIES

As part of the new billing procedures announced in the FEDERAL REGISTER of August 24, 1977, and to insure that each agency is correctly billed for only its own documents, the Office of the Federal Register requests agencies to insert the proper billing code on all of their documents. The six-digit billing code should be typed or handwritten in ink at the top of the first page on all three copies of documents submitted to the Office of the Federal Register for publication, as follows:

BILLING CODE: 0000-00

The list of agency billing codes assigned by the Government Printing Office follows:

Department	*Billing Code*
Action	6050-01
Administrative Conference of the United States	6110-01
Agency for International Development	4710-02
Agriculture Department:	
Agricultural Marketing Service	3410-02
Agricultural Research Service	3410-03
Agricultural Stabilization and Conservation Service	3410-05
Farmer Cooperative Service	3410-06
Farmer's Home Administration	3410-07
Federal Crop Insurance Corporation	3410-08
Extension Service	3410-09
Forest Service	3410-11
National Agricultural Library	3410-12
Rural Electrification Administration	3410-15
Soil Conservation Service	3410-16
Economic Research Service	3410-18
Statistical Reporting Service	3410-20
Cooperative State Research Service	3410-22
Food and Nutrition Service	3410-30
Rural Development Service	3410-32
Animal and Plant Health Inspection Service	3410-34
Economic Management Support Center	3410-35
Food Safety and Quality Service	3410-37
National Agriculture Library	3410-12
WPAO	3410-38
Office of Management and Finance	3410-90
Office of Automated Data Systems	3410-94
Office of Personnel	3410-96
Office of Operations	3410-98
Air Force Department	3910-01
American Battle Monuments Commission	6120-01
Arms Control and Disarmament Agency	6820-32
Army Adjutant General Center	3710-08
Defense Command	3710-04
Chief of Engineers/Civil Works	3710-92
Blind and Other Severely Handicapped Committee	6820-33
Civil Aeronautics Board	6320-01
Civil Rights Commission	6335-01
Civil Service Commission	6325-01
Commerce Department:	
Maritime Administration	3510-03
National Technical Information Service	3510-04
Bureau of Economic Analysis	3510-06
Census Bureau	3510-07
U.S. Travel Service	3510-11
National Oceanic and Atmospheric Administration	3510-12
Standards, National Bureau	3510-13
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Office of Secretary	3510-19
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Domestic and International Business Administration	3510-25
National Fire-Prevention and Control Administration	3510-49
Telecommunications Office	3510-60
Commodity Futures Trading Commission	6351-01
Community Services Administration	6315-01
Consumer Product Safety Commission	6355-01
Cost Accounting Standards Board	1620-01
Defense Logistics Agency	3620-01
Economic Advisers Council	3120-01
Energy Research and Development Administration	6170-01
Environmental Protection Agency	6560-01
Environmental Quality Council	3125-01
Equal Employment Opportunity Commission	6570-06
Export-Import Bank of the United States	6690-01
Farm Credit Administration	6705-01
Federal Communications Commission	6712-01
Federal Deposit Insurance Corporation	6714-01
Federal Election Commission	6715-01
Federal Energy Administration	3128-01
Federal Home Loan Bank Board	6720-01
Federal Maritime Commission	6730-01
Federal Mediation and Conciliation Service	6732-01
Federal Power Commission	6740-02
Federal Reserve System/Board of Governors	6210-01
Federal Trade Commission	6750-01
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Health Care Financing Administration	4110-16
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Indian Claims Commission	7030-01
Inter-American Foundation	7025-01
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Water Research and Technology Office	4310-49
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International Trade Commission	7020-02
Interstate Commerce Commission	7035-01
Justice Department	4410-01
Labor Department:	
Employment and Training Administration	4510-30
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Secretary (Audit and Investment)	4510-21
Secretary (Office of Information)	4510-22
Secretary	4510-23
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OSHA (Standards)	4510-26
Employment Standards Administration	4510-27
International Labor Affairs Bureau	4510-28
Labor-Management Services Administration	4510-29

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